

# Development Committee



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**TO REGISTER TO SPEAK PLEASE SEE BOX BELOW**

Wednesday, 27 March 2024

A meeting of the **Development Committee** will be held in the **Council Chamber - Council Offices** on **Thursday, 4 April 2024 at 9.30 am.**

At the discretion of the Chairman, a short break will be taken after the meeting has been running for approximately one and a half hours.

**Please note that members of the public should not speak to Committee Members prior to or during the meeting.**

## **PUBLIC SPEAKING:**

Members of the public who wish to speak on applications must register **by 9 am on the Tuesday before the meeting** by telephoning **Customer Services on 01263 516150** or by emailing [customer.service@north-norfolk.gov.uk](mailto:customer.service@north-norfolk.gov.uk). Please read the information on the procedure for public speaking at Development Committee on our website or request a copy of "Have Your Say" from Customer Services.

Anyone may take photographs, film or audio-record the proceedings and report on the meeting. You must inform the Chairman if you wish to do so and must not disrupt the meeting. If you are a member of the public and you wish to speak, please be aware that you may be filmed or photographed. Please note that this meeting is livestreamed: <https://www.youtube.com/channel/UCsShJeAVZMS0kSWcz-WyEzg>

*Presentations:* If you wish to view the Officers' presentations for the applications being considered by the Committee please follow the following link:

<https://modgov.north-norfolk.gov.uk/ecCatDisplayClassic.aspx?sch=doc&cat=13644&path=0>

**Emma Denny**  
**Democratic Services Manager**

**To:** Cllr P Heinrich, Cllr R Macdonald, Cllr M Batey, Cllr A Brown, Cllr P Fisher, Cllr A Fitch-Tillett, Cllr M Hankins, Cllr V Holliday, Cllr G Mancini-Boyle, Cllr P Neatherway, Cllr J Toye, Cllr K Toye, Cllr A Varley and Cllr L Vickers

**Substitutes:** Cllr T Adams, Cllr P Bailey, Cllr K Bayes, Cllr J Boyle, Cllr G Bull, Cllr S Bütikofer, Cllr N Dixon, Cllr T FitzPatrick, Cllr W Fredericks, Cllr N Housden, Cllr L Paterson, Cllr J Punchard, Cllr C Ringer, Cllr E Spagnola, Cllr E Vardy and Cllr L Withington

All other Members of the Council for information.

Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order to attend this meeting, please let us know in advance**

**If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us**

**Chief Executive:** Steve Blatch

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## **A G E N D A**

<b>PLEASE NOTE: THE ORDER OF BUSINESS MAY BE CHANGED AT THE DISCRETION OF THE CHAIRMAN</b>
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### **PUBLIC BUSINESS**

**1. CHAIRMAN'S INTRODUCTIONS**

**2. TO RECEIVE APOLOGIES FOR ABSENCE**

**3. SUBSTITUTES**

**4. MINUTES**

(Pages 1 - 8)

To approve as a correct record the Minutes of a meeting of the Committee held on Thursday 7<sup>th</sup> March 2024.

**5. ITEMS OF URGENT BUSINESS**

(a) To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

(b) To consider any objections received to applications which the Head of Planning was authorised to determine at a previous meeting.

**6. ORDER OF BUSINESS**

(a) To consider any requests to defer determination of an application included in this agenda, so as to save any unnecessary waiting by members of the public attending for such applications.

(b) To determine the order of business for the meeting.

**7. DECLARATIONS OF INTEREST**

(Pages 9 - 14)

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest. Members are requested to refer to the attached guidance and flowchart.

### **OFFICERS' REPORTS**

**8. CATFIELD - PF/21/3414 - CONVERSION OF THE FORMER MILESTONES HOSPITAL TO A RESIDENTIAL DEVELOPMENT CONSISTING OF 21 DWELLING HOUSES AND INTERNAL RENOVATION WORKS THROUGHOUT - AT MILESTONES HOSPITAL, THE STREET, CATFIELD, GREAT YARMOUTH NR29 5BE FOR LION PROPERTIES LTD** (Pages 15 - 34)

**9. CLEY-NEXT-THE-SEA - PF/24/0101 - ERECTION OF DWELLING** (Pages 35 - 98)

**(REPLACEMENT) AT ARCADY, HOLT ROAD, CLEY-NEXT-THE-SEA  
FOR MRS G LONGWORTH**

- 10. DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE** (Pages 99 - 102)
- 11. APPEALS SECTION** (Pages 103 - 108)
- (a) New Appeals
  - (b) Inquiries and Hearings – Progress
  - (c) Written Representations Appeals – In Hand
  - (d) Appeal Decisions
  - (e) Court Cases – Progress and Results

**12. EXCLUSION OF PRESS AND PUBLIC**

To pass the following resolution, if necessary:-

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A (as amended) to the Act.”

**PRIVATE BUSINESS**

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## DEVELOPMENT COMMITTEE

**Minutes of the meeting of the Development Committee held on Thursday, 7 March 2024 in the Council Chamber - Council Offices at 9.30 am**

<b>Committee Members Present:</b>	Cllr P Heinrich (Chairman)	Cllr R Macdonald (Vice-Chairman)
	Cllr M Batey	Cllr P Fisher
	Cllr A Fitch-Tillett	Cllr M Hankins
	Cllr V Holliday	Cllr G Mancini-Boyle
	Cllr P Neatherway	Cllr J Toye
	Cllr K Toye	Cllr A Varley
	Cllr L Vickers	

**Substitute Members Present**

Cllr M Taylor
Cllr K Bayes

**Officers in Attendance:** Democratic Services & Governance Officer, Development Management and Major Projects Manager, Lawyer and Assistant Director for Planning

### 132 TO RECEIVE APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr A Brown.

### 133 SUBSTITUTES

Cllr L Paterson was present as a substitute for Cllr A Brown.

### 134 MINUTES

The minutes of the Development Committee meeting held Thursday 25<sup>th</sup> January, and Thursday 8<sup>th</sup> February were approved as a correct record.

### 135 ITEMS OF URGENT BUSINESS

The Chairman confirmed that the applicant had withdrawn planning application PF/23/2102, subsequent to the publication of the agenda, therefore this item would not be considered or determined by the Committee.

### 136 DECLARATIONS OF INTEREST

None Declared.

### 137 CATFIELD - PF/21/3414 - CONVERSION OF THE FORMER MILESTONES HOSPITAL TO A RESIDENTIAL DEVELOPMENT CONSISTING OF 21 DWELLING HOUSES AND INTERNAL RENOVATION WORKS THROUGHOUT - AT MILESTONES HOSPITAL, THE STREET, CATFIELD, GREAT YARMOUTH NR29 5BE FOR LION PROPERTIES LTD

#### Officers Report

The SPO-JB introduced the Officer's report and recommendation for conditional

approval. He outlined the site's location and former history, confirmed existing and proposed elevations and floor plans, and advised that the proposal would result in minimal alterations to the external façade. The application included the provision of 32 parking spaces and turning areas, EV charging, ecological enhancements and financial contribution towards GIRAMS, open space provision, and local infrastructure.

The SPO-JB relayed the key issues for consideration were; Principle of the conversion of the building; Loss of the hospital facility; Affordable housing provision; Design - inclusive of housing density, dwelling mix and type, minimum space standards, external works and landscaping; Amenity - inclusive of disturbance, privacy, lighting, overshadowing, and refuse storage and collection; Flood Risk and Drainage; Highway Safety – inclusive of car parking, network safety impacts, and pedestrian/bicycle access; Ecology and Biodiversity; Heritage; Sustainable construction; Planning obligations and financial contributions.

### Public Speakers

Janet Briscoe – Catfield Parish Council  
Ben Edwards – Supporting

### Local Members

- a. The Local Member – Cllr M Taylor – expressed his firm disappointment with the Local Planning Authority (LPA) in failing to engage with Local Members and the Parish Council in a timely manner. As such, the Local Member refused to consider the merits of the application and advocated the application be deferred. Cllr M Taylor outlined the history of the application and advised he had referred application to Committee in October 2023, subsequently 5 questions were raised by Parish Council and put to the LPA on 2<sup>nd</sup> November 2023 which remained unanswered for 4 months despite meeting with the Case Officer and follow up emails. He advised a response was only received on Friday, less than a week before the Development Committee meeting. Further, he was only aware that the application was due before Committee following the publication of the agenda and notification by Democratic Services. Cllr M Taylor considered there to be a breakdown in communication from the LPA to Local Members in not advising that the item would be on the agenda or in responding the repeated communication. He considered it deeply concerning that community views were not being properly considered and argued that this reflected poorly on the Council.
- b. The Local Member – Cllr K Bayes – endorsed comments made by fellow Local Member, Cllr M Taylor. He agreed that the LPA had demonstrated a disregard to the questions and concerns raised by the Parish Council. It was a serious concern that Local Members were only notified that the item was on the agenda following its publication and stated that this had broken the trust between the Council and the parish. The Local Member considered that the LPA needed to review how it engaged with Local Members and Parish Councils through a service level agreement to ensure a high standard of service was provided. Cllr K Bayes confirmed that he would not speak to the merits of the application and urged the Committee to defer determination of the application till such time as the Parish Council could provide their response to the 5 questions raised, this was expected within the next 2 weeks.

### Committee debate and determination

- a. In response to representations made by public speakers and Local Members, the ADP confirmed an apology had been issued to the Local Members and Parish Council to the lack of a timely response to their communication, along with answers to the 5 questions raised, and apologised again for the service provided. The ADP confirmed that the item was presented to Committee following call in from the Local Member last year, and assured the Committee that the report sufficiently addressed all relevant issues and set out the Parish Council's position on p.36. The ADP advised the usual process had been followed regarding publication and notification of the agenda, and stated it was not usual to notify a Parish Council in advance of the agenda. He confirmed that he had engaged in lengthy discussions with the Director for Place and Climate Change and the Monitoring Officer and advised that all parties were comfortable that the information supplied was sufficient for determination by the Committee. The ADP advised that issues regarding lack of communication would be addressed internally.
- b. The Chairman encouraged the Committee to discuss the item fully in the first instance and to delay making a proposal at the outset. He did not wish to stymie debate or limit decision through an early motion.
- c. Cllr G Mancini-Boyle considered there should be a greater provision of EV charging spaces, he enquired if the application was impacted by guidance.
- d. The SPO-JB advised that the application site discharged outside of the NN catchment area (into the Ludham treatment centre) and therefore was not affected by Nutrient Neutrality restrictions.
- e. Cllr A Varley stated that it was deeply regrettable that the questions raised by the Parish Council were not answered by the Planning Service till days before the meeting and expressed his sympathy with the Local Members. He considered, in light of this issue, there was need to revise existing protocols. Regardless, Cllr A Varley agreed with advice offered by the ADP that there was enough information provided in the Officer's report to form an informed determination. He considered the application was in a suitable location and would form a suitable development, with amenities located within walking distance. He stated that it was regrettable that the viability assessment concluded the provision of affordable homes unviable. Cllr A Varley proposed acceptance of the Officer's recommendation for approval.
- f. Cllr L Vickers considered the Planning Team broadly provided a high level of service, though reflected that no service was without its hiccups or missteps. She considered that whilst there was enough information to make a determination, she was very concerned about the lack of consultation with the community. Cllr L Vickers attempted to propose deferral.
- g. The DSO advised that a proposal for approval had been raised by Cllr A Varley, this was now a live motion which must be debated first before a counter proposal was able to be debated and determined (if at all). Should Cllr A Varley choose to withdraw his proposal, this would allow for a proposal for deferment to be raised.
- h. Cllr A Varley withdrew his proposal. Cllr L Vickers confirmed that she would

refrain from raising a proposal at this time to also enable additional open discussion.

- i. Cllr A Fitch-Tillett noted the concerns raised from Environmental Health Officers about the potential disturbance from adjacent industrial facilities.
- j. Cllr V Holliday stated that she was very disappointed with the lack of affordable homes provision and asked if the Councils independent viability assessor formed their position on the information supplied to them by the applicant, or if they reached their conclusion through other means.
- k. The SPO-JB confirmed the independent assessor used information submitted by the applicant.
- l. Cllr V Holliday expressed her concern about the independent viability assessment. She reflected it was contrary to the ambitions of the council to approve another development without affordable housing provision.
- m. The DM assured the Committee that the Independent Viability assessor critically scrutinised information provided to them.
- n. Cllr J Toye offered his condolences to the applicant's family. He enquired if there was potential scope for the provision of an uplift clause. Cllr J Toye agreed with the ADP that there was sufficient information to form a determination, though acknowledged that there was an issue with due process.
- o. The PL advised that as this was a single-phase development, it would not be possible to introduce an uplift clause.
- p. The DM stated that application could not viably ensure the provision of affordable housing. The Housing Strategy team had been consulted and determined that an uplift clause was not required as it was highly likely it would not be triggered.
- q. Cllr M Hankins asked for details of the 5 questions raised by the Parish Council and the responses offered.
- r. The ADP confirmed that the 5 questions related to matters of; 1. Nutrient Neutrality, 2. Potential re-use of the site for Health-related purposes, 3. Car & Buses, 4. Relationship with the Local Plan, and 5. Affordable Housing. He affirmed that answers were provided to the Parish Council on Friday and concluded that the report addressed the outlined matters.
- s. Cllr L Paterson asked about the number of EV parking spaces and noted a discrepancy between the application form and the officers report.
- t. The SPO-JB confirmed that 32 car parking spaces would be provided inclusive of 4 Accessible spaces and 6 EV spaces.
- u. Cllr L Paterson spoke in support of deferral. He commented that whilst he was usually against deferral, considering it important that informed decisions be made at Committee in a timely manner, he did not consider it fair that the Parish Council's questions had remained unanswered for so long and that they had not been afforded opportunity to meet and respond. He reflected



that protocol needed to be changed and such changes should be implemented with this application.

- v. The ADP considered there to be two separate and distinct issues at play. First, how and when the LPA should notify Members, Parish Councils and the Public when an item would be brought to Committee. The ADP confirmed that both the Ward Members and Parish Council were aware the application was on the agenda shortly after its publication – as was the normal process. Second, was the issue of lack of response to the questions raised, which the ADP agreed that a better service should have been provided.
- w. Cllr P Neatherway considered it important to listen to Parish Councils. He commented that the process felt rushed.
- x. The ADP advised that the application has been with the Council for over 2 years and the Parish Council had commented on the application on three separate occasions, their formal position was set out in the officer's report accordingly. He disagreed this was a rushed decision.
- y. Cllr P Fisher expressed sympathy with the Parish Council and Local Members. Having studied the Officer's report, he did not consider this application any different from those typically presented to Committee, and agreed there was adequate information to form a decision. He asked, should the application be approved that the fence detailed on p.46 be conditioned, this was absent from the proposed conditions list.
- z. The DM confirmed this would be conditioned, subject to approval.
- aa. Cllr K Toye disagreed with the lack of affordable housing provision, further, given the size of the dwellings she considered it likely that they might be purchased for use as holiday accommodation, though accepted it was difficult to predict what people's intentions might be. She enquired how long the former hospital had been closed.
- bb. The DM confirmed the hospital closed in February 2021.
- cc. The Chairman asked the likelihood that a site be needed for this service provision in the near future.
- dd. The DM commented it was challenging for the LPA to comment on the service provision for another authority. The LPA however needed to consider that the proposal had gone through the relevant process of actively marketing for the period required in policy. He recognised that the marketing period of 12 months had not been met, and it had only been marketed for 3 months – which weighed Officer's recommendation to approve. The DM recognised that the former hospital was a unique facility offering mental health services in North Norfolk. He noted that the Council were unable to demonstrate a 5-year Housing Land Supply, this was a material consideration in the determination of the application, and one which Officer's placed greater weight.
- ee. Cllr J Toye proposed acceptance of the Officer's recommendation for approval.
- ff. Cllr A Varley seconded the motion for approval.

- gg. Cllr G Mancini-Boyle asked what measures could be taken to prevent the dwellings from being used as second homes or holiday lets?
- hh. The DM advised there was nothing that the LPA could do at present, in policy terms, to prevent dwellings being purchased and used as second homes. Further, the Parish Council had not implemented a Neighbourhood Plan which would restrict the development of new second homes, as had occurred elsewhere in the district. The DM cautioned that should the Council seek to include a condition regarding use of the dwelling as a holiday lets or second homes, this could be easily challenged by the applicant via appeal. Without policy foundation it would be difficult to justify the Council's decision, especially as such a condition had not been applied elsewhere.
- ii. Cllr M Hankins spoke in support of deferral to allow the Parish Council to meet.
- jj. Cllr L Vickers argued that the Committee should first consider and vote upon deferral of the application, rather than the merits of approving the application.
- kk. The PL was supportive of a motion for deferral being considered ahead of a proposal for acceptance.
- ll. The ADP acknowledged there was a live proposal, made by Cllr J Toye and seconded by Cllr A Varley to support the officer's recommendation for approval. He argued that the same position may be reached whether the vote for acceptance was taken first or the vote for deferral. The ADP invited Cllr J Toye to decide as proposer how he wishes to proceed.
- mm. Cllr J Toye withdrew his proposal to enable a vote for deferral.
- nn. Cllr L Vickers proposed deferment of the application to enable the Parish Council to meet, discuss and communicate their final determination on the application to the Council. Cllr M Hankins seconded the motion.

**RESOLVED** by 9 votes for, 3 against and 2 abstentions.

**That Planning Application PF/21/3414 be DEFERRED.**

## **138 DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE**

- a. The DM introduced the Officer's report and spoke favourably of the Planning Service performance with respect of major and non-major applications, both of which outperformed national and internal targets. He advised that the figures to be presented to the Committee next month would be impacted by recent appeal decisions against the Council, however the performance figures would remain within target range. He affirmed the service continued to be very busy with 260 applications validated within the month.

## **139 APPEALS SECTION**

- a. The DM introduced the appeals report and invited questions from the Committee.
- b. Cllr P Fisher asked if the date in which the enforcement notice was served,

or appeal submitted could be added to the list to better indicate the length of time in which appeals were being held up with the Planning Inspector. This would better demonstrate to the public that the delay was not as a result of the Council. He acknowledged that the appeals in Wells (P.61 of the agenda) had taken several years to determine.

- c. The DM advised that this matter had been raised at the last meeting and Officers were working to introduce a revised report template.
- d. Cllr K Toye enquired the difference between dismissed and quashed.
- e. The PL advised that “dismissed” referred to appeals where the Planning Inspector determined them as unsuccessful (he or she supported the Council.) “Quashed” is where the enforcement notice may have been invalid and so ceases to have effect.
- f. Cllr M Batey asked for an update for the mast application at Holt.
- g. The DM confirmed he would follow up with Officers and feedback accordingly.

#### **140 EXCLUSION OF PRESS AND PUBLIC**

None.

The meeting ended at 10.38 am.

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Chairman

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## Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

## Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>



	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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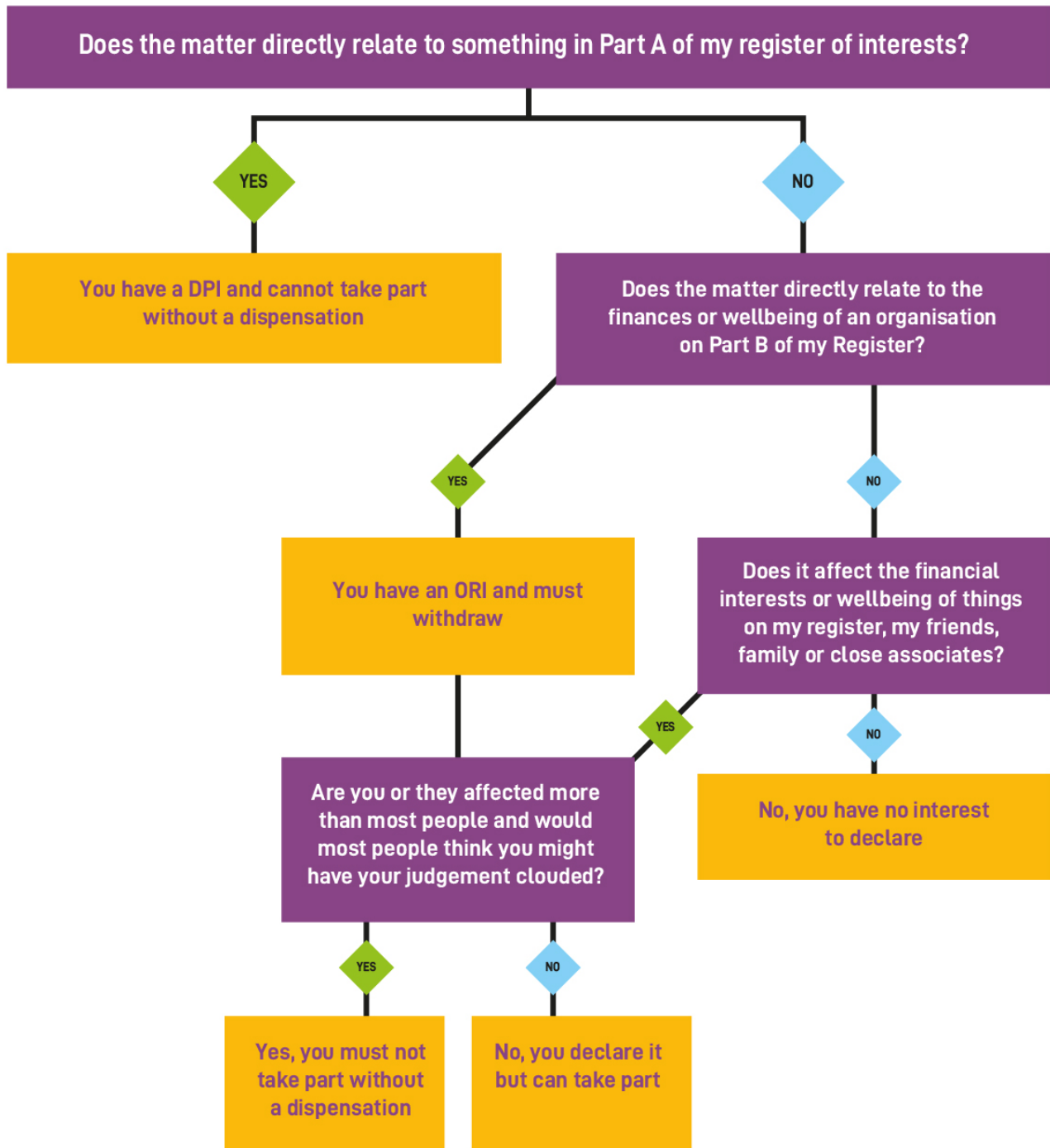
\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Table 2: Other Registrable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)



**CATFIELD – PF/21/3414 - Conversion of the former Milestones Hospital to a residential development consisting of 21 dwelling houses and internal renovation works throughout – at Milestones Hospital, The Street, Catfield, Great Yarmouth NR29 5BE for Lion Properties Ltd**

## **Major Development**

**Target Date: 22<sup>nd</sup> March 2022**

**Extension of time: 19<sup>th</sup> January 2024**

**Case Officer: Mr Joseph Barrow**

**Full Planning Permission**

## **THE APPLICATION**

This application seeks permission to convert the former milestones hospital to a residential development consisting of 21 dwelling houses, along with internal renovation works, and 2no. rear extensions.

## **BACKGROUND**

The application was brought to meeting of development committee on 07 March 2024 wherein it was resolved by members of the committee to defer the application to allow for further consultation with Catfield Parish Council.

This consultation with Catfield Parish Council was carried out on the afternoon of 07 March, with a response requested by 25 March. At the time of writing this report, no comments have been received. The Committee will be updated verbally at the meeting in respect of any comments received by the Parish Council.

Since the publication of the 07 March Development Committee report, save for the further consultation with Catfield Parish Council, there have been no material changes in site circumstances nor any new material planning considerations to consider.

The March 07 report therefore remains valid and relevant to the proposed development and is attached at **Appendix A**.

## **RECOMMENDATION:**

### **DELEGATED APPROVAL subject to:**

#### **1. The satisfactory completion of an agreement under section 106 of the Town and Country Planning Act 1990 to provide the following financial and non-financial contributions:**

- Allotments – £4,262)
- Parks and Recreation Grounds – £32,510
- Play Space (Youth) – £2,182
- Natural Green Space – £9,654
- Libraries – £2,100
- Fire Hydrants – 1no. per 50 dwellings (to be secured by conditions)
- GIRAMS - £4,427.64
- Monitoring Fee – £500 per obligation

- 2. The imposition of Conditions to cover the matters listed below and any others considered necessary by the Assistant Director – Planning).**

**Conditions:**

1. Time limit
2. Approved plans
3. Materials
4. Fire hydrant provision
5. Vehicular access improvements
6. Visibility splay provision
7. Provision and retention of car parking areas
8. Cycle parking scheme to be approved
9. Details of any plant/machinery/ventilation/air-con/heating equipment to be approved in writing
10. External lighting scheme to be approved in writing
11. Compliance with the measures outlined in the Ecology report
12. Biodiversity method statement
13. Arboricultural Method Statement and Tree Protection Plan
14. 10% of total predicted energy from on-site renewable energy technologies
15. Secure at least 6 no. EV charge points.
16. Boundary Details to be secured.

**Final wording of conditions to be delegated to the Assistant Director – Planning**

- 3. In the event that Committee resolve in line with the above, if the Section 106 Obligation isn't completed and the permission isn't issued within 4 months of the date of this Committee meeting then the Director for Planning and Climate Change will consider whether the application resolution remains appropriate and in doing so will take account of the likelihood of the Section 106 being completed and permission issued in the near future (i.e. within another month) and will consider whether there are any potential / defensible reasons for refusal at that time. If he reaches that view – i.e. that the application should potentially be refused - then the application would be reported back to Committee. It is also possible that he may resolve to report the matter back in the event of changes of circumstances (e.g. changes in the national or local policy position).**

## **APPENDIX A – Report of 07 March 2024**

**CATFIELD – PF/21/3414 - Conversion of the former Milestones Hospital to a residential development consisting of 21 dwelling houses and internal renovation works throughout – at Milestones Hospital, The Street, Catfield, Great Yarmouth NR29 5BE for Lion Properties Ltd**

### **Major Development**

**Target Date: 22<sup>nd</sup> March 2022**

**Extension of time: 19<sup>th</sup> January 2024**

**Case Officer: Mr Joseph Barrow**

**Full Planning Permission**

### **RELEVANT SITE CONSTRAINTS**

In the Countryside but directly adjacent to Catfield's Settlement Boundary

Settled Farmland Landscape Character Area

Strategic Flood Risk Assessment Dry Island

Approximately 165m North of the Catfield Conservation Area

Within Zone of Influence of multiple habitats sites for the purposes of the Norfolk GIRAMS

In The Broads Special Area of Conservation and Ramsar Nutrient Neutrality Catchment Area

### **RELEVANT PLANNING HISTORY**

PF/03/0124: Erection of eight flat units. Refused 14/04/2003; Appeal allowed 08/04/2004

### **THE APPLICATION**

The application proposes the conversion of the former Milestones Hospital to a residential development consisting of 21 dwelling houses. Associated works would also include landscaping, minor internal and external alterations, provision of car parking and turning area, and amenity space.

### **REASONS FOR REFERRAL TO COMMITTEE**

Following deferral of the item at the 7<sup>th</sup> March meeting of development committee to enable further consultation with Catfield Parish Council.

### **REPRESENTATIONS**

*Application as first submitted*

**7** received raising **objections** on the following summarised grounds:

- Amenity impacts including overshadowing and loss of privacy
- Proposal would create noise and light pollution
- Existing sewerage and electricity supplies are already overused
- There is an overprovision of on-site car parking
- Insufficient capacity on the highway network and insufficient footpath provision

- The site's visibility onto the highway is restricted
- Houses should be for local elderly people (perhaps sheltered housing)
- Loss of on-site green space which is not in-keeping with the village
- Impacts on local services including schools and GPs
- Loss of psychiatric facility would add to a shortage of provision where a clear need exists

*Application as amended*

**2** received raising **objections** on the following summarised grounds:

- Negative Impacts upon local wildlife and residents
- Light and noise pollution impacts upon neighbours
- Local infrastructure and service unable to cope with additional demand
- Impractical parking layout
- Perceived insufficient visibility unless trees are to be removed
- Too many units proposed on site
- Loss of the psychiatric care facility

Cllr Richard Price (Norfolk County Council; South Smallburgh Division): Objection on grounds of overdevelopment of the site in the context of limited highway capacity, drainage, and transport sustainability.

## **CONSULTATIONS**

### **Catfield Parish Council**

*Initial comment (04/02/2022)* – **Objection** on the following grounds

- Overdevelopment of the site
- Proposed dwellings are too small
- Minimal leisure and entertainment offerings in the village
- No provision of affordable housing
- Dwellings aren't of an appropriate mix and type
- Overprovision of on-site car parking
- No provision of Electric Vehicle Charging Points
- Highways safety concerns already exist in the village
- Proposed first floor extension would result in a major loss of privacy for neighbours
- Proposed first floor extension would lead to significant overshadowing concerns
- No information has been submitted for feasibility of new Broadband connections
- Concerns over capacity of Anglian Water network at Water Recycling Centre
- Further information required in relation to surface water drainage and SuDS

*Additional comment (06/03/2022)* – **Objection** maintained with additional concerns raised relating to the loss of the facility.

*Additional comment (18/04/2023)* – **Objection** maintained with previous comments re-issued (based upon the most recent version of the application).

### **North Norfolk District Council Conservation and Design Officer** - No objection

**North Norfolk District Council Landscape Officer** - No objection subject to conditions relating to both ecology and trees. Comments also made regarding Biodiversity Net Gain and nutrient neutrality.

**North Norfolk District Council Environmental Protection Officer - Objection** based upon potential noise impacts due to the proximity of the site to the industrial area across the road, no objection on other grounds subject to conditions.

**North Norfolk District Council Housing Strategy and Delivery - No objection** in terms of compliance with space standards. Advice should be sought from the Council's independent viability assessor due to no affordable housing units being proposed.

**North Norfolk District Council Building Control Officer - No adverse comments** for the overall scheme in relation to the planning application but notes that the internal layout of some flats will require some modification to provide protected lobbies to the communal stairwell.

**Norfolk County Council Highway Authority - No objection subject to conditions.**

**Norfolk County Council Lead Local Flood Authority (LLFA) – Comments Only** - Note that the flood risk at the site and likely impact from the development proposals was assessed at the time as part of the LLFA case screening process and was found to have low risk at the site and the surface water drainage from the site is believed to flow in a direction that is away from the areas referred to as having “known” drainage issues

The LLFA have no records of reported and confirmed internally, flooded properties in Catfield.

The LLFA have no further comments beyond the advice provided via their Standing Advice.

**Norfolk County Council Planning Obligations - No objection** subject to the relevant contributions being secured via appropriate Section 106 legal agreement.

**Anglian Water - No objection** and advise that the foul drainage from the development is in the catchment of Ludham-Walton Hall Water Recycling Centre that will have available capacity for these flows.

**Natural England**: consider that the application lacks information in terms of compliance with Natural England's overarching advice to local planning authorities on nutrient impacts on designated sites dated 16<sup>th</sup> March 2022. Comments also made in reference to compliance with Norfolk-wide GIRAMS.

## **HUMAN RIGHTS IMPLICATIONS**

APPROVAL:

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the above matters, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## **CRIME AND DISORDER**

The application raises no significant crime and disorder issues.

## **EQUALITY AND DIVERSITY ISSUES**

The application raises no significant equality and diversity issues.

## **LOCAL FINANCE CONSIDERATIONS**

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application.

Local finance considerations are not considered to be material to this case.

## **RELEVANT POLICIES**

### **North Norfolk Core Strategy**

SS 1 – Spatial Strategy for North Norfolk  
SS 2 – Development in the Countryside  
SS 4 – Environment  
SS 6 – Access and Infrastructure  
HO 1 – Dwelling Mix and Type  
HO 2 – Provision of Affordable Housing  
HO 7 – Making the Most Efficient Use of Land (Housing Density)  
HO 9 – Conversion & Re-Use of Rural Buildings as Dwellings  
EN 2 – Protection and Enhancement of Landscape and Settlement Character  
EN 4 – Design  
EN 6 – Sustainable Construction and Energy Efficiency  
EN 8 – Protecting and Enhancing the Historic Environment  
EN 9 – Biodiversity & Geology  
EN 10 – Development and Flood Risk  
EN 13 – Pollution and Hazard Prevention and Minimisation  
CT 2 – Developer Contributions  
CT 3 – Provision and Retention of Local Facilities and Services  
CT 5 – The Transport Impact of New Development  
CT 6 – Parking Provision

### Material Considerations

#### **Supplementary Planning Documents:**

North Norfolk Landscape Character Assessment (January 2021)  
North Norfolk Design Guide (December 2008)

#### **National Planning Policy Framework (NPPF):**

Chapter 2 – Achieving sustainable development  
Chapter 4 – Decision-making  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 8 – Promoting healthy and safe communities  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed and beautiful places  
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving and enhancing the historic environment

#### **Other Material Considerations:**

North Norfolk Open Space Assessment (February 2020)  
Department for Communities and Local Government Technical Housing Standards –



## **OFFICER ASSESSMENT**

### **Main issues for consideration:**

- 1. Principle of development**
- 2. Loss of a local facility (psychiatric hospital)**
- 3. Suitability for conversion to dwellings**
- 4. Affordable housing**
- 5. Design**
- 6. Amenity**
- 7. Flooding risk and drainage**
- 8. Highways safety**
- 9. Ecology and biodiversity**
- 10. Heritage**
- 11. Sustainable development**
- 12. Planning obligations**

### **1. Principle of Development**

Core Strategy (CS) Policy SS 1 sets out that most of the new development in North Norfolk will take place in the towns and larger villages as defined as Principal and Secondary Settlements and a small amount of new development will be focused on several designated Service and Coastal Service Villages. The rest of North Norfolk, including all settlements that do not fall under the above criteria, will be designated as Countryside. CS Policy SS 2 limits development in areas designated as Countryside to that which requires a rural location and complies with its list of uses. Policy SS 2 permits the re-use and adaptation of buildings for appropriate purposes.

Policy HO 9 allows for the conversion and reuse of suitably constructed buildings in the Countryside for permanent residential purposes subject to a number of criteria being met including that:

- the building is worthy of retention due to its appearance, historic, architectural or landscape value, and
- the building is structurally sound and suitable for conversion to a residential use without substantial rebuilding or extension and the alterations protect or enhance the character of the building and its setting, and
- the scheme is of an appropriate scale in terms of the number of dwellings proposed for the location, and
- where it is viable to do so, on all schemes resulting in two or more units, not less than 50% of the total number of dwellings proposed are affordable, or an equivalent contribution is made in accordance with the requirements of Policy HO2.

Officers consider that the principle of converting an existing building to form 21 dwellings is acceptable in the designated countryside subject to compliance with Policy HO 8 and other relevant Development Plan policies or, where there is a departure from the Development Plan, that adequate material considerations exist to justify any departure.

### **2. Loss of a local facility (psychiatric hospital)**

Policy CT 3 sets out that proposals resulting in the loss of sites or premises currently, or last used for, important local facilities and services will not be permitted unless:

- alternative provision of equivalent or better quality is available in the area or will be provided and made available prior to commencement of redevelopment; or
- it can be demonstrated that there is no reasonable prospect of retention at its current site; and if it is a commercial operation, that a viability test has demonstrated that the use is no longer viable and that all reasonable efforts have been made to sell or let the property at a realistic price for a period of at least 12 months.

In this case, alternative provision is not immediately available in the area. Southern Hill Hospital at Mundesley is the closest alternative within North Norfolk, with other options being even further afield. Milestones Hospital was closed in February 2021 following intervention from the Care Quality Commission. The company running the hospital fell into liquidation, leading to the sale of the building.

Evidence of marketing of the premises has been submitted in support of the application. This marketing started in March of 2021, with offers invited by the end of May 2021. Therefore 12 months required by Policy CT 3 was not achieved. It is also stated that 11 hospital operators were provided with the sale details, with no offers tabled.

Taking account of the above, in the absence of alternative provision in the area and in the absence of 12 months of marketing evidence the proposed loss of the facility would be considered contrary to the aims of Policy CT 3.

It is a matter of planning judgment for the Committee in weighing up the identified departure from Policy against any material considerations that might weigh in favour of the proposal.

### **3. Suitability for conversion to dwellings**

Core Strategy Policy HO 9 sets out that:

The conversion and re-use of suitably constructed buildings in the countryside for permanent residential purposes will be permitted provided that:

- the building is worthy of retention due to its appearance, historic, architectural or landscape value, and
- the building is structurally sound and suitable for conversion to a residential use without substantial rebuilding or extension and the alterations protect or enhance the character of the building and its setting, and
- the scheme is of an appropriate scale in terms of the number of dwellings proposed for the location, and
- where it is viable to do so, on all schemes resulting in two or more units, not less than 50% of the total number of dwellings proposed are affordable, or an equivalent contribution is made in accordance with the requirements of Policy HO2.

Officers consider that, the building is worthy of retention and appears to be suitable for conversion without substantial rebuilding and involves minimal amounts of new build. As set out in the report below, the scale of development does not give rise to other unacceptable impacts such that, save for the provision of affordable housing (considered below), the proposal broadly complies with Policy HO 9.

#### **4. Affordable Housing**

Policy HO 2 requires that, where it is viable to do so, schemes of 10 or more dwellings or sites of more than 0.33 hectares in Principal and Secondary Settlements not less than 45% of the total number of dwellings proposed are affordable, or 50% on schemes of 2 or more dwellings in Service Villages.

Policy HO 9 further requires conversions of buildings in the Countryside to dwellings to provide 50% affordable housing where it is viable to do so.

The application is supported by a financial viability report stating that the development is only viable without the provision of any affordable units. This has been verified by the Council's independent viability assessor. On the basis of this independent advice, Officers consider that sufficient evidence has been provided to demonstrate that it is not viable to provide affordable housing as part of the development. The proposal would therefore accord with the requirements of Policy HO 2.

#### **5. Design**

##### Housing density

Policy HO 7 requires new residential developments to optimise the density of the site in a manner that protects or enhances the character. Paragraph 128 of the NPPF sets out that developments should make efficient use of land.

The site area is approximately 0.4ha, with 21 dwellings proposed on that area equating to circa 50 dwellings per hectare. This exceeds the target of 30 per hectare for service villages by some margin. Subject to this density not resulting in other adverse impacts, achieving a higher density is considered acceptable and in accordance with the aims of Policy HO 7 of the Core Strategy to secure efficient use of land.

##### Dwelling mix and type

Policy HO 1 requires that all new housing developments, including the conversion of existing buildings to dwellings shall, on schemes of five or more dwellings, provide at least 40% of the total number of dwellings at not more than 70 sq.m internal floor space and incorporate two bedrooms or fewer, and demonstrate that at least 20% of dwellings would be suitable or easily adaptable for occupation by the elderly, infirm or disabled.

The entirety of this development takes the form of 1 or 2 bed units, with at least 40% of them not exceeding 70sqm internal floor space. At least 20% would be accessible units, particularly at ground floor level. The proposal is therefore considered acceptable in terms of its dwelling mix and type, having regard to Policy HO 1 of the Core Strategy

##### Minimum space standards

The Department for Communities and Local Government Technical Housing Standards – Nationally Described Space Standard (2015) sets out the minimum acceptable square metreage for new dwellings, based on a person to bed space ratio.

Whilst these standards are not adopted by the Council as part of the development plan, they do represent a guideline for space standards which should be regarded as a material

consideration capable of attracting weight in decision making.

The scheme as currently proposed is compliant with these standards.

#### External works

Policy EN 4 requires that all development will be designed to a high quality, reinforcing local distinctiveness. Furthermore, the policy states that design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable. The North Norfolk Design Guide SPD is also a consideration in matters of design of new developments.

Paragraph 96 of the NPPF states that proposals should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible, and enable and support healthy lifestyles. Paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 further advises that proposals should function well and add to the overall quality of an area for the lifetime of the development, be visually attractive as a result of good architectural practice and urban design principles, be sympathetic to local character and landscape settings, establish a strong sense of place, optimise a site's potential, and create places that are safe, inclusive, and accessible.

As the proposal does not involve any particularly extensive works to the exterior of the buildings, the character and appearance of the building would largely be retained, which is welcomed. The works that are proposed include various fenestration changes to preserve privacy/allow access across the northernmost complex of buildings, with the Hamilton Mews building to the west proposed to have two single storey extensions to the rear, benefitting two of the units.

These extensions retain symmetry across the converted building, and are considered to be of an appropriate style, form, and materials palette. Overall, the external works proposed across this development are considered acceptable in accordance with Policy EN 4 of the Core strategy, Chapter 12 of the NPPF and the North Norfolk Design Guide SPD.

#### Landscaping

Aside from the buildings to be converted, the site will consist of a parking and turning area for the new dwellings, green space to the frontage of the Hamilton Mews building, as well as lawn and footpath provision. The landscaping measures proposed would provide a recreation/open space area with good natural surveillance, as well as calming and softening the appearance of the parking area. To the site frontage, along the boundary with the adjacent roads to the south and east, the existing planting is to be retained where possible. This further helps to protect the character and appearance of the area.

It is considered that the landscaping proposed is appropriate for the nature and style of the development, and would contribute to a scheme that is acceptable in terms of its impact upon the character and appearance of the area. Final details of the proposed landscaping scheme would need to be secured via condition in the event that the application is approved.

## **6. Amenity**

#### Separation distances

Section 3.3.10 of the North Norfolk Design Guides sets out the required separation distances

between existing and proposed dwellings based on *Primary*, *Secondary*, and *Tertiary* window alignments.

Given the layout and nature of the development the distances between each of the units proposed is considered acceptable, with windows mostly facing either the open space, car parking area, or to the rear of the development. A few of the windows do have relationships with the adjacent residential dwellings to the north in particular, however the mutual effects are largely mitigated by fences to be installed to the rear of the units, which can be secured via condition.

Regard must also be had to the separation distances over the road to the east, with the potential for disturbance caused by the industrial units in this direction. The comments of the Environmental Protection Team, have been considered.

Officers consider that the majority of units would not be impacted by these industrial uses, either because of their siting to the west of the application site, because of their relationship with other dwellings or because of the significantly larger separation distances in between them and the industrial area.

On balance, it is considered that the small number of proposed flats that would be affected, along with the road as a buffer, and other alternative outlooks for those flats, combine to mitigate the harm that these industrial premises would create. It is therefore considered that the separation distances across the development are acceptable in line with the North Norfolk Design Guide and Policy EN 4 of the Core Strategy.

#### Residential amenity

Policy EN 4 requires that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers and new dwellings should provide acceptable residential amenity.

Officers consider there are no overbearing impacts caused by the conversion of the units as proposed. Adjacent buildings are also not considered to be overbearing on the proposed flats.

The proposal would not result in significant detrimental impacts on adjacent properties in terms of overshadowing. Existing neighbouring buildings are also considered to be acceptable in terms of any overshadowing effects on the proposed flats.

It is considered that the scheme is of an appropriate layout to ensure mutual privacy for both future occupiers, and existing neighbours.

#### Noise and odour

Policy EN 13 requires that all development proposals should minimise, and where possible reduce, all emissions and other forms of pollution, including light and noise pollution, and ensure no deterioration in water quality.

The proposed conversion itself is not considered to create any adverse impacts on the surrounding area in terms of noise or odour, and the relationship with the industrial area to the east is considered acceptable given the separation distances involved, and the alternative outlooks of the potentially affected units. It is also considered that the noise from the road itself would not have an unacceptably detrimental impact upon amenity of the future occupiers.

#### External Lighting

Details of external lighting are not confirmed at this time, but can be secured by condition in order to minimise impacts including upon protected species and the wider landscape quality.

#### Refuse Storage and Collection

The design submitted shows bin stores in each of the buildings, and the Highway Authority have confirmed that the position and size of these facilities is appropriate, with adequate access for refuse lorries.

Subject to the imposition of conditions, the proposal would accord with the aims of Core Strategy Policies EN 4 and EN 13.

### **7. Flooding Risk and Drainage**

Policy EN 10 requires that the sequential test will be applied rigorously across North Norfolk and most new development should be located in Flood Zone (FZ) 1. Appropriate surface water drainage arrangements for dealing with surface water run-off from new development will be required. The use of Sustainable Drainage Systems will be the preference unless, following an adequate assessment, soil conditions and / or engineering feasibility dictate otherwise.

Paragraph 173 of the NPPF requires that flood risk is not increased elsewhere as a result of development proposals. Furthermore, paragraph 175 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

The application site, whilst located within FZ 1, is surrounded by an area within Flood Zone 2, and is therefore considered to be a 'Dry Island'. This means that, in policy terms, the site must be treated as though it is nominally in FZ 2.

#### Flooding Risk

It is acknowledged that the risk of flooding of the site itself is low, given its location within FZ 1, however being within in a dry island, consideration must be given to issues such as access/egress during events where FZ 2 areas may flood.

The submitted flood risk assessment details a suitable potential evacuation route in the event of flooding to the north along the A149 towards Stalham. Regard is also had to the current lawful use of the building as a hospital. At full capacity this facility would likely accommodate patients, staff, and maybe visitors. With this in mind, it is considered that the current and proposed uses of the site are comparable, with any difference in flood risk between the uses deemed to be minimal.

It is therefore considered that the proposed development is application is acceptable in terms of flood risk.

#### Surface water drainage

The application is submitted with a surface water drainage strategy incorporating Sustainable Drainage Systems (SUDS) where appropriate, aiming to accommodate the 1 in 100 year event with a 45% climate change buffer.

This strategy concludes that with proper maintenance of the installations (to be secured via condition) surface water drainage risk remains very low. The Lead Local Flood Authority

(LLFA) raises no objection, and it is considered that the proposal is acceptable in terms of surface water drainage impacts.

#### Foul water drainage

The foul water drainage from the site would discharge to Ludham Walton Hall Waste Water Treatment Works (WWTW). Anglian Water have confirmed that there will be sufficient capacity for this development.

### **8. Highway Safety**

Policy CT 5 requires that developments will be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to its particular location. NPPF paragraph 116 sets out the prioritisation of traffic hierarchy, facilitation of access to public transport, the need to create safe, secure and attractive places for all road users, and provision of infrastructure such as E V charging points. Paragraph 115 further states that developments should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

#### Impacts on highway safety

The former use of the site as a hospital would have an amount of traffic generation associated with it. The proposed residential use would alter this traffic generation and patterns of movement.

The Highway Authority have considered the impacts of the scheme on highway safety and do not raise objection subject to conditions.. The access onto the highway network is considered to be sufficiently safe in terms of type and visibility, and the traffic generation is not considered to be an amount that would be unacceptable or unsafe for the highway network in the area.

#### Sustainable and active travel

While not served by footpaths connecting the full distance to Catfield's village centre, it is an often-used walking route, supported by 'no footway' signage and slow traffic speeds. This means that many of Catfield's amenities are accessible on foot. In addition, the site entrance is in very close proximity to bus stops near New Road, providing routes to Great Yarmouth, Stalham, North Walsham and beyond, on Sanders and Konect Bus services.

#### Car Parking

Policy CT 6 requires that adequate vehicle parking facilities will be provided by the developer to serve the needs of the proposed development. Appendix C of the Core Strategy sets out the required car and cycle parking provision for residential developments based on the number of bedrooms and occupancy rates.

As supported by the comments of the Highway Authority, the proposed development provides sufficient car parking for the development (including 4no. accessible spaces), in a layout which ensure safe access and egress, as well as turning facilities for bin lorries/emergency vehicles. Six electric vehicle charging points are proposed. The application is therefore considered to be acceptable in terms of car parking provision and is in accordance with Policy CT 6 of the Core Strategy.

## 9. Ecology and Biodiversity

### Habitats Regulations Assessment

#### *Recreational impacts on designated sites*

North Norfolk District Council, in conjunction with Natural England and other Norfolk Councils, produced the Norfolk Recreation disturbance Avoidance and Mitigation Strategy (RAMS) and Green Infrastructure Strategy (GI) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are satisfactorily mitigated and compliant with the Habitats Regulations.

The proposal lies within the defined Zones of Influence of a number of designated sites, including;

- Broadland Special Protection Area
- Broadland Ramsar
- Broadland Special Area of Conservation
- Winterton-Horsey Dunes Special Area of Conservation
- Great Yarmouth North Denes Special Protection Area
- Breydon Water Special Protection Area
- North Norfolk Coast Special Protection Area
- North Norfolk Coast Ramsar
- North Norfolk Coast Special Area of Conservation
- The Wash & North Norfolk Coast Special Area of Conservation

It is considered that the proposed mitigation contribution (£4,427.64) which accords with the current requirements of the GIRAMS is sufficient to conclude that the project will not have an adverse effect on the integrity of the above identified European sites from recreational disturbance, when considered alone or 'in combination' with other development. This contribution will be secured as part of an agreement under section 106 of the Town and Country Planning Act.

#### *Nutrient pollution effects on designated sites*

Long-term nutrient pollution has led to adverse impacts upon designated Habitats Sites to the extent that the condition of some sites, including The Broads Special Area of Conservation (SAC) and Ramsar site, is no longer considered to be in favourable condition. Nutrient neutrality guidance was issued by Natural England on 16<sup>th</sup> March 2022 requiring competent authorities to ensure that any planning applications proposing a net gain in overnight accommodation (e.g. new dwellings) must evidence that there will be no net increase in nutrient loads (nitrates and phosphates) within an affected catchment area as a result of the proposal; i.e. that the development would be nutrient neutral. As the competent authority, North Norfolk District Council is required to have regards to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended).

Since the application was first received it has subsequently been confirmed that the Walton Hall WWTW discharges outside of the relevant catchment area. As such the proposed development would not result in any increase in nutrient loads affecting designated sites.

Summary of Habitat Regulations conclusions – on the basis that the applicant has agreed to pay the relevant GIRAMS mitigation payment and on the basis that the development does not discharge nutrients from the proposed development into catchments affected by natural England's nutrient advice, it is reasonable for North Norfolk District Councils, as competent



authority, to conclude it is satisfied that there is no reasonable doubt as to the absence of adverse effects on the integrity of European sites.

### Protected Species

This application is supported by an Extended Phase 1 Habitat Survey. This found that a single bat roost is present in Hamilton House, with no evidence of bats in Magnolia House or Hamilton Mews. This survey has been subsequently updated following its expiry, with the findings remaining consistent.

So as to avoid impacts upon breeding birds it is recommended that tree removal only be carried out outside of the bird nesting season. Aside from these two considerations, there are not considered to be any adverse impacts upon protected species.

The Habitat Survey recommends various mitigation and enhancement measures, which can be secured via condition. Consequently, this proposal is considered to comply with Policy EN 9 of the Core Strategy and Chapter 15 of the NPPF.

## **10. Heritage**

Under the provisions of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention must be given to the desirability of preserving or enhancing the character or appearance and settings of Listed Buildings or any features of special architectural or historic interest, and the character of the Conservation Area.

In considering development proposals affecting heritage assets, Core Strategy Policy EN 8 sets out that development that would have an adverse impact on special historic or architectural interest will not be permitted. However, this element of Core Strategy Policy EN 8 is now not fully consistent with the guidance set out in the National Planning Policy Framework which is more permissive towards allowing development affecting heritage assets, but only where there are clear and convincing public benefits in favour, in accordance with the statutory requirements set out above.

### Effect on Catfield Conservation Area

The site lies c. 170m north west of the Catfield Conservation Area. There are no other listed heritage assets in the vicinity of the site. The main Hamilton House building on the site is historic in nature, but is not Locally Listed.

It is noted that the Council's Conservation and Design Officer raises no objection to the proposal, and it is considered that the proposal would preserve the character and appearance of the conservation area. It is therefore, in accordance with Policy EN 8 of the Adopted North Norfolk Core Strategy.

## **11. Sustainable Development**

North Norfolk District Council declared a Climate Emergency in 2019 and published its Net Zero 2030 Strategy & Climate Action Plan in February 2022. The publication of the Intergovernmental Panel on Climate Change (IPCC) report (2021) demonstrated that human influence has unequivocally impacted on our changing climate. NNDC's commitment to tackling climate change is considered to be an important consideration in determining this application.

Policy EN 6 outlines the LPA's approach to sustainable construction and energy efficiency, including the provision of on-site renewable energy technologies to provide at least 10% of predicted total on-site energy usage for developments over 1,000sqm or 10 dwellings (new build or conversions).

Given that the works involve the conversion of existing buildings with minimal additional construction, the key area for potential sustainability enhancements lies in the fabric choices to be used as part of conversion, many of which will be impacted by Building Regulations requirements. The EN 6 policy requirements can be secured through the imposition of conditions. The applicant has indicated that the development includes the provision of 6 no. EV charging points, which can again be secured through planning conditions

Subject to the imposition of conditions, the proposal would accord with Policy EN 6.

## **12. Planning Obligations:**

Policy CT 2 requires that on schemes of 10 or more dwellings and substantial commercial development where there is not sufficient capacity in infrastructure, services, community facilities or open space, improvements which are necessary to make that development acceptable will be secured by planning conditions or obligations, and these must be phased so as to be in place in accordance with an agreed time frame or prior to the occupation of an agreed number of units.

Contributions are required in order to address the impacts of the proposed development on local services and infrastructure. These are as follows:

### Open Space

The North Norfolk Open Space Assessment sets out the quantum of open space typologies required from proposed development based on the number of dwellings and equivalent people ratios. Depending on the scale of development, some require delivery of on-site open space whilst others may require a financial contribution to deliver off-site improvements. For this proposal, based on 12no. 1-bed and 9no. 2-bed dwellings, the required open space contributions are as follows:

- Allotments – £4,262
- Amenity green space – On-site provision of 1036 sqm (£0)
- Parks and Recreation Grounds – £32,510
- Play Space (Children) – On-site provision of 44 sqm (£0)
- Play Space (Youth) – £2,182
- Natural Green Space – £9,654

### Local Infrastructure

In terms of other contributions, the following is required based on the scale of development:

- Education – £0
- Libraries – £2,100
- Fire Hydrants – 1no. per 50 dwellings (to be secured by conditions)
- Monitoring Fee – £500 per obligation

## GIRAMS

,A financial contribution totalling £4,427.64 – based on 21 dwellings – to provide mitigation in accordance with the Norfolk GIRAMS

These contributions would be secured through an agreement under Section 106 of the Town and Country Planning Act 1990 with appropriate index linking.

## **PLANNING BALANCE AND CONCLUSION**

Planning law requires that decision makers must have regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.

As set out in the report, the proposed development, subject to conditions would broadly comply with the requirements of Development Plan policies including those relating to affordable housing, design, amenity, flood risk and drainage, highway safety, ecology and biodiversity, heritage and sustainable development. The proposal also provides for sufficient planning obligations. However, on the basis that the former hospital on site is regarded as an important local facility, the proposal has not adequately demonstrated compliance with the requirements of Core Strategy Policy CT3 in relation to the provision and retention of local facilities and services. The non-compliance with this policy would weigh against the grant of permission to convert the building to dwellings and appropriate material considerations would need to be identified to outweigh the identified conflict with Development Plan policy.

A significant material consideration weighing in favour of the grant of planning permission is the requirement for the Local Planning Authority to demonstrate a five year housing land supply.

The National Planning Policy Framework requires Local Planning Authorities to identify a five-year supply of specific deliverable sites to meet housing needs. At the current time the council is unable to demonstrate that it has 5 years' worth of deliverable sites. Planning applications will therefore be considered in line with paragraph 11(d) of the NPPF which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission will be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In relation to the assessment against paragraph 11 (d) of the National Planning Policy Framework, in the light of the Council's lack of a 5-year housing land supply, the application has been assessed against the overarching social, economic and environmental objectives of achieving sustainable development. The social and economic benefits of 21 dwellings would provide a modest but welcome contribution to housing supply and would help support existing local services and facilities in the area. The proposal will also make a modest contribution associated with construction activities. Furthermore, as set out in the report, other than the technical non-compliance with Policy CT 3, key elements of the proposal would generally accord with Development Plan policies such that Officers conclude that the adverse impacts of approving this development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the framework as a whole.

This development secures the future of a vacant building worthy of retention in the countryside, and delivers an appropriate mix of housing, with reasonable transport links to nearby towns

and access to facilities within Catfield.

## **RECOMMENDATION**

### **DELEGATED APPROVAL subject to:**

**1. The satisfactory completion of an agreement under section 106 of the Town and Country Planning Act 1990 to provide the following financial and non-financial contributions:**

- Allotments – £4,262)
- Parks and Recreation Grounds – £32,510
- Play Space (Youth) – £2,182
- Natural Green Space – £9,654
- Libraries – £2,100
- Fire Hydrants – 1no. per 50 dwellings (to be secured by conditions)
- GIRAMS - £4,427.64
- Monitoring Fee – £500 per obligation

**2. The imposition of Conditions to cover the matters listed below and any others considered necessary by the Assistant Director – Planning).**

**Conditions:**

1. Time limit
2. Approved plans
3. Materials
4. Fire hydrant provision
5. Vehicular access improvements
6. Visibility splay provision
7. Provision and retention of car parking areas
8. Cycle parking scheme to be approved
9. Details of any plant/machinery/ventilation/air-con/heating equipment to be approved in writing
10. External lighting scheme to be approved in writing
11. Compliance with the measures outlined in the Ecology report
12. Biodiversity method statement
13. Arboricultural Method Statement and Tree Protection Plan
14. 10% of total predicted energy from on-site renewable energy technologies
15. Secure at least 6 no. EV charge points.

**Final wording of conditions to be delegated to the Assistant Director – Planning**

**3. In the event that Committee resolve in line with the above, if the Section 106 Obligation isn't completed and the permission isn't issued within 4 months of the date of this Committee meeting then the Director for Planning and Climate Change will consider whether the application resolution remains appropriate and in doing so will take account of the likelihood of the Section 106 being completed and permission issued in the near future (i.e. within another month) and will consider whether there are any potential / defensible reasons for refusal at that time. If he**

reaches that view – i.e. that the application should potentially be refused - then the application would be reported back to Committee. It is also possible that he may resolve to report the matter back in the event of changes of circumstances (e.g. changes in the national or local policy position).

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**CLEY-NEXT-THE-SEA - PF/24/0101 - Erection of Dwelling (Replacement) at Arcady, Holt Road, Cley-next-the-sea for Mrs G Longworth**

**Minor Development**

**Target Date:** 11<sup>th</sup> March 2024

**Decision due date:** 12<sup>th</sup> April 2024

**Case Officer:** Olivia Luckhurst

**Full Planning**

**RELEVANT SITE CONSTRAINTS:**

Norfolk Coast National Landscape (formerly known as Norfolk Coast Area of Outstanding Natural Beauty)

Countryside

Conservation Area

Landscape Character Assessment - River Valleys

Undeveloped Coast

Site subject to Enforcement Notice

**RELEVANT PLANNING HISTORY**

PF/12/1219 Erection of two-storey replacement dwelling and detached studio/annexe – Refused.

APP/Y2620/A/13/2205045 – Planning Appeal - Approved

ENF/18/0164 - Enforcement Notice requiring demolition of unauthorised dwelling Appeal lodged – Enforcement Noticed Served

PF/21/0882 - Erection of dwelling and associated external works and landscaping – Refused.

PF/21/2582 - Proposed dwelling and associated external works and landscaping (design as built plus Option 13). – Withdrawn

RV/21/2583 - Variation of the wording of Condition 2 (Approved Plans) amended site location plan scaled at 1:2500, and drawings 2260-01, 2317-02z1, 2317-03e, 2317-05f and 2317-11b. Approved on Appeal Ref: APP/Y2620/A/13/2205045 relating to Planning Application Ref: PF/12/1219 for Replacement House and Studio (Replace plan 2317-11b with Plan 1660-00-008 as it has been established that the original plan 2317-11b is considered to be inaccurate) – Refused

APP/Y2620/C/19/3236386 – Planning Appeal - Dismissed

PF/24/0101 - Erection of Dwelling (Replacement) – Pending Consideration

**THE APPLICATION**

The application seeks erection of a dwelling (replacement). The proposal provides alterations and amendments to previous applications and seeks to overcome issues raised within relevant appeal decisions and refusals.

**REASONS FOR REFERRAL TO COMMITTEE**

At the discretion of the Assistant Director - Planning, to enable democratic engagement with wider interested parties within the decision-making process.

## CONSULTATIONS

### **Cley Parish Council – Objection.**

Parish Cllrs have all received and studied plans and documents relating to the application and have had the opportunity to attend a site visit. Cllrs have been encouraged to read the comments posted on the NNDC Planning Portal and speak to residents about their views on the proposed application.

The latest application PF/24/0101 Arcady is an application for a replacement dwelling. This site has a long and complex history of planning applications, planning enforcement cases and most recently a Planning Appeal which was determined by the Planning Inspectorate.

This application has been dealt with differently to those previously submitted on the site, with proactive consultation with residents, through Parish Council meetings, and the Parish Council Community Café. Cllrs welcome this approach which has given residents the opportunity to engage with the applicant's planning consultant, have a better understanding of the planning proposal and has ultimately led to more consultation responses on the NNDC planning portal. The overwhelming difference with this application is the support which has been shown from the community. It has demonstrated a feeling within the parish that the proposed new building is more acceptable, with the proposed changes being deemed by some residents as being much more sympathetic to its surroundings.

Some Cllrs are in agreement that the new proposal is much improved, the change in roofline from flat to pitched is a significant change and demonstrates some consideration of the surrounding landscape. Lowering some areas of the proposed dwelling also helps to reduce mass and is much more appropriate, improving views from Newgate Green and Bridgefoot Lane. Cllrs acknowledge the effort of the applicant and their consultants, in submitting an application which has attempted to address many of the previous complaints received, regarding the existing build.

Cllrs initially had concerns about light pollution from the extent of proposed glazing, however, they are content that this can be easily mitigated with reduced visible light transmission glass in the east, north, west elevations, along with any rooflights.

Cllrs have gone back to the original Inspector's Report which stated the existing building, including its foundations, should be removed in its entirety, and the site returned, to what it was before the build took place. Cllrs have thought carefully about the disturbance this would bring for nearby residents and also given careful consideration to associated sustainability issues in doing this. Re-using materials is thought to be much more sustainable.

Cllrs have to also take into account the objections that have been received, the main concern being that in some areas the proposed dwelling is larger than the existing dwelling. The ridge height in the east block is 2.2 metres higher than the adjacent Holly House, which has led to concern from Cllrs that this part of the proposal does not conform to NNDC policies EN2, 4 and 8. Cllrs fear the east block being taller in height and scale may dominate the build, leading to similar massing issues and as such still impact on the surrounding countryside and in particular views from Newgate Green.

The Inspector references the original bungalow on the site, Cllrs feel if the current proposal was a replacement of that bungalow, then it would not conform to NNDC policy HO8. It is clear that the increase on the height and scale is disproportionate compared to the size and height of the original bungalow. Cllrs are keen any decision reflects fundamental issues raised in the original Inspectors Report, such as height, scale, massing and engineering works to alter land levels. The Inspector made effort to describe the fact that a building on this site should reflect



local distinctiveness, taking particular account of its effect on the historic environment, landscape character and the AONB. The current proposal is closer to what the Inspector has described above, however the height in the east block, brings question marks over the protection and enhancement of the landscape, settlement character, and protection and enhancement of the historic environment.

Cllr Holliday stated whilst she recognised that the ridge height was taller on the east block there was also considerable support from the community, therefore Cllr Holliday stated she did not object. Cllr Allen PROPOSED an objection to the current plans due to the height of the East Block; this was SECONDED by Cllr Deane and on a show of hands the motion was carried by 5 votes of objection, there was one no objection.

### **Conservation and Design Officer (NNDC) – Objection**

#### **Comments dated 4<sup>th</sup> March 2024:**

The Conservation & Design (C&D) comments focus on the new design proposals and their impact on the Cley Conservation Area and Grade I Listed St Margaret's Church. The proposed building aims to better utilize the site's slope and features a pseudo agrarian style. While the design has some positive aspects, such as a more additive form, it still raises concerns about its appropriateness in a historically significant area. The Impact on the conservation area and the church is considered 'less than substantial' but still raises issues of visual competition and lack of compatibility. Overall, the proposed building is seen as too large and contrasting within the context, leading to doubts about its compliance with planning regulations.

#### **FURTHER COMMENTS ON REVISED PLANS**

With regard to the amended plans received on the 8th of March 2024, Conservation & Design consider that the proposed revisions are beneficial for the following reasons: -

1. Stepping the ridgeline of the tallest block would extend the aggregated form into the building's most impactful element. It would also better reflect the ground levels whilst steering the design away from the agrarian back to the residential.
2. Swapping the zinc for corten would better ground the building on site; i.e. by blending tonally with the ubiquitous terracotta pantiles found locally. It would also add some high level 'warmth' and contrast to the otherwise shades of grey.
3. Relocating the external staircase and losing the privacy screen would reduce the impact of the eastern elevation.
4. Replacing the existing solid gates with slatted equivalents would introduce some permeability and would thus help to combat the existing fortress-like qualities.
5. The additional trees proposed would help to soften the development and reinforce the surrounding rurality.

Taken together, these changes would certainly lessen the overall magnitude of harm. However, with the building still oversized for the site, they would not eliminate it altogether. Therefore, the residual 'less than substantial' harm would still need to be factored into the overall planning balance.

### **Landscape Officer (NNDC) - Objection**

#### **Comments dated 4<sup>th</sup> March 2024:**

The proposed replacement dwelling aims to reuse the structure of the current dwelling and minimize ground and vegetation disturbance. However, the design, including the materials and size of the building, conflicts with the traditional character of the surrounding area. The proposed new building would compete with the Grade I listed church and the homogenous built form on the green. The Landscape section objects to the proposal, stating that it fails to

comply with key landscape policies, particularly in terms of conserving and enhancing the prevailing settlement character. There are concerns about light spill, the materials used, and the lack of planting to assist in assimilating the replacement dwelling into its garden setting. Additionally, there are comments on the Arboricultural Report and recommendations for ecological enhancements. The Landscape section, therefore, lodges an objection based on these grounds.

#### **FURTHER COMMENTS ON REVISED PLANS**

With regard to the amended plans received 8th March 2024 The amended drawings comprise the following elements:

- The northern section of the taller eastern block has been lowered by 450mm.
- The roof material has changed to Corten weathered steel.
- The external staircase has been moved from the east to the south elevation.
- The solid timber entrance gates have been altered to a slatted timber design.
- The Landscape Plan has been revised to include more trees, including outside the main entrance.

The cumulative effect of these revisions further reduces the landscape and visual impact of the large building. The long ridge on the eastern section is now split, although this element of the dwelling remains the tallest and bulkiest element. The change in roof material to Corten will introduce some resonance with the pantiled roofs that are a prevalent element of the built form around Newgate Green. Accommodating the external staircase on the south elevation is a more discreet location.

Increased planting is now proposed comprising additional tree planting on the east and south elevations and planting outside the main site entrance. This will assist in filtering views of the large dwelling within its garden plot. Replacement of the timber board entrance gates with a slatted design will give some permeability to the existing solid boundary.

Given the extensive planning history on this site, there should be absolute clarity on finish levels and spot heights at the point of any approval.

Notwithstanding these recent revisions, this remains a large replacement dwelling, that, by virtue of the scale and footprint compared to the original bungalow on the site, will have a material increase in impact on the surrounding area. It is difficult to conclude compliance with Local Plan Policy HO9 and related landscape policies.

Landscape and visual harm remain, albeit reduced, and given the designation of the surrounding landscape, this should be proportionately weighed into the planning balance.

In the event of approval, conditions would be required relating to hard and soft landscape details, replacement of failures for ten years, retention of existing vegetation for ten years, compliance with the AIA and Arb Method Statement, external lighting.

**Historic England – No comments received** (at time of writing)

**Norfolk Coast AONB Partnership – No comments received** (at time of writing).

**Norfolk Historic Environment Services – No Objection subject to conditions** securing archaeological written scheme of investigation.

## REPRESENTATIONS

Public consultation of the application took place for a period of 21 days between 01.02.2024 and 22.02.2024. Nineteen letters of **objection** have been received as summarised below:

- Overbearing and unsympathetic design
- Questioning of the principle of development and the proposals description
- Unacceptable scale
- Request for the removal of permitted development rights
- No levels or scale shown on the drawings.
- Unacceptable floor area increase of 173% when compared to the original bungalow
- Queries relating the sites levels.
- Detrimental impact on the conservation area and neighbouring Church
- The use of Corten for a roofing material in this location is considered to be inappropriate.
- The special glazing proposed would not sufficiently block out light or prevent light spill.
- Examples provided within the Design and Access Statement of similar developments are not all located within Conservation Areas and are therefore, not comparable.
- The box feature over the ridge of the lower pitched roof is an unfortunate add on element that will impair the lines of the pitched roof.
- The relocation of the Silver Birch trees near the sites entrance is inappropriate and would look out of place
- Unacceptable views available from Bridge Foot Lane
- Insufficient information provided in relation to the landscaping.
- 

A total of thirty letters of **support** have been received as summarised below:

- Supports the proposed design and reuse of existing materials.
- Improvement to the site
- Amendments provide a more sympathetic design.
- Materials such as Corten reflect the local vernacular.

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

**LOCAL FINANCE CONSIDERATIONS** Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are not considered to be material to this case.

## RELEVANT POLICIES:

### **North Norfolk Core Strategy (2008)**

Policy SS 1: Spatial Strategy

Policy SS 2: Development in the Countryside

Policy HO 8: House Extensions and Replacement Dwellings in the Countryside

Policy EN 1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads

Policy EN 2: Protection and enhancement of landscape and settlement character  
Policy EN 3: Undeveloped Coast  
Policy EN 4: Design  
Policy EN 8: Protecting and enhancing the historic environment.  
Policy EN 9: Biodiversity and geology  
Policy CT 6: Parking provision.

### Material Considerations

#### **Supplementary Planning Documents:**

North Norfolk Landscape Character Assessment (January 2021)  
North Norfolk Design Guide (December 2008)

#### **Conservation Area Appraisals**

Cley Conservation Area Appraisal (July 2019)  
Glaven Valley Conservation Area Appraisal (Jan 2024)

#### **National Planning Policy Framework (2023):**

Chapter 2: Achieving sustainable development.  
Chapter 4: Decision-making  
Chapter 6: Building a strong and competitive economy.  
Chapter 9: Promoting sustainable transport.  
Chapter 11: Making effective use of land  
Chapter 12: Achieving well designed and beautiful places.  
Chapter 15: Conserving and enhancing the natural environment.  
Chapter 16: Conserving and enhancing the historic environment.

## **OFFICER ASSESSMENT**

### **The Site and Application**

The application site is located on the southern edge of the village of Cley-next-the-Sea in an area known as Newgate Green. The site originally comprised of a single storey, detached dwelling with associated amenity space extending to approximately 0.3 hectares.

To the west of the site sits Holly House, a two-storey detached dwelling. To the east and south, the site is surrounded by open fields and to the north, on the opposite side of Holt Road is St Margaret's Church (a Grade I listed building).

The site falls within the Cley Conservation Area and the Norfolk Coast National Landscape and is designated as countryside in the North Norfolk Core Strategy Development Plan Document (2008) (NNCS).

The Cley Conservation Area includes most of the built-up area of the village, together with some areas of adjoining countryside. Development in the centre of the village is characterised by a dense and intricate pattern of development, with narrow streets lined with brick and flint cottages and more substantial houses. In the vicinity of the appeal site, development is more loose-knit and sporadic, and includes both older brick and flint properties together with some newer dwellings. Areas of open land, including the grounds of St Margaret's Church and the village green to the west, create significant breaks in the pattern of built development, affording views across open countryside and giving the area an open and rural character.

The site occupies an elevated position relative to Holt Road and is well screened by maturing trees and hedging to the north and east.

### **Background - Site History**

The application site was originally host to a modest bungalow which was previously described by the Inspector for case APP/Y2620/A/13/2205045 as *“unremarkable architecturally and does not contribute materially to the significance of the Conservation Area”*. The inspector also confirmed that the bungalow was largely hidden from views. A full planning application was submitted in 2012 under reference: PF/12/1219 for the erection of a two-storey replacement dwelling and a detached studio/annexe. The application was refused by Development Committee on the basis that the proposed development would constitute an inappropriate design in terms of its form and materials which would fail to preserve or enhance the character and appearance of the Cley Conservation Area. Following this refusal, an appeal was submitted to the Planning Inspectorate which was allowed in 2014 with the Inspector concluding that the proposal would be sensitive to its local context and would protect the historic environment.

In December 2016 the appellants acquired the land. Development commenced in January 2017 with demolition of the bungalow and excavation works. During the course of the building works the Council investigated whether the development was being carried out in accordance with the approved plans. A Temporary Stop Notice was served and works to reduce the height of the structure by 400mm were undertaken. It was recommended at this stage that a new application should be made to address the inconsistencies between the works on site and the approved plans, and that no more works should take place until that application was determined. However, no application was received, and works continued on site. Further discussions proceeded between the applicant and the Council, site surveys and exchanges between legal teams followed. A detailed document was provided by the Council demonstrating the numerous breaches and an enforcement notice was issued on 05 August 2019 and the applicants submitted an appeal shortly thereafter.

In an attempt to produce an acceptable development and overcome the issues raised, another application was submitted in March 2021 (PF/21/0882) however, the application was later refused in March 2022 on the basis that the development failed to satisfy concerns raised in relation to the excessive and harmful height, scale mass & prominence of the proposed dwelling. Furthermore, the proposal failed to suitably articulate the interconnecting development blocks, in features such as the roofline, fenestration, and materials that the already adverse impact is unacceptably exacerbated. The applicant decided to appeal this decision as well.

During the determination of the planning application, the Council became aware of a then recent High Court Case - *Choiceplace Properties Ltd v Secretary of State for Housing, Communities and Local Government* which indicated that the fall-back position of the original planning permission granted on appeal in 2014 and depended on by Mr & Mrs Spiegel, could no longer be relied on. This was due to the approved plan 2317-11b showing the relationship between the replacement dwelling at Arcady and the neighbouring two storey dwelling Holly House inaccurately. This was put back to the applicants for a response which led to the submission of a second application.

A Section 73a (Variation of Conditions) application was submitted (RV/21/2583) and sought permission for the *“Variation of the wording of Condition 2 (Approved Plans) (amended site location plan scaled at 1:2500, and drawings 2260-01, 2317-02z1, 2317-03e, 2317-05f and 2317-11b. Approved on Appeal Ref: PP/Y2620/A/13/2205045 relating to Planning Application Ref: PF/12/1219 for Replacement House and Studio”* at Arcady; Holt Road, Cley-Next-The-Sea. This application was also refused on the basis that the proposed revisions failed to satisfy concerns raised in relation to the excessive and harmful height, scale mass & prominence of the proposed dwelling.

Appeals were submitted for both parts of the Enforcement Notice and for applications PF/21/0882 and RV/21/2583. All three of the appeals were linked and considered within the Inspectors report and decision (dated 17<sup>th</sup> May 2023) a copy of which is attached at **Appendix A**.

Appeal A which related the Enforcement Notice was allowed in part, granting permission for the annexe, swimming pool and associated structure. The notice was also varied in paragraphs 6(i) and 6(v) by the substitution of 15 months as the period for compliance and in paragraph 6(vi) by the substitution of 18 months as the period for compliance, therefore the dwelling in question must be demolished by 17<sup>th</sup> August 2024 along with the removal of the vehicular ramp, parking and turning area adjacent to front door (North elevation). The ground levels must be returned to those levels detailed in the Inspector approved plan (drawing no: 2260-01) of planning approval PF/12/1219 by 17<sup>th</sup> November 2024.

The appeal submitted against application PF/21/0882 which sought permission for 'Erection of dwelling and associated external works and landscaping' and application and RV/21/2583 which proposed a 'Variation of the wording of Condition 2 (Approved Plans)' were both dismissed.

The current application has been submitted following the outcome of the appeal mentioned above. The application still seeks permission for the erection of a dwelling (Replacement) however, an amended design has been produced showing the dwelling vastly altered from the previous proposals.

## **MAIN ISSUES FOR CONSIDERATION**

- 1. Principle of development**
- 2. Design and Impact on heritage assets**
- 3. Amenity**
- 4. Landscape**
- 5. Highways and Parking**
- 6. Biodiversity**
- 7. Demolition**
- 8. Permitted Development Rights**
- 9. Planning Balance and Conclusion**

### **1 Principle of Development**

Core Strategy (CS) Policy SS 1 sets out that most new development in North Norfolk should take place in the towns and larger villages defined as Principal and Secondary Settlements and a small amount of new development will be focused on several designated Service and Coastal Service Villages. The rest of North Norfolk, including all settlements that do not fall under the above criteria, is designated as Countryside.

The site in question is situated within Cley-next-the-Sea which is an area designated as Countryside under Policy SS 2. Policy SS 2 limits development in areas designated as Countryside to that which requires a rural location and complies with its list of uses. Policy SS 2 permits the extension and replacement of dwellings.

Policy EN 4 states that all development will be of a high-quality design and reinforce local distinctiveness. Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable. Proposals will be expected to have regard to the North Norfolk Design Guide, incorporate sustainable

construction principles, make efficient use of land, be suitably designed within their context, retain important landscape and natural features and incorporate landscape enhancements, ensure appropriate scale and ensure that parking is discreet and accessible amongst other matters.

Policy HO 8 allows proposals to extend or replace existing dwellings within areas designated as Countryside subject to appropriate height and scale. Proposals must also not materially increase the impact of the dwelling on the appearance of the surrounding countryside.

In terms of principle, the planning history of the site adds a layer of complexity when assessing the correct policy basis for the proposal.

The original 2012 application (allowed on appeal in 2014) resulted in the demolition of the existing bungalow on site to make way for the replacement dwelling. However, that dwelling was not constructed in accordance with the approved permission.

Following confirmation that the approved replacement dwelling had not been built in accordance with the approved plans which were also found to be inaccurate, the Council applied the principle in the *Choiceplace Properties Ltd v Secretary of State for Housing, Communities and Local Government (2021)* judgment which had stark similarities to issues relating to Arcady and concluded that the dwelling currently occupying the site in question was not lawful.

In the simplest of terms, one could argue that there is no existing dwelling in place against which the replacement part of Policy HO 8 could be applied as the existing bungalow was demolished to make way for the unauthorised main building currently on the site.

However, Officers consider it would be unreasonable to completely disregard the planning history of the site. The residential use of the site has not been abandoned and there is permission for the associated annexe building and swimming pool.

The site is quite clearly residential in use and has been since the demolition of the original bungalow. The Inspector recognised this within their report and as a result, tied the dwellings associated outbuildings (annexe and swimming pool and associated structure) to the residential use of the land.

Policy HO 8 is open for interpretation and the specific wording confirms that it supports the replacement of **existing** dwellings in the countryside. Officers consider that, given the history of the site and the fact that an existing lawful bungalow once occupied the site that was demolished to make way for the existing structure, the proposal for a new replacement dwelling on the site which has been confirmed to have a residential use with associated buildings tied to it, is considered to broadly comply with the aims of policy HO 8.

The current application has been submitted in an attempt to overcome the refusal reasons of previous applications and the latest appeal decision. The appearance of the dwelling has been considerably revised and reduced along with changes to landscaping and materials proposed. It is appreciated that the applicants have tried to work positively with the Council to try and reach a satisfactory outcome.

Consideration must also be given to the family who currently occupy the site and whilst it is not considered that the residents would become homeless as a result of the demolition of Arcady, there are young children involved who are enrolled in local schools and the ongoing situation does have the potential to disrupt their education if the family was required to relocate.

As required by the enforcement notice, the dwelling must be demolished, and hardstanding removed by 17<sup>th</sup> August 2024 and the land levels restored to those that existed before the development took place by 17<sup>th</sup> November 2024. The applicant has indicated that this work would involve various types of machinery entering and exiting the site multiples times a day to dispose of waste potentially disrupting the amenity of neighbouring properties in terms of noise. Moreover, the demolition works would also result in the loss of the landscaping which has matured over the last 5 years providing screening of views in and out of the site. The complete demolition of the site would lead to a waste of existing building materials, whereas the partial demolition and reconfiguration of the dwelling would allow for the re-use of the structure of the current dwelling, retention of landscaping and betterment of the site which would be a more desirable and sustainable outcome. Officers consider that finding a positive solution that reduces the amount of demolition waste is a way forward that should be supported. Ultimately whatever solution is proposed, it needs to suitably address the concerns set out by the Inspector in relation to the current building on site.

In summary, officers consider that the principle of replacing the existing dwelling is acceptable, subject to the proposal according with other relevant Development Plan policies or unless material considerations indicate otherwise.

## **2 Design and Impact on heritage assets**

The current application proposes a replacement dwelling and includes numerous alterations to the existing dwelling positioned on the site.

Currently the site is host to a three-storey dwelling incorporating a series of interconnected blocks clad in timber and with a red brick base. Whilst varying in height, the roofs of the property are flat with a larger element positioned on the rear elevation. Also positioned on the rear and side (west) elevation is a first-floor terrace area stretching the entire width of the property and accessed via steps to the west of the site.

Another prominent feature of the site is the 'vehicular ramp' which runs adjacent (north) of the property leading to parking area and entrance door.

The Inspector concluded within their report that a modern building would be achievable on the site however, it would need to incorporate *"similar design elements to the existing buildings and design cues from its surroundings"*. It is against this context that Officers consider the Committee should assess the latest proposals.

The site is located within the Cley Conservation Area which was designated back in 1974, this area is one of the district's most significant in heritage terms and covers most of the village centre. For the purposes of this application, however, it is the character area around The Green which is most relevant. To the northwest of the site sits Grade I Listed St Margaret's Church which was noted by the Inspector, *"the Church of St Margaret is a very fine parish church. Built of stone and flint, the standing fabric dates to the 14th and 15th centuries"*. It therefore enjoys a primacy within the settlement which until recently had been unchallenged by other local buildings.

During the determination of this application, following responses received from consultees, the application was amended by the applicant in order to positively address issues that were raised.

The originally proposed plans showed the following changes:

*Northern elevation:*



- *Removal of entrance door and vehicular ramp*
- *Changes to fenestration*
- *Partial demolish of second floor*
- *Timber louvers over windows and areas of glazing*

*Eastern elevation:*

- *Erection of a new curved pitched roof over the eastern block*
- *Changes to fenestration*
- *Part removal of second floor*
- *Changes to fenestration*

*Southern elevation:*

- *Width of terrace area reduced and more away from the western boundary.*
- *Insetion of staircase serving the terrace area*

*Western elevation:*

- *Vehicular ramp removed and replaced with a retaining wall to provide covered parking spaces.*
- *The first floor entrance door relocated to the ground floor on the western elevation.*
- *Removal of first floor block.*
- *Changes to fenestration and inclusion of timber louvres.*
- *Removal of second floor on western side*
- *Addition of a curved pitched roof at first floor*

Amended plans were provided on 07 March 2024 following comments of objection from the neighbours and statutory consultees. The principal changes to the design of the house are:

- The northern third of the roof to eastern section of the house (Element 4) has been lowered by circa 450mm to include ridge line and eaves height
- The roof covering has been amended to propose a weathered Corten steel standing seam roof
- The external staircase has been removed from the eastern elevation of the proposed house and relocated to a central position on the southern elevation to reduce visual clutter when viewed from the east
- The revised Landscape Plan includes for the provision of both evergreen and deciduous heavy standard trees to be planted in the southern boundary
- Open slatted front entrance gates to give more permeability

Officers consider that the proposed alterations overcome some of the issues originally raised and supported by the Inspector. The demolition of the majority of the second floor and introduction of curved pitched roofs removes the bulkiness of the dwelling and provides a much softer appearance. The removal of the vehicular access and reduction in the rear terrace area further reduces the mass of the property. Overall, the proposed dwelling is considered to be far more appealing when compared to the existing dwelling that occupies the site.

The proposed changes result in a relatable building, visually, with levels of visual interest and architectural quality. However, the inclusion of a new curved pitched roof on the eastern section does result in a slightly higher ridge height compared to the existing, although this roof line has now been broken up with a lower drop towards the north as a result of amended plans.

With original concerns relating to the scale of the dwelling and its impact on the conservation area and St Margarets Church, this design decision to raise the height could be considered as questionable. However, the new curved roof provides a much softer appearance whilst also allowing for the majority of the second-floor area to be removed, thus reducing bulk in other sections of the dwelling. The benefit of this alteration is appreciated most when viewing the

site from Bridgefoot Lane to the south of the site. The existing dwelling provides a blockish massing and sits heavy in the landscape whereas the new building would present a single, well-proportioned gable with a subordinate wing springing off perpendicularly, resulting in a less eye-catching structure and having less of an impact on the wider area.

Original comments provided by the Conservation and Design Officer, Landscape Officer and the Parish Council raised concerns relating to the east elevation. When looking down Holt Road, the existing building is already a prominent feature within the street scene and the increase in ridge height and width was considered to contribute to the prominence of the dwelling.

Although the partial demolition of the property and removal of the vehicular ramp, does push the majority of the development back into site which reduces the structure's visual impact when viewing from the Green, the eastern block was not considered acceptable. The revised plans now show the ridge on the eastern block to be stepped down in part, breaking up the appearance of the dwelling when viewed from Holt Road. By incorporating elements that reflect the ground levels and shifting the design focus from agrarian to residential, Officers consider that the overall project will be more aligned with its intended purpose and audience. The materials have also been amended with the plans now proposing a Corten roof to blend in with the traditional red pantiles surrounding the site and provide a high level of warmth and contrast to the otherwise shades of grey.

Officers consider that views back from the church and down Church Lane have also been improved as a result of the vehicular ramp being removed along with the addition of new planting along the northern boundary, whilst the roof line of the eastern section would still remain visible, the use of a Corten roof and the lowering (in part) of the ridge would make views less intrusive and the dwelling would blend better with its surroundings. A similar thing could be said for the views down Holt Road. The dwelling would still be elevated by virtue of its position however, its appearance would be less dominant within the street scene.

The Conservation Officer originally concluded that there would remain residual harm as a result of the development, albeit at a lower level on the 'less than substantial' spectrum with consideration of Paragraph 208 of the NPPF, however, the most recent comments confirm that the revisions further reduce the overall magnitude of harm.

Officers consider that the redevelopment of the site and dwelling would outweigh the less than substantial harm through public benefits. Firstly, the development would create a need for local trades and contribute to the local economy. It is also considered to be the more sustainable option as opposed to demolishing the site completely. The complete demolition would require a lot of resource consumption and generate a substantial amount of waste whilst also potentially impacting the amenity of the neighbouring properties as a result of the numerous large vehicles entering and existing the site. If permission were to be granted for the proposed development, it would also allow for further landscaping to be provided which would offer optimal screening of the area, restricting views in and out of the site. Lastly, it is also acknowledged that a local family with young children reside at the property and have done for several years. The property is used as a permanent dwelling with the children attending local schools, therefore, the demolition of the property would result in the family needing to find a new place to live and possibly interrupting the children's education.

Overall, the proposal presents a mix of positive aspects, such as improvements in landscaping and reduction of light spillage. Despite some concerns raised in representations about whether the dwelling would fit with the surrounding area and questions about whether the replacement dwelling still amounts to a disproportionately large increase in the height and scale of the original dwelling, Officers consider the proposal will satisfactorily address most, if not all of the issues raised by the Planning Inspector. Whilst some harm to heritage assets will still result

from the proposal together with some harm to landscape character, on balance, and subject to the imposition of conditions, the moderate public benefits would outweigh the identified heritage and landscape harm.

Accordingly, it is considered that the proposed development complies with the requirements of Policies HO 8, EN 4 and EN 8 of the adopted North Norfolk Core Strategy and Paragraph 208 of the NPPF.

### **3      Amenity**

The application site is well screened by mature trees and hedging on all boundaries preventing unacceptable levels of overlooking. The submission proposes extensive changes from the originally approved scheme with the main bulk of the property pulled away from the western boundary as a result of the demolition of the ground floor ensuite and dressing area. The existing terrace area would also be reduced and contained to the rear of the site with planters and a timber pergola to further reduce overlooking to the east and west.

Some changes to the western elevation's fenestration are also proposed and would incorporate windows serving habitable rooms, however, given the separation distance between the site and the neighbouring property Holly House to the west along with the natural screening, it is considered that the windows would not create a loss of privacy.

Other forms of mitigation have also been provided with the amended design such as the use of smart glass and louveres to reduce light spillage and obscure glazing to bathrooms and toilets.

Whilst the majority of the dwellings second floor elements would be removed or reduced, the ridge height of the eastern part of the property would be increased slightly to allow for the new pitched roof with arched ridge. The 0.4m increase in height is not considered to result in a detrimental level of overshadowing to the neighbouring property, given the orientation of the site. The ridge would also be stepped down by 0.4m towards the northern section of the block, further reducing the potential for overshadowing.

Overall, the proposed development provides sufficient internal space standards and amenity for the occupiers and complies with the amenity requirements of policy EN 4 of the adopted North Norfolk Core Strategy. The neighbours living conditions would not significantly change and would benefit from landscape improvements.

### **4      Landscape**

As confirmed by the Landscape Officer, Newgate Green is located within the Cley Conservation Area and an area of Undeveloped Coast. The settlement has a strong character incorporating a consistent palette of brick and flint and red pantiles, particularly the dwellings that frame the green.

The original plans for the proposed dwelling incorporated a zinc roof which was considered to be out of keeping for the area and could have been seen to compete with St Margarets Church located to the north of the site. The amendments show a Corten roof used for the whole of the dwelling in tribute to the red pantiles that can be seen throughout the village. This provides a modern take on the aesthetics of the area whilst still respecting the important views.

The reduction in mass of the dwelling on the west elevation and the introduction of pitched roofs does reduce the overall bulk and angularity of the existing property and this is now

improved further via the revised drawings showing the northern third of the roof to eastern section of the house lowered by circa 450mm. Whilst the east elevation would remain fairly prominent within the street scene, especially on Holt Road, the amendments are considered to provide a much softer appearance. The relocation of the external staircase from the east elevation to the south is also appreciated and reduces the east elevation from appearing cluttered.

Further landscaping details have also been provided as a result of the amendments and confirm that the hedgerow to the east will be grown to 16ft, the 3no. Silver Birch trees will be relocated to the north west of the site, existing heath/scrub to be supplemented with 1500mm high Holly and the planting of 3no. new heavy standard hedgerow trees to the south. The additional landscaping is welcomed and assist in filtering views of the dwelling within its plot.

In relation to policy EN 3, a justification is usually required for new residential development located within areas of Undeveloped Coast however, given the history of the site and previous applications for a replacement dwelling, further justification is not considered to be required.

Overall, the appearance and design of this dwelling in such a sensitive area has received mixed views from consultees and members of the public, however, the important assessment that the Local Planning Authority must make is whether or not the development would conserve or enhance the prevailing settlement character that is integral to the historic development of Cley Conservation Area and the special qualities of the Norfolk Coast National Landscape.

The proposal provides a large dwelling on an elevated site and is therefore easily visible within the landscape. However, simple design features have been incorporated to ensure that the proposal would not have a significantly harmful effect. Timber louvres have been incorporated to reduce light pollution and reduce overlooking. While the original dwelling has seen a reduction in bulk and a more visually pleasing design with curved pitch roofs, there are still some concerns raised by consultees that need to be addressed through further details being secured by condition. Efforts to minimize the visibility of the dwelling in connection with St. Margaret's Church and within the Conservation Area are evident, with steps taken to enhance its integration into the surroundings, therefore, the landscape and visual harm of the proposed development have been reduced and this will be weighed into the planning balance.

Accordingly, it is considered that the proposed development complies with the requirements of Policies EN 1, EN 2 and EN 3 of the adopted North Norfolk Core Strategy.

## **5 Highways and Parking**

The existing access to the site would be utilised and the existing solid hardwood gates would be altered to incorporate slatted timber. Following the removal of the existing vehicular ramp, vehicles will arrive at the front door which will be on the lower ground floor level with a level access from the driveway to the entrance hall. A new parking bay will be provided under the area currently occupied by the brick planters and the staircase that provides access to the current front door. This parking area will be covered with a canopy over both the parking spaces and the front door.

The site is capable of providing ample parking for both the proposed dwelling and the associated annexe which was granted permission by way of the recent appeal decision in accordance with policy CT 6 of the adopted North Norfolk Core Strategy.

## **6 Biodiversity**

Policy EN 9 sets out that development proposals should protect the biodiversity value of land and buildings and minimise fragmentation of habitats, maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features where appropriate. Development proposals that would cause a direct or indirect adverse effect to nationally designated sites or other designated sites or protected species will not be permitted unless prevention, mitigation and compensation measures are provided.

The application has been submitted with a Preliminary Ecological Appraisal which confirmed that the building has negligible suitability for roosting bats and the site posed a low risk to bird species. Ecological Method Statements are recommended, along with biodiversity enhancement measures which would be secured via condition.

The proposed development involves the replacement of an existing dwelling and is not adding net additional dwellings. The proposal is not therefore considered to be qualifying development under the GIRAMS strategy or in regards to Nutrient Neutrality.

As such, it is considered that the proposed development complies with the requirements of Policy EN 9 of the adopted North Norfolk Core Strategy.

## **7 Demolition**

The Enforcement Notice which was partially dismissed at appeal states that the dwelling in question, an associated vehicular ramp and the parking and turning area must be demolished by 17<sup>th</sup> August 2024. The land levels are required to be returned to those detailed in the Inspectors approved plan (drawing no: 2260-01) of planning approval PF/12/1219) by 17<sup>th</sup> November 2024.

If approved, the new development would mean that the demolition noted on the Enforcement Notice above is no longer required. However, following discussions with the Local Planning Authority's Solicitor it has been confirmed that the Enforcement Notice will stay in place in line with Section 180 of the Town and Country Planning Act 1990 (as amended) which confirms that:

*Where, after the service of—*

*(a) a copy of an enforcement notice; or*

*(b) a breach of condition notice,*

*planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.*

After careful consideration, Officers are of the opinion that entering into a S106 legal agreement is unnecessary as the removal of the unauthorised existing development (the elements that are not to be retained) can be secured via conditions that require the applicant to carry out such works in a timely manner which would be monitored closely by the Council's Enforcement Team. By not withdrawing the Enforcement Notice, it also allows the Council to take action if the works are not carried out in accordance with the timescales proposed.

A set of drawings have been provided showing the relevant areas for demolition hatched in green. The conditions will refer to these drawings and the specific areas/structures that require removal and will provide a deadline of 17<sup>th</sup> August 2024 for the works to be carried out. A similar condition would also be added in relation to the restoring of site levels.

The Local Planning Authority is confident in the proposed conditions to ensure the timely and effective execution of the demolition process.

## **8. Permitted Development Rights**

Concerns were expressed by members of the public throughout the consultation process regarding permitted development rights in relation to the dwelling. It was requested that permitted development rights be removed.

Officers recognise that the proposed dwelling to replace that on the site would still be a large property and that there is already a detached annexe, swimming pool and associated structures in the plot.

On balance, recognising the heritage and landscape sensitivities associated with this site, removal of permitted development rights for the property would be considered proportionate and reasonable, notwithstanding the limitations that would apply. This will be secured via condition.

## **9. Planning Balance and Conclusion**

Officers fully recognise that the application site and its history make this scheme a sensitive one locally. Overall, considering all matters raised, including the conflict with some of the Development Plan policies, Officers consider there are material considerations that weigh in favour of the proposal and which would justify the grant of planning permission..

Some elements of the proposed development are acknowledged as causing some harm to the Conservation Area and surrounding heritage assets, although this is considered to be less than substantial and other elements such as the use of a Corten roof and reduction in ridge height are considered to represent improvements. Further landscaping details have been provided showing additional planting and the relocation of already established trees. These measures will provide sufficient screening of the site and soften the appearance of the dwelling.

Overall, public benefits created by the dwelling and improvements to the site as outlined above are deemed to outweigh the identified harm and the proposal complies with policies HO 8, EN 1, EN 2, EN 3, EN 4 and EN 8 of the adopted North Norfolk Core Strategy, subject to conditions

## **RECOMMENDATION**

### **APPROVAL subject to the imposition of the following conditions:**

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason for condition:

As required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, except as may be required by specific condition(s):

Location Plan, received 17.01.2024  
 A1-001 - Topographical Survey, received 17.01.2024  
 Appendix 2 - 2260-01 - Original Site Survey, received 17.01.2024  
 JHA/23/22-4 - Existing Elevations, received 17.01.2024  
 JHA/23/22-15 Rev A - Existing Section A-A, received 19.02.2024  
 JHA/23/22-4 Rev A - Existing Elevations, received 19.02.2024  
 Landscaping Plan Rev A, received 08.03.2024  
 JHA/23/22-8 Rev A – Perspective Views 1, received 08.03.2024  
 JHA/23/22-14 Rev B – Proposed Roof Plan, received 08.03.2024  
 JHA/23/22-16 Rev B – Existing and Proposed Sections BB, received 08.03.2024  
 JHA/23/22-2 – Proposed Site Plan, received 08.03.2024  
 JHA/23/22-5 Rev C – Proposed Plans, received 08.03.2024  
 JHA/23/22-6 Rev C – Proposed Elevations, received 08.03.2024  
 JHA/23/22-9 Rev A – Perspective Views, received 08.03.2024  
 JHA/23/22/7A Rev B – Proposed Section AA, received 08.03.2024  
 Design and Access Statement & Planning Statement dated January 2024, received 08.03.2024  
 Heritage Statement, dated January 2024, received 08.03.2024  
 Visual Impact Assessment dated January 2024, received 08.03.2024  
 Preliminary Ecological Appraisal (ref: R091223) prepared by J & M Consultants dated December 2023, received 17.01.2024  
 Arboricultural Impact Assessment prepared by AT Coombes Ltd dated 03.01.2024, received 17.01.2024  
 JHA/23/22-D1 REV A - Existing Elevations Showing Areas for Demolition dated 25.03.2024  
 JHA/23/23-D2 REV A - Existing Plans Showing Areas for Demolition dated 25.03.2024

Reason for condition:  
 For the avoidance of doubt.

3. The materials to be used on the external surfaces of the development hereby permitted shall be in accordance with the details submitted in the Design and Access Statement and Planning Statement received 08.03.2024 and as indicated on the approved plans.

Reason for condition:  
 To ensure the satisfactory appearance of the development, in accordance with policy EN 4 of the adopted North Norfolk Core Strategy.

4. Prior to the first occupation of the development hereby permitted, all new glazing shall be installed in accordance with the details set out in the approved plans with smart glass featuring a Visible Light Transmission (LVT) of no more than 0.65 VLT. The glazing shall thereafter be retained in accordance with these details.

Reason for condition:  
 To ensure that the development minimises light pollution, in accordance with policies EN 1, EN 2, EN 8 and EN 13 of the adopted North Norfolk Core Strategy and paragraphs 187 and 191 of the NPPF.

5. The development hereby approved shall be carried out in full accordance with the recommendations as set out in Section 5 and Appendix 2 of the Preliminary Ecological Appraisal (ref: R091223) prepared by J & M Consultants dated December 2023. The mitigation and enhancement measures shall include the provision of:

a) Works to be undertaken in accordance with the Ecological Method Statement for Bats (Paragraph 5.2.1);

- b) Works to be undertaken in accordance with the Ecological Method Statement for Birds (Paragraph 5.3.1);
- c) The provision of at least 2no. bat boxes to be placed on mature trees to the south along the hedgerow (on the south/south-east/south-west facing aspects of the trees) at least 3m above ground level; and
- d) The provision of at least 2no. bird nest boxes (with a 28mm hole) on boundary trees on the north/north-east/west facing aspects of the trees at least 3m above ground level.

The enhancement measures shall be installed, prior to the first occupation of the development, in accordance with the approved details and thereafter retained in a suitable condition to serve the intended purpose.

Reason for condition:

In accordance with the requirements of policy EN 9 of the adopted North Norfolk Core Strategy and paragraph 180 of the National Planning Policy Framework, and for the undertaking of the council's statutory function under the Natural Environment and Rural Communities Act (2006).

- 6. The development hereby approved shall be carried out in full accordance with the Arboricultural Method Statement, Tree Protection Plan and Timetable for Implementation of Tree Protection Works, contained within the Arboricultural Impact Assessment prepared by AT Coombes Ltd dated 03.01.2024, including installation of all tree protection measures prior to commencement of works on site.

Reason for condition:

To protect trees and hedges on the site in the interest of the visual amenity, and the character and appearance of the area, in accordance with policies EN 1, EN 2 and EN 4 of the adopted North Norfolk Core Strategy.

- 7. Prior to the first occupation of the development a scheme for hard and soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall include plans at no less than 1:200 showing the following details:

Proposed Soft Landscape Details

- 1. Existing trees, shrubs and hedgerows on the site, indicating those to be removed
- 2. Accurate plotting of those to be retained (including species and canopy spread), including measures for protection during the course of the development to BS5837:2012
- 3. Details of all new planting including: species, location, number and size of new trees, hedges and shrubs in compliance with BS 8545:2014.
- 4. Measures for protection of new planting

Proposed Hard Landscape Details

- 1. Surface materials for vehicle and pedestrian areas
- 2. Boundary treatments, including fencing, walling and gates

Implementation and Retention

- 1. An implementation programme laying out a timescale for the completion of all landscape works
- 2. A landscape management plan, stating management responsibilities and a schedule of retention and monitoring operations for all landscaped areas, including replacement of all plant failures in the season following the failure, for a minimum of ten years following implementation.

Reason for condition:



To protect and enhance the visual amenities of the area, in accordance with the requirements of policies EN 1, EN 2 and EN 4 of the adopted North Norfolk Core Strategy.

8. Prior to commencement of the development hereby permitted a Method Statement for translocation, storage and replanting of the 6no. Silver Birch trees as shown on Landscaping Plan Rev A (received 08.03.2024) shall be submitted to and approved in writing by the Local Planning Authority.

The development shall then be carried out in full accordance with the approved details.

Reason for condition:

To protect and enhance the visual amenities of the area, in accordance with the requirements of policies EN 1, EN 2 and EN 4 of the adopted North Norfolk Core Strategy.

9. Any tree, shrub or hedgerow forming part of an approved landscape scheme which dies, is removed or become seriously damaged or diseased, within a period of ten years from the date of planting, shall be replaced during the next planting season following removal with another of a similar size and species as that originally planted, and in the same place.

Reason for condition:

To protect and enhance the visual amenities of the area, in accordance with the requirements of policies EN 1, EN 2 and EN 4 of the adopted North Norfolk Core Strategy.

10. Prior to the installation of any external lighting (including any security or other intermittent lighting), full details shall be submitted to and approved in writing by the Local planning Authority. These details shall include precise specifications (which should include cowl/shielding, downward facing low energy fittings, directed downwards and switched on only when needed), positions within the site, height and levels of illumination.

The lighting shall then be installed and thereafter retained in accordance with the approved details.

Reason for condition:

To ensure that the development minimises light pollution and the potential impact on biodiversity, in accordance with policies EN 1, EN 2, EN 8, EN 9 and EN 13 of the adopted North Norfolk Core Strategy and sections 12, 15 and 16 of the NPPF.

11. By no later than 17 August 2024 the parts of the building located on the site and shown hatched green on plans JHA/23/22-D1 and JHA/23/23-D2 shall be demolished.

Reason for condition:

To ensure that harmful existing unauthorised development is removed in a timely manner, in accordance with policy EN 4 of the adopted North Norfolk Core Strategy.

12. By no later than 17 August 2024 the vehicular ramp and parking area located adjacent to the front door of the northern elevation of the building located on the site and shown marked "parking area (not used) and ramp" on plan 1660-00-002 shall be removed from the site.

Reason for condition:

To ensure that harmful existing unauthorised development is removed in a timely manner in accordance with policy EN 4 of the adopted North Norfolk Core Strategy.

13. By no later than 17 November 2024 the land levels on the site shall be in accordance with the levels shown marked on Landscape Plan Rev A.

Reason for condition:

To ensure that harmful existing unauthorised development is removed in a timely manner in accordance with policy EN 4 of the adopted North Norfolk Core Strategy.

- 14.** No enlargement, improvement or other alterations of the dwelling/s [Class A]; no additions or alterations to the roof/s [Class B & C]; no provision of porches [Class D]; nor the provision within the curtilage of the dwellings of any building or enclosure, swimming or other pool [Class E]; or chimneys, flues or soil and vent pipes [Class G] or any other works as defined by Classes A, B C, D, E and G of Part1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), shall be erected or brought onto the land.

Reason for condition:

To control future development in order to protect the character, appearance and setting of designated heritage assets and the surrounding landscape, and given the extensive development that has already been permitted on site, in accordance with policies EN 1, EN 2, EN 4 and EN 8 of the adopted North Norfolk Core Strategy and sections 12, 15 and 16 of the NPPF.

**Final wording of conditions and any others considered necessary to be delegated to the Assistant Director – Planning.**



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## Appeal Decisions

Hearing Held on 24, 25 and 26 January 2023

Site visit made on 26 January 2023

**by Diane Lewis BA(Hons) MCD MA LLM MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2023**

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### **Land at Arcady, Holt Road, Cley-next-the-Sea, Holt NR25 7TU Appeals A and B Refs: APP/Y2620/C/19/3236385 and APP/Y2620/C/19/3236386**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Adam Spiegel (Appeal A) and Mrs Charlotte Spiegel (Appeal B) against an enforcement notice issued by North Norfolk District Council.
- The enforcement notice, numbered ENF/18/0164, was issued on 5 August 2019.
- The breach of planning control as alleged in the notice is Without the benefit of planning permission:
  - i. The erection of a two-storey replacement dwelling and detached annexe
  - ii. The creation of a swimming pool and associated structure
  - iii. Engineering works to alter land levels across the site and to provide an area of hardstanding in front of the North elevation.
- The requirements of the notice are
  - i. Demolish the two-storey dwelling and permanently remove it from the Land.
  - ii. Demolish the studio/annexe and permanently remove it from the Land.
  - iii. Permanently remove the swimming pool, and infill, returning that part of the Land to its original level.
  - iv. Permanently remove the structure associated with the swimming pool.
  - v. Remove the hard standing on the North elevation.
  - vi. Return land levels to those levels detailed in the Inspector approved plan (drawing no: 2260-01) of planning approval PF/12/1219.
- The period for compliance with the requirements is 6 months for steps (i), (ii) and (v), 3 months for steps (iii) and (iv) and 9 months for step (vi).
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decisions: The appeal on ground (a) succeeds in part and permission for that part is granted, otherwise the appeals fail and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decisions.**

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### **Appeal C Ref: APP/Y2620/W/22/3299404**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with

conditions subject to which a previous planning permission was granted.

- The appeal is made by Mr Adam Spiegel and Mrs Gay Spiegel against the decision of North Norfolk District Council.
- The application Ref RV/21/2583, dated 28 September 2021, was refused by notice dated 31 March 2022.
- The application sought planning permission for replacement house and studio without complying with a condition attached to planning permission granted on appeal Ref APP/Y2620/A/13/2205045, dated 5 February 2014.
- The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: amended site location plan scaled at 1:2500, and drawings 2260-01, 2317-02z1, 2317-03e, 2317-05f and 2317-11b.
- The reason given for the condition is to define the permission and in the interests of the satisfactory appearance of the development.

**Summary of Decision: The appeal is dismissed.**

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### **Appeal D Ref: APP/Y2620/W/22/3299405**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Adam Spiegel and Mrs Gay Spiegel against the decision of North Norfolk District Council.
- The application Ref PF/21/0882, dated 26 March 2021, was refused by notice dated 31 March 2022.
- The development proposed is dwelling and associated external works and landscaping.

**Summary of Decision: The appeal is dismissed.**

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### **Background to the Appeals**

1. The appeal site is on the southern edge of the village of Cley-next-the Sea and formerly comprised a single storey dwelling and its garden.
2. In 2014 planning permission was granted on appeal for a house and detached studio, which was to be a replacement dwelling for the bungalow that then existed on the land (the 2014 permission). In December 2016 the appellants acquired the land. Development commenced in January 2017 with demolition of the bungalow and excavation works. During the course of the building works the Council investigated whether the development was being carried out in accordance with the approved plans. An enforcement notice was issued on 5 August 2019<sup>1</sup>.
3. In order to try and secure an acceptable development the Council and the appellants entered into a formal mediation process. A planning application was made in March 2021 but after due process planning permission was refused in March 2022 (Appeal D).
4. During this period, the parties concluded that the 2014 planning permission could not be lawfully implemented applying the principle established through the *Choiceplace* judgement<sup>2</sup>. In summary, the approved plan 2317-11b showing the relationship between the replacement dwelling at Arcady and the neighbouring two storey dwelling Holly House was inaccurate. The appellants

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<sup>1</sup> The statement of common ground 24 June 2022 outlines the factual history of the investigation.

<sup>2</sup> *Choiceplace Properties Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWHC 1070 (Admin)

applied to vary condition 2 of the 2014 permission in order to substitute an accurate plan. The application was unsuccessful, leading to Appeal C.

5. The common theme to the appeals is that planning permission is sought for a replacement dwelling at Arcady. To avoid repetition, the following sections set out the main issue for consideration in Appeals A, C and D, the relevant planning policies and matters related to the site and its context.

### **Main Issue**

6. The site is within Cley Conservation Area, Glaven Valley Conservation Area and the Norfolk Coast Area of Outstanding Natural Beauty (the AONB). In land use policy terms the site is within the countryside.
7. The main issue is whether the existing development or the development proposed is of a high standard of design that reinforces local distinctiveness, taking particular account of its effect on the historic environment, landscape character and the AONB. Considerations will include the use of planning conditions to mitigate or overcome any identified harms and the environmental sustainability credentials of the schemes.
8. Arcady is the appellants' family home. Under the Human Rights Act 1998 they have a right to respect for their private and family life, their home and their correspondence (the Article 8 right). Article 8 is a qualified right that requires a balance between the private right and the public interest. To respect the appellants and their family, any decision must be necessary and proportionate.
9. Much of the documentation is directed towards comparison and assessment of the approved dwelling with the as built dwelling. The appeal decision and the 2014 permission are considerations in all appeals. However, the appellants now accept the built development is unlawful and there has been a breach of planning control. My approach, as explained at the hearing, is to focus on the planning merits of the developments, rather than comparing in detail the existing development or current proposals with the development approved in 2014. The appellants did not disagree with this stated intention.

### **Planning Policy**

10. The development plan is the North Norfolk Local Development Framework Core Strategy, adopted in 2008, which includes development management policies. Policy EN 1 protects the special qualities of the AONB. Policies EN 2 and EN 8 require the conservation of settlement and landscape character, heritage assets and their setting. Policies EN 4 and EN 6 require high quality design and minimisation of resource consumption. To comply with Policy HO 8 a proposed replacement dwelling in the countryside should not result in a disproportionately large increase in the height or scale of the original building, or materially increase the impact on the surrounding countryside.
11. These policies are generally consistent with the equivalent topic policies in the National Planning Policy Framework (the Framework).
12. The development plan policies are supported by guidance contained in Supplementary Planning Documents (SPD). The North Norfolk Design Guide (2008) aims to raise the quality of design in the District. The North Norfolk

Landscape Character Assessment SPD (2021) is intended to inform the determination of planning applications and the management of future change.

13. Cley-next-the-Sea Conservation Area Appraisal and Management Plan adopted on 8 July 2019 (not as a SPD) is a source of detailed information that all parties relied on.
14. The Council accepted that currently a five year housing land supply is not demonstrated. In these circumstances the Framework's 'tilted balance' should be applied unless the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development proposed<sup>3</sup>.
15. When applying national policy in respect of designated heritage assets public benefits could be anything that delivers economic, social or environmental objectives as described in the Framework and should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits<sup>4</sup>.

### **Appeal site**

16. The Inspector in 2014 referred to the "highly secluded nature of the existing property". The site was "generally well screened" and occupied an elevated position relative to Holt Road, with ground levels rising from north to south and west to east.
17. The Council's evidence includes a number of photographs of the old bungalow on the Arcady site<sup>5</sup>. The front elevation faced west and a side gable faced Holt Road. The red brick building had a pitched roof covered in red pantiles. The front porch and small bay windows to front and south elevations added some degree of visual interest. A single storey flat roofed extension adjoined the rear (east elevation) and, to the side, low outbuildings were sited close to the Holt Road boundary. The bungalow was in an elevated position above Holt Road, with a low vegetated embanked area sloping down to the highway. A narrow driveway off Holt Road provided access to a flat roofed single garage just inside the gateway. In a short distance view from the corner of Newgate Green<sup>6</sup> the roof of the bungalow was glimpsed through the trees and vegetation when in full leaf. The gateway entrance was low key and discrete. From the east the roof was visible above the roadside hedge.
18. These descriptions are reflected on the site survey plan ref 2260-01 cited in condition 2 of the 2014 permission and relied on in Appeal C. The plan shows a bank along the Holt Road frontage and the gentle increase in ground levels within the site towards the south and east (based on spot heights). The bungalow was sited centrally, towards the front of the site approximately

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<sup>3</sup> The Framework paragraph 11 - permission should be granted for the development proposal, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

<sup>4</sup> Planning Practice Guidance Paragraph: 020 Reference ID: 18a-020-20190723

<sup>5</sup> Appendix NNDC 19 and Appendices NNDC 15a and NNDC 15b

<sup>6</sup> Newgate Green was the name used at the hearing. The open space is referred to as Cley Green in the Conservation Area Appraisal and other documents

11.9m back from Holt Road at its closest point<sup>7</sup>. The base of the dwelling possibly was around 1.5m to 2.0m above the level of the highway. A gravel path led up from the front gate to the entrance into the bungalow with its porch step. At the back of the dwelling were retaining walls and a raised lawn stepping up to a grassed area. To the east a brick and flint wall separated the lawn from an area described as 'original lawn left uncut'. A number of trees were indicated on the plan, both on the frontage and embankment and within the garden.

19. The design and access statement dated October 2012 described the site as seen from outside as sylvan in appearance. The bungalow was not visible in the photographs of the site from the south and the east or from Holt Road looking toward the site entrance from the west.
20. Arcady marked the edge of built development, with open fields adjoining the southern and eastern boundaries of the site.

## **The Historic and Natural Environments**

### ***Designated heritage assets and their significance***

21. The submitted appraisals from the appellants and the Council indicate the appeal proposals have the potential to affect the significance<sup>8</sup> of two designated heritage assets, the Conservation Area and St Margaret's Church.
22. The Conservation Area covers almost the entire built settlement of Cley village and the southern boundary follows the rear boundary to the appeal site. The pattern of settlement and the stock of historic buildings reflect its history and fortunes as a port town. Originally the village centre was around St Margaret's Church and the village green. After a devastating fire in 1612 rebuilding of the port and the main core of the village took place further to the north. Hence the linear pattern, the separation of the Church and village green from the core and the contrast in density of built form seen today. Some of the historic buildings incorporate the influences of international trade through their style or use of materials but more characteristic is the consistent use of local building traditions and materials, especially flint and red clay pantiles. Nevertheless, there are now successful buildings of modern design that add to the richness of the Conservation Area.
23. Newgate Green and the churchyard have importance as open spaces within the Conservation Area. They are dominated by St Margaret's Church, one of the two principal historic buildings in the village. The distinct sense of place is enhanced by the small scale vernacular buildings enclosing two sides of the green that include the grade II listed building Well Cottage and the locally listed Swallows Public House, Glaven House and Newgate Cottage. The Conservation Area Appraisal refers to mostly small-scale, historic buildings on the south side of the green with slightly larger and more polite cottages on the north side.
24. The Conservation Area extends east to take in Newgate Farm House and Barn (grade II listed) and the row of cottages on the northern side of Holt Road. All

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<sup>7</sup> The June 2022 statement of common ground paragraph 6

<sup>8</sup> The Framework Annex 2: Glossary states Significance (for heritage policy) is the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence but also from its setting.



are constructed in the local building traditions and materials to form a visually coherent and harmonious historic group, now in residential use. A strong sense of enclosure is created by the siting of buildings close to the highway and the mature hedgerow opposite. This pocket of development is a reminder of the rural influences and the importance of agriculture to the history of the settlement.

25. The Conservation Area Appraisal considers in some detail the setting of the Area and the importance of views both in their contribution to the setting and to the heritage value of the designated asset. In views across Newgate Green the dominance of the Church is highlighted, towering over the low buildings along the edge of the space. The Church also features in panoramic views that take in the river valley to the west and the views towards the settlement from Wiveton churchyard lying to the south west.
26. The natural landscape setting is recognised as a key part of the character of the village and extends over the salt marshes and reed beds, the River Glaven Valley and the agricultural landscape. These areas have all contributed to the economy and growth of Cley. The physical relationship with Wiveton and Blakeney, parts of the Blakeney Haven, is captured in views that take in all three churches together. The broad Norfolk skies are also a key element of its setting, both during the day and at night when the dark skies can be appreciated.
27. The Church of St Margaret is a very fine parish church. Built of stone and flint, the standing fabric dates to the 14<sup>th</sup> and 15<sup>th</sup> centuries. The fine tracery to the windows is unusual in Norfolk churches. The description in the Conservation Area Appraisal is of a "magnificent stone church elevated on a rise above the green". The size and quality of embellishment reflects the wealth of the settlement in the late Medieval period.
28. The special historic interest of the Church is associated with its role in society and village life, the function of the settlement and its development. The building is very impressive for the scale of its structure and the Church is a distinctive local landmark. The grade 1 listing confirms its very high architectural and historic interest. Within its setting the relative openness of Newgate Green and the largely undeveloped character of the river valley and farming landscape reinforce the pre-eminence of the Church and its special place in the history of the village.
29. The Framework explains the setting of a heritage asset is the surroundings in which a heritage asset is experienced<sup>9</sup>. Based on my visits to the site and locality, I have no doubt the Arcady site is within the setting of the Church, taking account of intervisibility, range of views and the importance of the character of Newgate Green to the asset's significance and visual dominance.

#### ***AONB and landscape character***<sup>10</sup>

30. The AONB is very varied in character containing a wide variety of landscapes, seascapes and locally distinctive features, including variation in geology and

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<sup>9</sup> The Framework Annex 2: Glossary The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral

<sup>10</sup> The content of this section is derived primarily from Documents 4A, 4B and 4C



topography, land use, field and settlement patterns, the character of settlements, buildings and materials. The links between the land and sea are an essential part of its unique character. The natural beauty of the scenery is closely linked with the wildlife, historic and cultural heritage.

31. Within the AONB, Cley is within the Large Valleys landscape type and the Wiveton to Letheringsett landscape character area. The rural undeveloped character and views to historic settlements are among the inherent landscape sensitivities.
32. More specifically, the River Glaven is a rare chalk river flowing northwards to the sea. The historic settlements of Cley and Wiveton, with views of the churches and the small older cottages, give a strong character to the lower regions of the valley. A strong sense of historical continuity and views of the churches within and across the valley are among the valued features. The overall character is of a rural wooded enclosed pastoral landscape.
33. The appeal site has an inland location, on the southern edge of Cley. For my assessment the most relevant key qualities of the AONB's natural beauty are the diversity and integrity of landscape, seascape and settlement character and the sense of remoteness, tranquillity and wildness.

### **Conclusion**

34. The appeal site is located in an area high in significance and with unique historic and natural environments. This review indicates that a new dwelling on the appeal site should be designed to conserve and enhance settlement and landscape character, and which demonstrates an understanding of its context, reinforces local distinctiveness and the special qualities of the designated areas. These requirements may be achieved through a contemporary design built sustainably and which incorporates similar design elements to the existing buildings and design cues from its surroundings.

### **APPEALS A AND B**

35. At the hearing the appellants confirmed that they did not question the validity of the enforcement notice. The appeals are on ground (a) (Appeal A only), ground (f) regarding the requirements of the notice and ground (g) in respect of the length of the compliance period.
36. In June 2022 the Council stated<sup>11</sup> it was minded to withdraw reference in the enforcement notice to the annexe (paragraphs 3(i) annexe, 5(ii) and 6(ii)) and had no objection in principle to a swimming pool as located. The Council's position was discussed further and clarified at the hearing, which has informed my assessment and conclusions on these elements of the breach.

### **Appeal A: appeal on ground (a)**

37. The deemed planning application is derived directly from the description of the breach of planning control. Therefore planning permission is being sought for the erection of a two-storey replacement dwelling and detached annexe, the creation of a swimming pool and associated structure, and the engineering works to alter land levels across the site and to provide an area of

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<sup>11</sup> Council's response dated 24 June 2022 to pre-hearing note 1

hardstanding in front of the North elevation. The development under consideration is as built.

38. Section 177(1) of the 1990 Act provides that planning permission may be granted in respect of the matters constituting a breach of planning control whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates. Therefore permission may be granted for all the developments identified in the breach or for one or more of them. I will assess each element of the development, having in mind the considerable degree of overlap existing in the matters raised.

### ***Replacement dwelling***

#### *The dwelling*

39. The dwelling is sited fairly centrally within the site. The structure is a series of interconnected blocks clad in timber and with a red brick base. Roofs are flat with slight variation in height across the blocks and with a slightly more pronounced increase in height to the feature 'tower'. Windows are slightly inset, of varying size and shape, with and without glazing bars. There are three floors. The lower ground floor is not as extensive as the two floors above and it houses a gym/playroom and a boiler room. The ground floor accommodates the entrance hall, bedrooms, bathrooms and other facilities. The first floor is primarily the main daytime living accommodation. The kitchen and dining area and the rooms facing south have doors leading onto an elevated terrace. Recognising that there are three floors, I intend to correct the notice by deleting 'two storey' from the description of the dwelling. This very minor correction will not cause injustice to any party.
40. Access from Holt Road is by the main driveway, which leads to a parking area adjacent to the lower ground floor. There is also a steep ramp and a flight of steps adjacent to the north elevation, providing access to the front door and an additional parking area. The removal of trees and vegetation as part of the construction process opened up and made the frontage of the site and building more visible.

#### *Summary of main points from the appellant's statements*

41. The appellant explained that the design concept was to integrate landscape and building design. The concept finds expression in the choice of silvery grey timber as the dominant external material. The building was described as a high quality piece of architecture, representing the expression of a number of different but balanced and integrated cubic forms. Harmony is achieved between the forms, which include planes of timber with artistically composed fenestration patterns in the facades. The building sits comfortably in its landscape facing open fields to the south. There is acceptance that the dwelling appears as a single and larger scale building than it actually is. This is said to be particularly so when poor light excludes shadows, giving rise to a more continuous silhouette. However, the experience in movement reveals the different forms and interplay between them, even in poor light conditions. This momentary phenomenon would become less apparent as the landscaping matures and the site returns to its secluded condition.

42. In the context of the Conservation Area and historic environment the appellant considered the development a contemporary and honest dwelling that avoids imitation but still resonates with its setting. The appraisal explains that the structure is read as a series of interconnecting blocks similar in height to surrounding dwellings and which does not intrude on any views of the Church. There are no elements of the scheme's materiality, form or design that could be considered incongruous with the character and appearance of the conservation area.

#### *Reasons*

43. In order to carry out the development enforced against the bungalow was demolished first and then the replacement dwelling was built. The Policy HO 8 test is that any increase in the height and scale of a replacement dwelling should not be disproportionately large. The photographic and plan-based evidence indicates that the bungalow was a small single storey dwelling of a very domestic scale. The footprint was compact with all accommodation on the ground floor and with no use of the roof space. The quite steeply pitched roof increased the ridge height but significantly reduced the building mass when viewed from all sides. The appearance was of a simply designed and functional dwelling which in turn emphasised the small scale. The bungalow made little contribution to its surroundings, both in terms of architectural merit and visually.
44. In comparison with the bungalow the new dwelling is much larger in size. It is a two and three storey, four bedroom building having generous space standards throughout. The use of flat roof forms constrains overall building height but there are implications for building scale in terms of the form and height of the building blocks. The walls forming the elevations are much more extensive, in height, width and depth. Scale is also increased by the elevated terraces and the two storey element on the western side of the main blocks. There is no doubt that the new building displays a large increase in both height and scale.
45. To determine whether this represents 'a disproportionately large increase' account must be taken of the size of the bungalow, the extent to which it had previously been extended or could be extended under permitted development rights and the prevailing character of the area.
46. The bungalow probably had been extended. Permitted development rights were limited by the size and siting of the bungalow and its location in a conservation area and AONB. Consequently, the focus centres on the effect of the new building on area character.
47. The underlying themes to the design concept are (i) the use of a series of interconnecting blocks to form and shape the structure, and (ii) the relationship between the building and landscape, through the choice of cladding materials and the treatment of external space.
48. Interconnecting blocks have the potential to provide cohesion, legibility and identity to the building design and to achieve a well-proportioned composition as a whole. The blocks appear to result in an efficient use of space and ease of movement internally. The internal planning and the design response to the site orientation and levels strongly influence the external appearance. The site

faces north towards Holt Road and the view southwards is across the open countryside. The south elevation reflects this with its large picture windows, the staggered building line and interplay between the terrace and principal rooms. The position of a large lounge, kitchen/dining room and the terrace on the south side at the upper level make the most of the sun and views. A consequence is that the upper storey has the greater prominence and the ground floor appears more recessive. The two storey building height is restrained and this element of the building blocks appears to sit comfortably and relate well to the level of the rear garden.

49. The north, west and east elevations present a rather different appearance. The main blocks show little variation in the height of the roof line and display little articulation and subtlety. The mass of the building is accentuated, particularly given the elevated position of the site, the marked change in levels and the formation of a lower ground floor. There is no obvious front or principal elevation and the main entrance to the house is very much understated. The lack of a clear focal or reference point does not assist in establishing an identity. The timber cladding as the primary external material is extensive and limits the ability to introduce detailing. The application of the timber vertically and horizontally, to accentuate blocks or features and provide visual separation or variation, is not readily distinguishable. If anything, vertical cladding emphasises building height. The pattern of windows does not show an easily understood or coherent logic from the outside and the artistic composition of the fenestration is not obvious. On the east elevation, in particular, the solid to void ratio is high.
50. The two storey side extension to the principal blocks is set into the ground but this element contributes quite significantly to the overall perception of size and mass and it detracts from the well-defined and simple shapes of the main blocks. The wrap round of the terrace, with its glazed panels and the introduction of an elevated outdoor living space is unduly conspicuous and is not a common feature within the village. Overall, my initial view is that the design qualities aimed at creating a building that is subservient to and blends in with its surroundings are frustrated by the size and scale of the development. Conversely, the building design does not incorporate the quality of detail and visual expression to stand out as an exemplar of a modern design that sits comfortably within its neighbours.
51. The North Norfolk Design Guide draws attention to the importance of the size of a new residential building relative to its surroundings and how the overall shape and massing of a building does much to influence how it is perceived by the public. I would add that these considerations have increased relevance here because the site is within a conservation area, close to and within the setting of a landmark listed building and in an AONB.
52. The design of the new building, using interconnecting blocks to create the structure and form of the dwelling, is a bold departure from and contrast to the residential development characteristic of the Conservation Area. The appearance is very different to traditional building groups around Newgate Green and along Holt Road to the east. As noted above, the size, number, regularity and quite regimented appearance of the blocks produce a building form of considerable mass. The height of the blocks may well be similar to the ridge lines of nearby dwellings, as referenced by the appellant, but the ridge of

a pitched roof is not a like for like comparison. A more appropriate comparison would be the eaves height because the height and extent of the solid forms are critical in determining the bulk of the building. Arcady appears higher than the adjacent Holly House and the set back within the site is not sufficient to reduce its visual dominance. The blocking of views to the side and around the building denies the sense of space and openness, especially at a higher level, that is important to local character in this part of the Conservation Area.

53. In terms of building materials a reference point is the red pantile roofs and grey flint walls seen in the surrounding structures. In contrast at Arcady the palette of materials, particularly on the most publicly visible elevations, is dominated by the timber cladding. Unlike the appellant, I find the smooth texture and hue of the timber is quite different to the flint. The red brick at the base of the building is used in a very different way in the structure of the building and hence does not readily echo the pantiles, notwithstanding the similarity in colour. The panels of flint and red brick used on the lower ground floor elevations are confined to walls enclosing the service parking area and make little contribution to the appearance of the building as a whole. As explained, the choice of timber for the external cladding was an essential element of the design concept to assist in blending the building into its setting.
54. Within the southern part of the Conservation Area the more open, rural character of the settlement pattern enables views of the site when approaching from the north near to and around the Green, leading to the immediate views from outside the site. Before the new development, by all accounts the bungalow was inobtrusive and trees and vegetation dominated. However, the position has substantially changed. Arcady is a very imposing and conspicuous building by reason of the elevated position, its block form and scale, the long street frontage and use of materials. The visual dominance of the building is out of keeping with and detracts from the harmonious composition of the smaller scale, 'polite' buildings nearby at Newgate Green. The concentration of built form, not only of the principal house but also the annexe, is especially apparent from close by. The steep ramp and steps to the entrance and the elevated parking area are additional strident features. Spaciousness and rural character are eroded.
55. To the east of the site, the linear development of cottages and farm buildings on the north side of Holt Road reinforces the character of the village by their scale, form and use of traditional materials. The elevated eastern elevation of the new build displays little that is compatible with its near neighbours. The timber clad two storey wall of the block is box-like, lacking in any visual interest or detail. The reliance on the use of timber to provide the visual link to trees and to integrate the building within its landscape setting does not work successfully because of the basic block-like form and the size and extent of the blocks.
56. Arcady does not rival the special architectural qualities and magnificence of the Church or change its major contribution to and place in the cultural role and history of the village. The open space to the front of the Church provides physical separation between the Church and the site and Newgate Green adds to the open character. Partly because of the openness, the site and new dwelling feature in views of the Church. The house sits uncomfortably within the building group around Newgate Green because of its visual dominance and

atypical appearance. It does not have the same visual subservience or continuity as the older properties. Consequently Arcady is a distraction from and competes with the heritage asset. The development affects in a negative way the ability to appreciate and experience the physical glory of the Church. The new dwelling fails to harmonise with its surroundings and harm is caused to the setting and significance of the grade 1 listed Church. This negative outcome also is harmful to the significance of the Conservation Area remembering the importance of the Church to its character and appearance.

57. The position of the site on the rural edge of the settlement requires a design that is respectful of the tranquil landscape setting and the important views across the Glaven Valley and the AONB. The viewpoint locations identified are at quite wide gaps in the roadside hedgerow along Bridgefoot Lane and from the public footpath to the west of Old Woman's Lane<sup>12</sup>.
58. In views from Bridgefoot Lane the south elevation of the new dwelling is eye-catching, identifiable by its distinctive profile and tower feature. A distracting element is introduced to the soft landscaped edge to the settlement because of the block forms, cladding materials, fenestration and large windows. The use of extensive glazing to the upper floor, for the reasons explained above, also gives rise to the potential for light pollution and harm to the valued dark skies.
59. Of even greater concern is the relationship of the dwelling to the Church in these views from the south, bearing in mind the importance of setting. The interplay between the topography and vegetation focuses the view onto the Church and the nearby dwelling. As a result of the lack of visual separation and the incongruous appearance of the new building, Arcady competes for attention and is unduly conspicuous. The visual dominance and pre-eminence of the Church is diluted, which in turn negatively impacts on its history in the development of the village. The new dwelling is harmful to aspects of significance and the ability to appreciate this outstanding heritage asset. The development, because of its proximity and appearance, is distinct from the glimpses of pitched tiled roofs of the older properties along Holt Road to the east which have very clear visual separation from the Church. I found that submitted photographs do not always fully convey the actual visual harm, notwithstanding the informality of views.
60. From the public footpath Arcady is reasonably well integrated into views of the landscape setting and the linear development along Holt Road, helped by the timber cladding. In a few places the block form of the dwelling sits uncomfortably in relation to the pitched pantile roofs but overall the visual harm is small from this location.

#### Building and landscape

61. When first built the new house appeared radically different and understandably was regarded by many as being visually intrusive within its surroundings. The photographic evidence is a record of the early position. The appellants rely heavily on the role of landscaping to support the design concept and to ensure the development conserves the essential qualities of the surrounding built and natural environments.

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<sup>12</sup> Document 10 viewpoint locations 11, 12 and 8.



62. A landscape scheme has been implemented based on a scheme approved in compliance with condition 4 of the 2014 permission. The appellant considers this scheme would restore the secluded character and further assimilate the as-built development into the surrounding landscape over a period of 10 to 15 years. They maintain implementation of the now proposed landscape masterplan would remove the majority of views immediately and remove all views of built form over short period of time (5 to 10 years). A series of visualisations, based on identified viewpoints, form part of the evidence. The enhanced landscape scheme also has been described as a means of replacing those trees lost in a more timely manner, not an attempt to hide alleged issues in relation to architectural quality of the built development.
63. Carrying out the development inevitably meant the clearance of much vegetation and the loss of some trees, including a large sycamore tree on the site frontage. The hedgerows along the rear and eastern boundary and some of the mature trees within the site have been retained and provide a degree of continuity and means of assisting the new building to relate to its surroundings. There is considerable scope to supplement and improve the on-site planting to enhance the relationship with the building.
64. The potential of trees to provide 'instant' screening through an enhanced landscape scheme was put forward as an option as a means of mitigating any identified harm. This objective has little support from national and local guidance. Referring to the National Design Guide, the landscape scheme should have the purpose of enhancing or protecting the amenities of the site, the area in which it is situated and the natural environment. The North Norfolk Design Guide advises that new planting should be used only as a means to soften or ameliorate acceptable developments. It should not be used to screen buildings which are either poorly designed or which are sited in sensitive locations, such as the AONB<sup>13</sup>. Screening is acceptable in a protective sense – whether as a shelter belt or to screen the dwelling from its surroundings. Neither role was identified as relevant in this case.
65. Within the setting of heritage assets Historic England's good practice advice has a range of options for reducing harm arising from development<sup>14</sup>. Screening is one possible option but because this measure may only mitigate negative impacts screening ought never to be regarded as a substitute for well-designed developments.
66. The other factors to bear in mind are that with the use of native deciduous species the effect of the planting would vary during the seasons. Longevity also requires consideration. Future owners of Arcady may not be so committed to maintaining the tree stock and other vegetation and the success of any planting scheme is subject to weather conditions. Heavy planting would give rise to additional shading of the garden and would affect natural light to habitable rooms but little consideration has been given to such effects. For instance, along the rear southern boundary the Landscape Masterplan proposes to allow the hedgerow to grow to over 4m in height and for new tree planting. An existing walnut tree already provides tree cover within this area of the garden. The boundary planting probably would not be compatible with

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<sup>13</sup> North Norfolk Design Guide paragraph 9.2.2

<sup>14</sup> The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) paragraphs 39 and 40

enjoyment of the swimming pool. The visualisations show that even with the proposed landscape to the boundary the unacceptable relationship between the dwelling and the Church would not be resolved.

67. The ability of landscape to soften the appearance of the development is apparent now that the development has been completed for about three years. The frontage is less stark. In views of the east elevation the mature roadside hedgerow and the boundary hedgerow to the site provide screening to the lower part of the building. The profile of the flat roof and the timber cladding to the upper part of the block still presents an uneasy contrast to the nearby cottages along Holt Road, even though the planting reduces the harmful visual impact.
68. To conclude, landscaping has an important role, not least to enhance the site and improve biodiversity. Time is needed for planting to mature and for the full benefits to be appreciated. However, the building must be of a high standard of design in its own right. A landscape dominated appearance, to echo the seclusion pre-development and offer continuity, suggests changes to the design of the building rather than reliance on visual screening.
69. Based on the proposals a reasonable expectation is that as trees and new planting mature the building would be viewed within a more leafy setting of varying effectiveness during the year. Screening out the building is not the answer. A landscape scheme would provide mitigation but would not overcome the identified harm.

### **Other considerations**

#### Sustainable construction and energy efficiency

70. The appellant states the house is well-built of local construction materials for use and re-use as a family home. The development is well insulated and highly sustainable. Particular reference is made to the use of sustainable heating technologies, including the use of a wood pellet heating system and heat exchanger, to achieve District wide and national carbon offsetting objectives. Heating materials are sourced from a local supplier.
71. These statements are not supported by evidence that would confirm the standards achieved, although seeing the boiler room on the site visit was informative. The Council raised no concerns and did not question the development's compliance with Policy EN 6. I conclude this consideration is neutral in the planning balance.

#### Residential amenity and related matters

72. Little adverse effect has been identified to the residential amenity of nearby occupiers, although the development has impinged on the outlook from Northfield. There is no doubt the new dwelling provides acceptable residential amenity for its occupiers. On these matters compliance is achieved with Policy EN 4.
73. The internal layout responded to family requirements at the time. Welfare of the children living at Arcady is a primary consideration. Their best interests would be served by stability in home life and the current planning issues being resolved with minimum disruption.



### Use of planning conditions

74. As set out in Planning Practice Guidance conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. Proposed conditions cover landscaping of the site (considered above) permitted development rights and lighting.
75. The removal of permitted development rights for future enlargements or alterations to the dwelling would not address the fundamental concerns about the existing building.
76. The carrying out of an approved lighting design strategy is proposed as a means of limiting any harmful effects on the AONB and Conservation Area from light transmission and pollution between dusk and dawn. A specific requirement is the use of smart glass designed to block 99.5% of light that passes through windows to which it would be applied. To require the submission and approval of a strategy withing one month of the date of the decision is not fully within the control of the appellant. As it stands the wording of the condition would require amending because it is not reasonable or enforceable.
77. A lighting scheme is aimed at resolving a problem that is designed into the building. The application of smart glass to windows would be directed at preventing light transmission from within the rooms and would not be effective when windows are open or in dealing with any external lighting introduced to facilitate use of the terrace areas. To exclude such lighting through a strategy would not be reasonable given that the terraces are a major feature of the design.
78. To date very little evidence about or details of a lighting design strategy have been produced, with reliance to date on the draft condition. The approach indicated by the condition indicates a moderate benefit may be achieved but the acceptability of the development is not dependent on this mitigation. In the Kelling Park appeal decision, the Inspector recognised the AONB is celebrated for the quality of its night skies and the relative lack of artificial lighting away from the main roads and towns. The use of technology and design techniques and the control of such features through a planning condition were not supported by the Inspector<sup>15</sup>.
79. To conclude, the use of planning conditions would not change the height, mass or size of the building. Landscaping and a well-considered lighting scheme would reduce the harm but would insufficiently mitigate the identified adverse effects.

### Fallback and 2014 decision

80. It is common ground between the parties that the development granted permission in 2014 could not now be lawfully built and it cannot be considered a fallback. Moving on, Appeal C, for the reasons explained later in this decision document, will not be successful and there continues to be no fallback of any weight.

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<sup>15</sup> Document 5 paragraphs 36, 40 and 41

81. The Inspector's decision in 2014 was informed by the erroneous plan. The dwelling as built is not lower than Holly House. A correct understanding of the height, mass and scale of the dwelling and how it would sit within its surroundings probably would have informed other key conclusions on the treatment of elevations, use of materials, proportions and other aspects of the overall design. Also, a number of changes have been made to site conditions and the layout of the house, which are catalogued at length in the evidence. A single change may not be significant but the cumulative change is considerable. The development is significantly different to that assessed before and has been subject to greater scrutiny. After due consideration, the Inspector's reasoning and conclusions have limited relevance to my assessment and decision-making.

### **Conclusions on the dwelling as built**

82. The design concept, as conveyed in the evidence, was to create a building of its time that blended into its built and natural surroundings and which would function as a home with a high standard of living accommodation. By reason of the internal layout and generous space standards a comfortable home has been achieved. From my analysis the external expression is much less successful especially given the size and number of the blocks, the sensitive location of the site and the site characteristics. The size and scale of building on this elevated site has resulted in a development that does not achieve fundamental objectives in relation to the built and natural environments. In the planning balance I must attach considerable importance and weight to the harm to the Conservation Area and the harm to the setting and significance of the Church.
83. The development detracts from the special qualities of the AONB taking account of the effect on views across the valley to the historic settlement and the Church. Policy EN 1 is not met. When tested against Policy EN 2, the development has not demonstrated that the scale, design and materials will protect and conserve the distinctive settlement character, and the special qualities and local distinctiveness of the area, including its nocturnal character. Turning to Policy EN 4, the development does not reinforce local distinctiveness and does not preserve or enhance the character and quality of the area. More specifically the building is not suitably designed for its context. The scale and massing do not relate sympathetically to the surrounding area. On the positive side, residential amenity requirements are met. Considerations raised by Policy EN 6 are neutral in the planning balance.
84. The character and appearance of the Conservation Area and the setting of the Church are not preserved. I give considerable weight to the presumption that preservation is desirable. By reason of the adverse impact on their special historic and architectural interest Policy EN 8 directs that the development should not be permitted. The development results in a disproportionately large increase in the height and scale of the original dwelling and there is a material increase in the impact of the dwelling on the appearance of the surrounding countryside. The criteria of Policy HO 8 are not met.
85. The Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset,

the greater the weight should be)<sup>16</sup>. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

86. The development proposal causes less than substantial harm to the significance of the Conservation Area and less than substantial harm to the significance of St Margaret's Church. The Church, being grade 1 listed, is an asset of the highest significance. The Framework requires the harm to be weighed against the public benefits of the development. The appellant considered a number of public benefits flow from the development<sup>17</sup>.
87. The 'benefits' can be grouped into (a) those related to environmental objectives, (b) those related to construction and resource efficiency and conservation, and (c) the delivery of social objectives. I have concluded that the development does not deliver conservation objectives for the built environment and it fails to conserve and enhance landscape and scenic beauty in the AONB. The new planting and its future management probably would deliver ecological enhancement and biodiversity gain on a scale sufficient to provide a degree of public benefit. Measures have been incorporated to support the transition to a low carbon future in a changing climate, but in the absence of evidence on their performance and energy saving potential they have not been shown to deliver a public benefit of any significance. Retention of the development would avoid potential demolition and energy expended in restoration of the site but the savings would primarily be a private as opposed to a public benefit. The addition of a family home to the housing stock of Cley is a small public benefit.
88. I conclude the less than substantial harm to the significance of the Conservation Area is not outweighed by the small public benefit. The outcome of the balance is the same in respect of the Church. Accordingly there is a clear reason for refusing the development and the tilted balance does not apply
89. Drawing all these conclusions together, the development does not comply with the development plan when read as a whole. There also is conflict with the policies in the Framework. My initial conclusion, subject to a proportionality assessment, is that the development is unacceptable and planning permission should not be granted.

### **Alternatives**

90. Alternatives were first identified in the appellant's statement of case (dated 2 September 2019), with a view to differentiate the blocks within the design to create an increased emphasis on the perceptual breakdown of the building's mass. The statement of common ground (dated 22 June 2022) set out the agreed position with regard to the alternatives for consideration under the appeal together with a list of conditions. It was agreed at the hearing that Alternative 5 is the development proposed in Appeal C. Following the discussion at the hearing a revised list of conditions was submitted (1 February 2023) that was agreed between the appellant, the Council and the Parish Council. In this schedule the works associated with each alternative are set out, which I have taken to represent the most up-to-date proposals.

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<sup>16</sup> The Framework paragraph 199

<sup>17</sup> Document 16

91. Each of the alternatives would involve the carrying out of additional work to a greater or lesser degree. Nevertheless, I am satisfied that the alternatives relate either to the whole or to part of the matter enforced against and can be considered as part of the ground (a) appeal.

Alternative 1: post November 2017 departures removed

92. This proposal would involve reversing the works carried out after November 2017 and is the preferred option of the appellant as it would involve the least disturbance and cost. The initial rationale behind this proposal was linked to the Council's visit to the site in September 2017 and the subsequent confirmation on 27 November 2017 that the Council did not consider it expedient to take enforcement action at that time. The Council rejected this explanation, stating that the build was not significantly advanced to warrant enforcement action and it was expected that the Appellants would seek to regularise the situation with a planning application.
93. The proposed works to the dwelling are replacement of the vertical flue toward the eastern end of the dwelling with a full height metal flu, removal of the metal staircase and infilling of glass balcony balustrading, and replacement of the sliding four light door at basement level by a traditional timber garage door.
94. The proposed external landscape works are the replacement of the vehicular access ramp with a pedestrian ramp, the removal of the elevated parking and turning area, brick and slate entrance steps replaced with steps formed of reclaimed sleepers, replacement of brick planting boxes with boxes formed of reclaimed sleepers, resize planting beds and boxes in front of the eastern and northern end of the dwelling.
95. The proposed works to the dwelling would be relatively minor elements and would not alter the height, mass or scale of the building, the pattern of fenestration or the use of materials to the walls. The main reasons for the identified harms would not be addressed. The landscape works would be an improvement in that the parking would be more discreetly accommodated within the site, although accessibility to the dwelling would be reduced, particularly for people who are less mobile. Policy EN 4 requires car parking to be discreet and accessible and that building and places are accessible to all. The changes to the materials for steps and planting boxes would make this part of the garden appear less formal and be a 'softer' approach but again the fundamentals would not be tackled.

Alternative 2: charred timber cladding to part of eastern block

96. Alternative 2 would involve the works identified in alternative 1 plus areas of the existing timber cladding would be removed, heat charred and reinstated. When first proposed in September 2019 the charring included the timber cladding on the south elevation but this has been omitted from the current option.
97. The appellants considered that the proposed charring would visually suppress the more prominent parts of the dwelling. By creating more contrast in the main elevations a more vertical emphasis would be introduced into the public viewpoints that would reduce the visual impact and mass of the dwelling.

98. The use of charred timber cladding would not alter the height, mass or scale of the building or the pattern of fenestration or degree of articulation in the structure. The illustrative impressions, from two quite similar viewpoints, suggests that the rear block may appear to recede or be less visually prominent in some light conditions. However, the contrast in colour would do little to add quality in finish to the building and would detract from the lightness that may have been intended with the silvery grey colour. In views at the Church Lane junction and further east along Holt Road, the dark cladding may well have the opposite effect and serve to emphasise the mass of the building. The creation of a more vertical emphasis is not an objective I support given that the height of the building is a problem already.
99. This alternative probably would be a retrograde step and does not offer an acceptable solution.

Alternative 3: copper metal cladding to part of eastern block

100. Alternative 3 would involve the works identified in alternative 1 plus the substitution of copper sheet for the timbers used to clad the north and east elevations of the easternmost block of the dwelling. The justification for this proposal was to increase the variety of the materials used, add visual interest and to reduce the visual impact of the building. In addition, the introduction of a high quality material was intended to develop the special qualities, local distinctiveness and character of this part of the village.
101. Copper sheet is not a material associated with the Conservation Area. When allowed to weather the material would turn a blue-green colour (as indicated on the illustrative impressions) which is likely to make the building more eye catching and out of character. The additional visual interest would be negative, not positive. This is not the site or location to use this material to clad prominent two storey elevations.

Alternative 4: green wall to part of eastern block

102. Alternative 4 would involve the works identified in alternative 1 plus the replacement of the cladding timbers on the northern and eastern elevations of the easternmost block with a planted green walling system. The stated aim is to provide a greater degree of relief and visual interest in the main elevations should the copper wall not be considered appropriate. The option is intended to reinforce, complement and improve the contemporary design of the dwelling.
103. As with alternatives 1 to 3 the basic structure of the dwelling would remain the same. The introduction of this cosmetic treatment would not resolve the primary concerns over height, mass and scale. Furthermore, I have serious concerns about the resource efficiency, maintenance and longevity of this proposal, raised in the outline information on the installation of the green wall. I note it was the least preferred option of the appellant.

Alternative 6: Further alternative scheme

104. This alternative would involve extensive darkening of the main elevations through in-situ charring of the existing timbers (if practical) and /or staining to reduce the visible mass of the dwelling and to introduce a greater degree of verticality into the elevations when viewed from Holt Road. The alternative also includes landscape works in the area leading to the front door of the house and

works to the dwelling similar to those proposed in alternative 1. Finally, a roof light would be inserted into the roof slope of the annexe.

105. The proposals to reduce the visible mass of the dwelling, based on the evidence of the photomontage<sup>18</sup>, would not achieve their aim. The effect appears to be negative, with the dark colour throughout making for a lifeless and heavy appearance which in turn does nothing to reduce the visible mass. An increase in verticality would do little to resolve the issue of excessive height.

#### Combination of Alternatives

106. The possibility of options combining the alternatives with the use of charred cladding on the south elevation would not tackle my concerns on building height, mass and scale and do not offer a way forward.

#### Planning conditions

107. The list of agreed conditions makes appropriate provision for submission of a schedule and timescale of works, for tree protection and a construction management plan. These conditions would be in addition to those regarding landscaping of the site, permitted development rights and lighting, considered in respect of the as built development. Provision is made for archaeological supervision of any excavation works in view of the possibility buried archaeological remains may be present at the site.

#### Conclusions on Alternatives

108. At the hearing the building was described as a complex structure based on a steel frame and block and beam methods of construction. The services, ducts and heating system have implications for the height of the building. These are major constraints to making major physical changes and are said to limit the range of elevational treatment options. None of the proposed alternatives would successfully mitigate the fundamental issues of building height, mass and scale.
109. Alternative 1 would offer small improvements but the changes go nowhere near far enough to overcome the policy conflicts to enable a grant of planning permission.
110. Alternatives 2, 3, 4 and 6 would, if anything, bring about negative change. Consideration of these proposed alternatives suggests that the existing cladding system is preferable to them. In fact the appellant's Design Review (May 2022) concludes there is no need for changes to the timber facades.
111. To conclude, the proposed alternatives raise the same development plan and national policy conflicts as apply to the built dwelling. Adverse effects would not be mitigated sufficiently to allow permission to be granted.

#### ***Engineering works***

112. Plan 2260-01 (listed as an approved plan in condition 2 of the 2014 permission) provides information on the land levels of the site before

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<sup>18</sup> A photomontage of these proposals was submitted in February 2019 and is included in the statement of common ground



development, through the detailed spot heights. Ground levels and changes in them are very relevant and significant to the finished height of the dwelling compared to its surroundings.

113. During the enforcement investigations land surveys were undertaken on behalf of the Council and the appellants. It was established that care is required in understanding the correct datum point and that an adjustment has to be applied to ensure all levels are consistent<sup>19</sup>. A comparison between the site levels of the development as built with those of the development as permitted shows a large measure of agreement exists between the appellants and the Council after the necessary adjustments were made<sup>20</sup>. Differences between the parties where they exist are for most part small. An exception (highlighted at the hearing) is the site levels of the parking and turning area.
114. As a matter of fact engineering works were carried out to alter land levels across the site and to provide an area of hardstanding in front of the north elevation, as stated in the alleged breach of planning control. At the minimum, the creation of a lower ground floor would have required a significant amount of excavation. The appellant has not provided before and after cross sections, a method statement, schedule of works or estimation of the amount of material removed or redistributed across the site.
115. The land levels affect the visibility and prominence of the dwelling, how it relates to neighbouring dwellings and hence its appearance within its surroundings. Much of the evidence is focused on the comparison between the as built and the permitted development. The appellant's figures<sup>21</sup> indicated an overall increase in the as built height of between 300mm and 480mm compared to the 2014 permitted dwelling. The roof changes through construction the phase also resulted in an increase in height to the middle section of the building by some 1.05m.
116. To gain an understanding of the engineering works that took place the more relevant comparison is of pre-development to the existing position. The evidence from survey information indicates the bungalow's ground level was 1.66m below and the floor level was around 1.3m below the equivalent levels of as built dwelling<sup>22</sup>. An increase of about 1.5m in ground levels is also indicated by a comparison of levels of Holt Road and the hardstanding. The probability is the ground floor level of the new dwelling is significantly above the former level of the bungalow.
117. An increase in ground level is supported by photographic evidence, including the photographs submitted by interested parties (dated January 2017 and May 2018). The photos were taken during the construction process from a similar viewpoint on Holt Road and illustrate that the base of the bungalow sat significantly lower than the ground floor of the new build. The Council's photos also bring out the additional height of the roadside embankment and the higher

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<sup>19</sup> The appellants rebuttal at Appendix 2 of the September 2020 response to the Council's statement of case and third party comments explains the position. Paragraphs 3.1 to 3.8 of the Council's position statement dated June 2022 also comment on the site surveys and levels and explains the required adjustment.

<sup>20</sup> Appendix 6 to the statement of common ground dated 24 June 2022 and Document 7

<sup>21</sup> Rebuttal (op cit) paragraphs 1.8, 1.9

<sup>22</sup> Council's Statement of Case (Appeals C+D) Table 1 on page 11

apparent ground floor level of the new dwelling, despite its set back further from the frontage<sup>23</sup>.

118. The engineering works and consequent changes in land levels are very closely related to the design and erection of the dwelling. The excavation enables the lower ground floor to be created and results in additional building height to block 5 and the two storey block with the elevated terrace to the side. These elements add to the size and mass of the dwelling. The ramp and hard standing to the front of the north elevation are a response to the marked change in land levels between the site entrance and front doorway. These means of access are not in keeping with the soft landscaping of the gardens, although a proposal is to enclose the parking area by planting a native species hedge. A vehicle parked at the higher level has a stronger visual presence than on-street parking on Holt Road. This arrangement is visually intrusive when seen from outside the site, not least because it is so out of keeping in this historic village. The appellant has commented the feature would have been required in the permitted 2014 scheme to align with Building Regulations, but an internal lift was included in that design.
119. In conclusion, the engineering works and the area of hardstanding contribute to the over-dominance of the dwelling within its surroundings. The works do not have sufficient regard to local context and do not preserve the character and appearance of the conservation area. This part of the development conflicts with Policies EN 4 and EN 8 and is not acceptable.

### ***The Annexe***

120. At the hearing it was agreed that there is no up-to-date plan of the annexe and the appeal would proceed on the basis of the structure as built.
121. The reasons for issuing the enforcement notice do not identify specific harm arising from the unlawful erection of the annexe. The Council accepted in the statement of common ground that the enforcement notice should not require the demolition of the annexe and confirmed at the hearing it has no objections to this building.
122. The annexe is sited prominently at the entrance into the Arcady site on the common boundary with Holly House. The building has pitched roofs covered in pantiles and the walls are faced in flint, red brick and timber. The floor plan<sup>24</sup> shows that internally the accommodation would be on two floors, utilising space within the roof, to provide all necessary facilities for a small dwelling unit. The building has a more significant physical presence than the flat roofed single garage related to the bungalow. The annexe adds to the site coverage and mass of built development. When seen together with the main house in views from around Newgate Green the annexe contributes to the loss of the former sylvan and spacious character of the Arcady site<sup>25</sup>. However, removal of the annexe would not make the principal dwelling acceptable.
123. The appearance of the annexe is in keeping with buildings in the Conservation Area, reflecting local building traditions and materials. The proposed landscaping scheme would include tree planting to the front and side

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<sup>23</sup> Appendix NNDC 19 photos 5, 6, 13 and 14

<sup>24</sup> Pike drawing 2317-03e

<sup>25</sup> Indicated in appellants' landscape and visual impact hearing statement in Appendix 2 viewpoint 5



of the annexe along the edge of the driveway to supplement the hedge. Planting would provide a relatively high degree of enclosure and softening of the building.

124. Any adverse effects on the residential amenity of the occupiers of Holly House by reason of its siting would be limited by reason of the scale of the new building and the absence of any windows in the west elevation.
125. With the above factors in mind, the annexe as a building in its own right reinforces local distinctiveness. The building preserves the character and appearance of the Conservation Area and the setting of the Church. The development complies with Policies EN 1, EN 4 and EN 8.
126. The annexe would provide additional residential accommodation to that in the main dwelling. A planning condition was attached to the 2014 permission requiring the studio building to be occupied for purposes ancillary to the residential use of the approved dwelling. A condition with the same wording was proposed in the list of planning conditions in the statement of common ground. This condition was not included in the final list of agreed conditions.
127. The annexe has never been proposed as a separate dwelling unit. The development granted permission through the deemed planning application cannot be for a different development. If permission is granted for a detached annexe and not the principal house, the question is raised - annexe to what? Occupation as an independent and separate planning unit would raise issues including amenity space and car parking. A planning condition would be necessary.
128. Unless planning permission is granted for the house, the same wording cannot be used as proposed at first. As an alternative, the use of the annexe should be related to the residential use of the Land as a means of ensuring it is used as part of the residential use of the existing planning unit.

### ***Swimming pool and associated structure***

129. When issuing the enforcement notice the Council reasoned that because the house itself was unlawful the swimming pool and associated structure did not benefit from permitted development rights and they should be removed. At the hearing the Council confirmed that the objection to the pool was no longer maintained.
130. The swimming pool is in the south eastern corner of the rear garden and is incidental to the enjoyment of the dwelling. The siting of the pool would not unduly constrain additional planting to the site boundaries as indicated on the landscape plan, although the proximity of trees and other vegetation probably would have implications for pool maintenance. The pool is set into the ground and is not visible from outside the site because of its siting at the back of the house and the enclosure provided by the boundary hedgerows and supplementary planting. The position on visibility would be similar even if the house was removed. In that scenario a dwelling in all probability would be built on the plot at some future date. The retention of the pool would be a matter for how a future occupier would wish to use and landscape the garden space.

131. No policy has been identified that specifically applies to domestic swimming pools. More generally, there is no conflict with Policies EN1, EN 2, EN 4 and EN 8 and the swimming pool is acceptable. No planning conditions were proposed and none are necessary.

### **Human rights and proportionality**

132. By way of background, the appellants say they were unfamiliar with the development control process. At an early stage they appreciated the approved development did not meet their needs. The changes instigated largely involved internal reconfiguration, some of which led to external changes. They believe they acted in good faith and were poorly advised initially on permitted development rights.
133. The planning history and the existence of the 2014 permission are very relevant. Nevertheless, the appellants were fully aware of the enforcement investigations by the local planning authority. In September 2017 a temporary stop notice was issued. A planning application was invited to regularise the breach, none was made. The local planning authority did advise enforcement action was not considered expedient but development continued to depart from the approved scheme. In July 2018 the local planning authority notified the appellant enforcement action was under consideration and after due process the notice was issued in August 2019. There was a failure to seek authorisation of the scheme and development continued to completion and occupation. Even allowing for the explanation of the chain of events this is not a situation where a home was lawfully established. The circumstances do not weigh against the legitimacy of requiring the appellants to move.
134. The failure to secure a planning permission for the principal dwelling and ground works through the ground (a) appeal will result in the enforcement notice being upheld. The notice requires demolition of the dwelling. Consequently the appellants and their family would lose their current home and they would have to find an alternative place to live. Article 8 rights are engaged and the interference with home and family life would be serious, not least from the unwanted upheaval and the emotional effects.
135. Interference with fundamental rights would arise from exercising a statutory function and be in accordance with the law. The interference would be in pursuit of a legitimate aim to protect the environment through the regulation of land use. The proposed alternatives, which would reduce the scale of action necessary, would not be sufficient to overcome the identified harm or offer an acceptable solution. A temporary permission would not be a way forward in this case because of the permanent nature of the development. Also, the prolonged uncertainty would not be satisfactory for either the appellants or the community. The required remedy of the breach of planning control is necessary to achieve the planning objectives of the development plan and the Framework, bearing in mind the location of the site within designated areas that enjoy a high level of policy protection. These assets are regarded as an irreplaceable resource that should be conserved appropriately, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
136. The appellants indicated they would be able to find an alternative place to live, which would reduce the seriousness of the interference to some extent.

They are unlikely to become homeless. However, the effects of an unfavourable outcome on wellbeing and on mental health were specific considerations highlighted in relation to respect for private and family life and the home, and where the intrusion through social media could be damaging. Disruption to education is another important aspect when thinking of the best interests of the children. In terms of community interest, there are residents who support the appellants and who like the new Arcady. They described the house as an example of modern architecture that is not out of place within the Conservation Area and AONB. To require its demolition would be vexatious and disproportionate. I heard at the hearing the family are well liked and bring warmth to the community and that to deprive them of their home would be senseless.

137. The development has prompted differing opinions and professional judgements. Within the local community the weight of opinion was negative, based on the information from the Parish Council and written representations on the applications and on the appeals. A lot of effort on all sides has been made to find a solution but the proposals to date have been constrained by the means of construction of the existing structure of the principal building. As seen from my reasoning on this appeal and Appeal D no acceptable solution has been produced when assessed against adopted local policies and guidance and national planning policies. Achieving sustainable development not only responds to present needs but also looks to the future when fulfilling social and environmental objectives. The design of the new house focussed on then current family requirements with insufficient attention to the site context, wider and longer term community interests.

138. Weighing all the various interests I conclude that the refusal of planning permission for the dwelling and engineering works and upholding the requirements of the notice would strike a fair balance and would not be disproportionate to the appellants and their family. Consideration of the reasonableness of the compliance periods is the remaining available step to ensure a necessary and proportionate outcome.

### **Conclusion on ground (a)**

139. For the reasons given above, the appeal on ground (a) should succeed in part only and planning permission will be granted for the detached annexe and the swimming pool. Otherwise the enforcement notice will be upheld and planning permission will be refused for the erection of the dwelling and the carrying out of engineering works. The interference with the Article 8 rights of the appellant and their family is necessary and proportionate in the public interest.

### **Appeals on ground (f): requirements**

140. The issue is whether the requirements are excessive, having regard to the purpose of the notice.

141. The Council confirmed that the purpose of the notice is not confined to remedying injury to amenity but is to remedy the breach of planning control<sup>26</sup>. I consider this purpose is clearly demonstrated through the reasons and

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<sup>26</sup> Council's response to pre-hearing note 1

requirements set out in the notice. A ground (f) appeal cannot be used to argue an enforcement notice should have a different purpose. It follows steps (i) to (vi) are not excessive because essentially their purpose is to restore the land to its condition before the development was carried out and hence remedy the breach.

142. As part of their initial ground (f) case the appellants requested the requirements be amended to facilitate the granting of planning permission for one of the proposed alternatives or that the steps be amended to require the alteration of the development on the site to that permitted in the 2014 permission.
143. The appropriate ground to consider the proposed range of Alternatives is the ground (a) appeal because planning permission can only be granted through that ground of appeal. The 2014 permission cannot be lawfully implemented and therefore cannot be cited as an alternative approved development to remedy the breach of planning control.
144. The requirements of the notice relating to the acceptable part of the development will not be deleted to avoid any grant of unconditional planning permission being made through section 173(11). At the hearing there was discussion on whether step (vi) requires variation to ensure land levels do not have to be restored where the swimming pool, associated structure and annexe are sited. However, planning permission will be granted through ground (a), rather than under-enforcing against these developments. Through section 180(1) the notice will cease to have effect insofar as it is inconsistent with the planning permission. No variation is necessary. Similarly, no variation is required in respect of the time for compliance.
145. For these reasons the appeals on ground (f) do not succeed.
146. The final matter regarding the requirements is step (v) which requires the removal of the hard standing 'on the North elevation'. This wording does not exactly repeat the wording in the allegation, although the meaning was generally understood. Amended wording was agreed at the hearing. I will correct the wording to ensure the requirement is clearly expressed and consistent with the description of the breach.

### **Ground (g) appeals: compliance period**

147. The issue is whether the compliance periods are reasonable and proportionate. The duties in respect of Article 8 and the public sector equality duty are highly relevant.
148. The appellants initially requested an increase in the period for compliance to at least 12 months for each action because Arcady is the home for themselves and their children. Also, from a practical perspective, there was concern the time periods may be inadequate to mobilise contractors to carry out the extensive work, particularly if over the winter season. At the hearing 18 months was requested for the demolition and 21 months to restore the levels, to allow breathing space and to take full account of the welfare and education of their children.
149. The Council initially considered the stated periods were sufficient. At the hearing the Council stated they had no strong views on extending the

compliance period, while drawing attention to the harm to designated heritage assets.

150. The policy context is provided by the Framework and Planning Practice Guidance, which state that effective enforcement is important to maintain public confidence in the planning system and to tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of an area. In this case the main harm is to the character and appearance of the Conservation Area, the setting of a grade 1 listed building and the special qualities of the AONB.
151. As a general rule a compliance period should not exceed 12 months, unless exceptional circumstances justify a longer period. The compliance periods must take account of what the recipients of the notice must do in practice to carry out the steps, namely, to demolish the dwelling, remove the hardstanding and restore the land levels to those that existed before the development took place. The requirements to demolish the annexe and remove the swimming pool will not need to be fulfilled as a result of the grant of planning permission. The only aspect of the operation highlighted by the appellants is mobilisation of contractors. I would expect that a certain length of time would be required for pre-planning, the appointment of contractors and preparation of a schedule of works. No estimate has been given for the period of demolition but the structure is quite substantial and a proportion of materials may be able to be salvaged. Ground works would have to follow.
152. Apart from the physical works, a different yet very important consideration is the severe impact on the appellants and their family. Whilst this consideration was not sufficient to justify a planning permission, the compliance period would be a very challenging time for them, as indicated at the hearing. They would have to come to terms with the outcome, find alternative accommodation and oversee arrangements. The period would be one of considerable strain on family life.
153. The appellants and the Council spent much time in trying to find a solution short of demolition to provide an acceptable remedy to the breach of planning control. None of the proposed alternatives are acceptable. The process may be exhausted. However, as will be explained below, the dismissal of Appeal C is based primarily on the submitted plans and the planning merits of the proposed scheme are not considered. The appellants may wish to pursue this proposal, which would have implications for the compliance period.
154. I conclude the time for compliance falls short of what is reasonable and proportionate. A period of 15 months to demolish the dwelling and remove the hardstanding with an additional 3 months to restore land levels strikes a fair balance. I shall vary the enforcement notice accordingly prior to upholding it. The appeals on ground (g) succeed to that extent.

### **Conclusions on Appeals A and B**

155. For the reasons given above Appeal A should succeed in part only, and I will grant planning permission for the erection of the detached annexe and the creation of a swimming pool and erection of associated structure but otherwise I will uphold the notice with corrections and variations and refuse to grant planning permission in respect of the erection of a replacement dwelling and

engineering works to alter land levels across the site and to provide an area of hardstanding in front of the North elevation. By virtue of section 180 of the 1990 Act as amended the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant.

156. In respect of Appeal B the periods for compliance should be increased. The notice will be varied accordingly prior to being upheld. The appeal on ground (g) succeeds to that extent.

### **APPEAL C**

157. Section 73 allows planning permission to be granted for the development of land without complying with conditions attached to an earlier permission. It does not confer power to amend the description of development. The local planning authority is required to consider only the question of the conditions subject to which planning permission should be granted (s73(2)). The outcome of a successful application is a new planning permission. That being so case law has established that an application must be determined in accordance with the development plan and taking into account other material considerations. In granting permission a local planning authority may impose new conditions, provided the conditions could have been imposed on the earlier permission and do not materially alter the development that was subject to the original permission.
158. The planning application was made under section 73 of the 1990 Act to develop land without complying with condition 2 of the 2014 permission. Condition 2 required the development to be carried out in accordance with the approved plans identified in the condition. Approved plan ref 2317-11b showed a north elevational view of the proposed dwelling from Holt Road, where the roofs of the new dwelling would be lower in height than the neighbouring Holly House. The plan also had an outline view from the west to show the position of the proposed house in relation to the 'existing house' and area of excavation. This view showed the new house would be very slightly higher than the bungalow and lower than Holly House. Survey work has established plan 2317-11b is incorrect in that the relationship between the proposed dwelling and existing dwellings was inaccurate. The 2014 permission could not be lawfully implemented applying the principle in the *Choiceplace* judgment.
159. A purpose of this current proposal is to gain a planning permission for the 2014 scheme that could be lawfully carried out. The proposed scheme also is intended to provide a fallback position for consideration in the determination of the enforcement appeal and the mediation appeal. The proposal as submitted was to replace the approved but inaccurate drawing 2317-11b with an accurate sectional and street scene plan to correctly depict the appearance and relationship of the proposed dwelling with Holly House. No changes were proposed to any of the other approved drawings listed in condition 2. The Council determined the application on the basis of a substitute plan ref 1660-00-006 Rev C. This plan superseded two earlier plans submitted with the application.
160. During the course of the appeal the Council explained why the Rev C plan was not accurate and was misleading as to the relationship between the former bungalow, Holly House and the proposed dwelling. In summary, the actual ground levels of the bungalow were significantly lower than depicted on plans



2317-11b and 1660-00-006 Rev C. The ground levels of the bungalow and the 2014 appeal scheme differed by almost a metre. The bungalow and Holly House continued to be wrongly represented when compared with the approved dwelling. The Council concluded a planning permission based on the Rev C plan could not be lawfully implemented and would not provide a fallback.

161. The appellants submitted further revised plans and their final solution was amended plan ref 1660-00-006 Rev F<sup>27</sup>. This plan is of the north elevational view from Holt Road to show the relationship between the proposed dwelling and Holly House. The house design continues to be that considered by the Inspector in 2014.
162. The 2014 planning permission was lawfully begun within the three year time limit, even though as built the development does not accord with the approved plans. This matter is common ground between the parties<sup>28</sup>. Therefore the 2014 permission has not lapsed. Section 73 allows for an application to be made for non-compliance with any planning condition which is not in conflict with the operative part of permission. The 2014 permission describes the development as 'replacement house and studio'. The proposal would not change the operative part of the permission. The application was appropriately made under section 73 and the appeal can be entertained. The appeal will be determined on its planning merits. In the event the appeal is successful a new planning permission would be granted.
163. Since the appeal decision was issued in February 2014 no changes have been made to the development plan. In terms of national policy, the current Framework was issued in July 2021. The updated Planning Practice Guidance draws attention to the tools available to help assess and improve the design of development and to ensure the final outcome is of good quality. The National Design Guide was first published in October 2019 and was updated in January 2021. At the local level The North Norfolk Landscape Character Assessment SPD (2021) and the Cley-next-the-Sea Conservation Area Appraisal and Management Plan (2019) post-date the 2014 decision. This local guidance is important in understanding the history and special qualities of the area.
164. The appellants stated the section 73 development includes the annexe and the swimming pool<sup>29</sup>. However, there are no details of the swimming pool. The pool was not included in the scheme granted permission in 2014 and was one of the departures from the approved development identified in the enforcement investigations. Therefore the annexe forms part of the proposal but not the swimming pool. The plan of the annexe 2317-03e is as originally proposed.

### **The 2014 appeal Decision**

165. As a general principle, consistency in the planning process is important and like cases should be decided in a like manner. However, a highly significant change is that the approved drawing 2317-11b was inaccurate and did not show correctly the proposed dwelling in its proper context. The Inspector's

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<sup>27</sup> Document 1A plan 1660-00-008 Rev D, Document 1B plan 1660-00-008 Rev E and Document 15 plan 1660-00-008 Rev F.

<sup>28</sup> The legal principles of the s73 application and appeal were addressed by the appellants, the Council and the Parish Council in Document 14 and subsequent addendum dated 2 February 2023 that takes account of *Armstrong v Secretary of State for Levelling Up, Housing and Communities* [2023] EWHC 142 (KB)

<sup>29</sup> Statement of case May 2022 paragraph 3.1

finding that “the new dwelling would be only marginally taller than the existing bungalow and lower than the adjacent house to the west” is an error of fact. There is no certainty the Inspector would have concluded the new dwelling would not appear overly dominant or out of scale with its surroundings or that its impact on the wider scene would be limited if the application had been supported by accurate plans. The planning balance probably would have been affected. No reliance can be placed on the conclusion the proposal would comply with development plan and national policy. The decision has little weight and I am not bound to come to the same conclusion as the Inspector in 2014.

### **The Proposal**

166. The plans submitted for approval are the site location plan ref 1660-00-001, drawings 2260-01, 2317-02z1, 2317-03e, 2317-05f and the amended plan ref 1660-00-006 Rev F.
167. Site location plan. Condition 2 of the 2014 permission states “amended site location plan scaled at 1:2500.” Plan ref 1660-00-001 outlines a larger site than shown on the 2014 location plan submitted in the documents by both the appellants and the Council. The site extends further to the east and includes additional land along the frontage especially by the site entrance.
168. Plan 2260-01 site survey includes spot levels, the position of the bungalow, outbuildings and garage and an indication of trees, vegetation and other site features. As already noted, the site levels are not referenced to Ordnance Datum level and require an adjustment of -1.071 to give the ‘real world’ height. This qualification is not noted anywhere on the submitted plan.
169. Plan 2317-02z1 shows the elevations of the new dwelling and floor plan layouts. The lower ground floor plan is of a garage, workshop and possibly storage space with the side extension accommodating a platform lift and refuse storage. On the ground floor the main hall gives access to a day room, kitchen and dining area, a bedroom, office and snug and other facilities. The first floor accommodates the main living area opening out onto a verandah and terrace, bedrooms and related space. The appellants describe the dwelling as a contemporary, high-quality design of interconnected blocks, using modern proportions and forms, in a material palette that complements the surrounding vernacular.
170. Plan 2317-03e is of the plans and elevations of the annexe. The plan does not include the as-built changes, such as the omission of the rooflight and changes to the brick and flint detailing.
171. Plan 2317-03f is a site plan showing spot levels, the footprint of the bungalow/outbuildings and the footprint of the proposed house. The plan also details the proposals for access, parking and turning arrangements and indicates trees, new planting and boundary treatments. The same observation regarding land levels applies as with Plan 2260-01.
172. The drawing title of Plan 1660-00-006 Rev F is Holt Road Street Elevation (North). The view of the elevation on plan shows the roofline of the main blocks of the new dwelling at a similar height to the ridge line of Holly House and the tower slightly higher. The length of elevation between the main



gateway and the eastern boundary of the site is annotated "information extracted from Pike Partnership Drawing 2317-11b" whereas the length of elevation between the gateway and Holly House is annotated "information taken from survey by Parish Land Surveys undertaken in 2020". Neither of these plans form part of the submission and plan 2317-11b was found to be inaccurate. The elevational view of the buildings is cluttered by outlines and colouring of trees and vegetation. The elevation of the annexe is inconsistent with the equivalent elevation on plan 2317-03e, and the outline of Holly House is incomplete. The view of the land to the front of the proposed wall does not represent what is on the ground. The plan provides a static view from a position along Holt Road. However, the relationship and appearance of the various building elements change quite significantly in over a short distance in views near the site frontage. Accordingly, at the least the plan should be interpreted and considered with caution.

173. Additionally, the proposed set of revised conditions refers to a Landscape Masterplan 1660-00-501 which has levels across the site derived from the Parish Land Surveys information 2020, not the site survey information shown on plans 2260-01 and 2317-03f.

#### *Conclusion on plans*

174. This application/appeal is intended to resolve the inaccuracies in the plans describing the proposal, and in particular plan 2317-11b. The appellant is now seeking a permission based on the set of plans described above. The replacement plan on which the appellants now rely is the sixth version of the plan since the application was made. The final deletion of the 'outline view from the west' has resulted in the loss of a section with information on the level of the proposed dwelling in relation to Holt Road and the extent of excavation. The comparison with the bungalow has also been deleted.
175. Case law has confirmed the principles in interpreting planning permissions, which are neatly summarised in the *Armstrong* judgement<sup>30</sup>. The exercise is an objective one, concerned not with what the maker of the document subjectively intended or wanted to convey but with what a reasonable reader would understand the words used, considered in their particular context, to mean. Because a planning permission is not personal to the applicant and enures for the benefit of the land, it cannot be assumed that the holder of the permission will be aware of all the background facts known to the person who applied for it. Furthermore, a planning permission is a public document on which third parties are entitled to rely. These characteristics dictate that the meaning of the document should be ascertainable from the document itself, other public documents to which it refers such as the planning application and plans and drawings submitted with the application, and physical inspection of the land to which it relates. The reasonable reader of the permission cannot be expected to have regard to other material such as correspondence passing between the parties.
176. The main issue is the effect of the proposed variation of condition 2 on the historic environment, landscape character and the AONB. An important consideration is the level of the land which would form the ground floor

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<sup>30</sup> *Armstrong v Secretary of State for Levelling Up, Housing and Communities* [2023] EWHC 142 (KB) at paragraph 53

platform for the dwelling and how this level relates to the land and buildings outside the site, together with the depth of excavation. Accurate, clear and reliable information on these matters is essential in assessing how the proposed dwelling would sit on the site and relate to its surroundings. As it currently stands the information on land levels on the submitted plans is derived primarily from the original Pike survey drawings. As has been discovered through the enforcement investigations and preparation of appeal evidence, the levels have to be interpreted in the knowledge of the datum.

177. A planning permission runs with the land and, as happened before, new land owners may seek to carry out a permission. The meaning of the plans is not easy to interpret and apply to the current position especially without the background knowledge that has emerged through the appeal process. The position is now further complicated because of the development of the land and probable changes in land levels. I have serious concern that if a permission was granted with a condition requiring development to be carried out in accordance with the submitted set of plans similar problems could arise during the course of development as has happened in the recent past. The proposed varied condition 2 would not be enforceable and would not meet one of the six tests.

### **Conclusions**

178. A condition confirming the plans approved as part of any grant of planning permission would be necessary to avoid any doubt and to ensure the development is of a suitably high standard of design that reinforces local distinctiveness taking particular account of the historic environment, landscape character and the AONB. Such a condition must be reasonable, enforceable and precise, as well as being relevant to planning and to the development to be permitted and reasonable in all other respects.
179. The set of submitted plans do not adequately correct the inaccuracy of plan 2317-11b. The plans contain inconsistencies and provide insufficient detail on site levels. A permission cannot be granted based on the current set of plans. In view of the matters raised, related to the reason for the application and the enforcement proceedings, I do not intend to assess the planning merits of the proposed development to avoid any possibility of injustice to the appellants and the Council.
180. For the reasons given above the appeal will be dismissed.

### **APPEAL D**

181. The planning application sought to retain and modify the built dwelling in line with the principles set out in a Mediation Agreement entered into by the appellant and the Council on 27 January 2021. The Mediation scheme is put forward as an alternative to regularise the planning position on the appeal site, without prejudice to the appellants' contention the as built development is acceptable and should be granted planning permission through the enforcement appeal. In effect in Appeal D planning permission is being sought for development already carried out and the new works to modify the existing structure.
182. The statement of case describes the proposal as including the annexe/studio building and swimming pool. However, the planning application made no direct

reference to the annexe and the pool in the description of the proposed development. The submitted plans do not provide elevations or floor plans of the annexe, although the footprint of the building and the position of the pool is outlined on the site plan and landscape plan. The covering letter with the application made no specific mention of the annexe or pool and the text was directed at the main dwelling. The Council made no assessment of the merits of the annexe in determining the application or in its statement of case. I will determine the appeal in accordance with the original description of the proposed development for a dwelling and the associated external works and landscaping.

183. The application did not include details of engineering or ground works identified in the breach of planning control in the enforcement notice. None of the submitted plans, including the site plan, has any information on ground levels or contours. To rely on the landscape masterplan (ref 1660-00-501) cited in a proposed planning condition, but which formed no part of the application, is not adequate.
184. The reasons for refusal do not cite Policy HO 8 (house extensions and replacement dwellings in the countryside). The Committee report commented that Policy HO 8 strictly cannot be applied because the bungalow has long since been demolished, although similar considerations to those raised in the policy still do apply. I consider that given the background to the current proposal Policy HO 8 remains relevant, with the bungalow being the dwelling replaced.

### **The Proposal**

185. The Design and Access Statement (February 2021) sets out the parameters for the development and explains the design approach to the proposed alterations to the existing building. The concept is to further the articulation, visual interest and appearance of the building that is formed from a series of interconnected blocks. This approach is to support the conclusions of the Inspector in the 2014 appeal decision, to improve on the design and landscaping associated with the development permitted in 2014 and to respond to the concerns raised by the Council in line with the Mediation Agreement. The proposals were further amended after submission of the application.
186. The proposals for operational development are accompanied by a landscape strategy. The key principles of the strategy are (a) to remove the existing ramp and turning area adjacent to the front door to create an additional area for soft landscaping and tree planting, and (b) to provide additional screening by tree planting and boundary reinforcement.
187. The agreed list of draft conditions covers matters including landscaping, removal of permitted development rights, submission of a lighting design strategy, an arboricultural method statement and a construction management plan.

### **Main Issue**

188. As with Appeal A, the main issue is whether the development proposed is of a high standard of design that reinforces local distinctiveness, taking particular account of its effect on the historic environment, landscape character and the

AONB. The following assessment should be read within the context of my consideration and conclusions on the deemed planning application in Appeal A.

### **Reasons**

189. The construction of the building limits the scope to carry out structural works and change the configuration of the interconnecting blocks. There are no proposals to alter the existing finished floor levels of the dwelling. My conclusion on the development as built (Appeal A) is simply that the replacement dwelling is too big on this sensitive site, taking account of the ground levels. A design based on a series of interconnected blocks does not work successfully by reason of the size and mass of the blocks.
190. The introduction of positive aspects of the design identified by the Inspector in the 2014 decision is not necessarily the solution, now it is understood that the comparisons of the new dwelling to the former bungalow and to Holly House were inaccurate. Whilst the scale of the existing building is too great, there is a simplicity and coherence which was brought out and explained in the appellants' evidence for the hearing. There is a risk that the introduction of articulation, visual interest and new materials to the basic structure would add unnecessary complexity and make the building more dominant in its setting. The tension between the dwelling blending into its landscape setting and asserting its own special identity then would become greater.
191. The appellants have made the point that the proposed dwelling is similar in overall height to the dwelling approved in 2014. They say the set of elevations and plans of the house alone would have been adequate for the Inspector to understand in spatial terms how big the proposed house would be, without reliance on the street scene plan. Accordingly, their evidence refers extensively to the Inspector's reasoning and conclusions.
192. I consider plan 2317-11b was an essential part of the application. As stated earlier, the Inspector's conclusions were informed by that inaccurate plan and can no longer be relied on.

### Alterations to the dwelling

193. Summarising the proposals for each elevation:
- North elevation: creation of additional elevational bays and introduction of a stepped profile, one bay reduced in height and recessed in the vertical plane, red brick to replace timber cladding in the block containing the entrance door, use of smart glass in two first floor windows, insertion of an enamelled glass panel between two windows in place of timber cladding, window replaced to remove glazing bar.
  - East elevation: the introduction of a full height recessed brick panel to the central section and addition of enamelled glass panel to replicate window.
  - South elevation: addition of profile to roof line with use of dark grey aluminium fascia, timber louvres over side glazing panels, dark stained vertical timber cladding on the central section and the colour of the balcony fascia cladding to match the tones of the timber cladding.

- West elevation: the addition of eaves overhang and profile detail, insertion of an enamelled glass panel between windows in place of timber cladding and use of smart glass in one window.
194. The internal layout and use of rooms is similar, with the bedrooms on the ground floor and kitchen/living rooms on the first floor. The proposals are directed primarily at improving the articulation to the elevations of the house. I note the appellants' design review considers the proposed architectural solution unnecessary if the enhanced landscaping is realised.
195. The most significant alterations would be to the north elevation, which would become more distinctive as a principal elevation and individual blocks would have greater definition. However, the elevation would appear rather over-busy and the existing coherence would be diminished. The measures to recess the central blocks would have limited effect on the apparent height and mass of the dwelling because no alterations are proposed to the book-end blocks to the elevation and the connecting blocks.
196. The proposals for the east, south and west elevations would be largely cosmetic and do little to address the main and fundamental concerns over size, mass and scale. The strong linear feature of the wrap around terrace is unchanged. The potential light pollution from the use of the extensive terrace, linked to the internal room layout and the large windows on the south elevation would not be satisfactorily addressed. The introduction of smart glass to reduce light emissions is shown in windows on the less sensitive north and west elevations. In views from the south the dwelling's uncomfortable siting and relationship to the Church would not change. The greater variation in use of materials and finishes possibly would add visual interest but at the expense of coherence and would not be a positive change. The better definition of the roofline of the blocks would be a relatively minor improvement.
197. All in all, the building as a whole would be a very similar height and mass as the existing building. The appellants have acknowledged this too. The landscape evidence confirms the mediation scheme does not have a greater scale or mass than the scheme as built and the same set of model views are relied on<sup>31</sup>. The differences are described as being so subtle they would not sway the balance between effects.
198. Following on from this conclusion the proposed development's visual dominance on this elevated site would see little change from the existing development. Consequently, the proposed dwelling would detract from the harmonious group of buildings around Newgate Green. The concentration of built form and the solid block form at 'normal' roof height would detract from the more open settlement pattern in this part of the Conservation Area. A key characteristic, reflecting the history of the village, would be adversely affected. The strong physical and visual presence of Arcady and the sharp contrast in built form to the older historic properties would mean the proposed dwelling would distract from and compete for attention with the Church. This intrusion into the setting of the grade 1 listed building would be harmful to its historic and visual significance.

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<sup>31</sup> Landscape and Visual Impact Hearing Statement paragraph 3.1.16 (with reference to As Built 3D Model View with Lanpro Landscaping Appendix 4) and paragraph 4.1.6

199. The lack of harmony in the relationship between the block form and mass of the east elevation and the traditional development to the east on the north side of Holt Road would not be resolved, even allowing for the 'screening' of the ground floor element provided by boundary hedgerows.
200. Based on these considerations the appearance of the Conservation Area would not be preserved in the views from the area around Newgate Green. Furthermore, in views towards the edge of the settlement and the Church from the south, I am not satisfied that the proposed alterations to the details of the treatment of the south elevation are sufficient to reduce the unduly conspicuous presence of the new dwelling. As such harm would be caused to the ability to appreciate the pre-eminence of the Church. The rural edge to the Conservation Area and the quality of views across the landscape of the AONB would not be preserved.

#### Landscape strategy

201. The appellants' estimated periods of time for mitigation planting to have full effect varies from 10-15 years, 10-12 years and 8-10 years, depending on the size of nursery stock planted. Reference is made to the offer of extra mature tree planting to provide an immediate screen to development.
202. The proposals are similar to those put forward in Appeal A and so my concerns are also similar. To summarise, the building must be of a high standard of design in its own right. Screening through landscaping is not supported by national and local guidance. The removal of the ramp and turning area and their replacement by soft planting would enhance the setting of the building. On the negative side, the main living space of the dwelling would become less accessible and inclusion would not be promoted.
203. The planting mix indicates the inclusion of evergreens, especially on the site frontage, with the eventual height of the trees expected to be 5 to 7 metres. The use of planting as screening is somewhat inconsistent with the proposed alterations to add visual interest and articulation. Also, evergreen planting probably would increase the shading and reduce natural light to living rooms on the northern side of the house. The mix of species could be further considered in compliance with a landscaping condition but in turn the appellants' rationale would be reduced in weight.
204. The carrying out of the proposed building works would delay new planting, particularly on the frontage and may lead to loss of some recent planting. The notion of 'immediate' screening has little weight. Seasonal change and longevity are important considerations to build into an assessment. An approved management and maintenance plan could not reasonably be extended beyond 10 years. In conclusion, planting of trees and hedging as indicated on the landscape plan would soften the appearance of the development over time and restore a more sylvan appearance to the site than existed at the end of the construction period. Landscaping would reduce the harm but would not make the principal dwelling acceptable.

#### ***Other considerations***

205. I refer back to my reasoning in Appeal A. No significant change to the scheme's sustainability credentials is proposed. The internal space standards



and amenity for occupiers would satisfy Policy EN 4 requirements. The effect on neighbours living conditions would not substantially change, with some benefit from the landscaping proposals. The 2014 permission does not provide a fallback of any weight.

206. Planning conditions. There was discussion about the necessity of a planning condition requiring completion of the development, bearing in mind the requirements and compliance periods of the enforcement notice. Planning Practice Guidance indicates such a condition would not be reasonable and would be difficult to enforce. The proposed alternative, to require a timetable for carrying out the works, would be reasonable in the circumstances. Removal of permitted development rights, whilst introducing a control on any proposed future enlargements or alterations, would not make any difference to the size and design of the dwelling currently proposed. An approved lighting design strategy would attempt to mitigate effects on night skies from built-in design features but the likely effectiveness is questionable for the reasons stated previously. Provision is made for archaeological supervision of any excavation works in view of the possibility buried archaeological remains may be present at the site.

### ***Human rights and proportionality***

207. Throughout I have been very conscious that the development is a valued family home and, as stated at the hearing, the appellants would be devastated if their appeals are not successful. They very much wish to stay in their present home. This appeal was seen as an alternative to the existing development, to provide a realistic way forward and a means to avoid demolition if the enforcement notice was upheld. The appellants indicated they would be able to find somewhere else to live but even so substantial disruption would be inevitable by compliance with the notice. The interests of their children would be best served by stability in home life and by continuing to enjoy their home at Arcady. The dismissal of this appeal would raise the prospect of severe interference with home and family life. The consequences would be of sufficient gravity to engage Article 8. Such an interference would be in accordance with the law and be necessary to protect the environment through the regulation of land use.
208. Balanced against the private interests, the public interest arguments are very strong. The site is within designated areas which have a high degree of policy protection to conserve their special interest and quality for existing and future generations.

### **Conclusions**

209. The proposed alterations to the building and the landscaping strategy, and the use of planning conditions, would not satisfactorily overcome the harm resulting from the height, mass and scale of the dwelling as constructed and as enabled by the engineering works to alter the land levels of the site.
210. A high priority of the development plan is to protect, conserve and enhance settlement and landscape character. New development is required to be well-designed to help sustain townscapes and landscapes with a strong sense of place and local identity.

211. By reason of the scale, design and materials the development would not protect and conserve the distinctive settlement character and the special qualities and local distinctiveness of the area, including its nocturnal character. The development would detract from the special qualities of the AONB. The requirements of Policies EN 1, EN 2 and Policy EN 4 are not met, notwithstanding the good quality residential amenity for its occupiers and the use of sustainable construction principles.
212. The character and appearance of the Conservation Area and the setting of the Church are not preserved. These are matters of considerable importance and weight. By reason of the adverse impact on their special historic and architectural interest Policy EN 8 directs that the development should not be permitted. The development results in a disproportionately large increase in the height and scale of the original dwelling and there is a material increase in the impact of the dwelling on the appearance of the surrounding countryside. The criteria of Policy HO 8 are not complied with.
213. Applying the policies of the Framework, the development proposal causes less than substantial harm to the significance of the Conservation Area and less than substantial harm to the significance of St Margaret's Church. The public benefits identified by the appellants relate to environmental objectives, construction and resource efficiency, and the delivery of social objectives. I consider the development does not deliver on conservation objectives for the built environment and it fails to conserve and enhance landscape and scenic beauty in the AONB. The proposed new planting and a management plan probably would deliver ecological enhancement and biodiversity gain on a scale sufficient to provide a degree of public benefit. The measures to support the transition to a low carbon future in a changing climate have not been shown to deliver a public benefit of any significance. Retention of the development would avoid potential demolition and restoration of the site but the resource savings would be primarily a private as opposed to a public benefit. The addition of a family home to the housing stock of Cley is a small public benefit.
214. I conclude the less than substantial harm to the significance of the Conservation Area is not outweighed by the small public benefit. Similarly, the less than substantial harm to the significance of the Church is not outweighed by the small public benefit. There is a clear reason for refusing the development and the tilted balance does not apply.
215. The proposal does not comply with the development plan when read as a whole. There is also conflict with the policies in the Framework. There are no other considerations sufficient to outweigh the failure to comply with the development plan and national planning policy. The interference with the Article 8 rights of the appellants and their family is necessary and proportionate in the public interest.
216. For the reasons given above the proposal is not acceptable and the appeal will be dismissed.



## **DECISIONS**

### **Appeal A Ref APP/Y2620/C/19/3236385**

217. It is directed that the enforcement notice is corrected in paragraphs 3(i) and 5(i) by the deletion of the words "two-storey" and in paragraph 5 by the deletion of the wording of step (v) and substitution of the wording "Remove the vehicular ramp and the parking and turning area located adjacent to the front door on the northern elevation of the dwelling, as shown marked 'parking area (not used) and ramp' on Plan 1 annexed to this decision."
218. The appeal is allowed in so far as it relates to the detached annexe and the swimming pool and associated structure, sited in the approximate positions on the Land shown on Plan 2 annexed to this decision. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the erection of the detached annexe and the creation of a swimming pool and associated structure, subject to the following condition: The annexe hereby approved shall not be occupied for residential purposes at any time other than in conjunction with the residential use of the Land, as outlined in red on Plan 2 annexed to this decision.
219. It is directed that the enforcement notice be varied in paragraphs 6(i) and 6(v) by the substitution of 15 months as the period for compliance and in paragraph 6(vi) by the substitution of 18 months as the period for compliance.
220. The appeal is dismissed in so far as it relates to the erection of a replacement dwelling and the carrying out of engineering works to alter land levels across the site and to provide an area of hardstanding in front of the North elevation and the enforcement notice is upheld as corrected and varied. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act for the erection of a replacement dwelling and the carrying out of engineering works to alter land levels across the site and to provide an area of hardstanding in front of the North elevation at Arcady Holt Road, Cley-next-the-Sea NR25 7TU.

### **Appeal B Ref APP/Y2620/C/19/3236386**

221. It is directed that the enforcement notice is corrected in paragraphs 3(i) and 5(i) by the deletion of the words "two-storey" and in paragraph 5 by the deletion of the wording of step (v) and substitution of the wording "Remove the vehicular ramp and the parking and turning area located adjacent to the front door on the northern elevation of the dwelling, as shown marked 'parking area (not used) and ramp' on Plan 1 annexed to this decision."
222. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied in paragraphs 6(i) and 6(v) by the substitution of 15 months as the period for compliance and in paragraph 6(vi) by the substitution of 18 months as the period for compliance. Subject to the corrections and these variations the enforcement notice is upheld.

### **Appeal C Ref APP/Y2620/W/22/3299404**

223. The appeal is dismissed.

**Appeal D Ref APP/Y2620/W/22/3299405**

224. The appeal is dismissed.

*Diane Lewis*

Inspector



## Plan

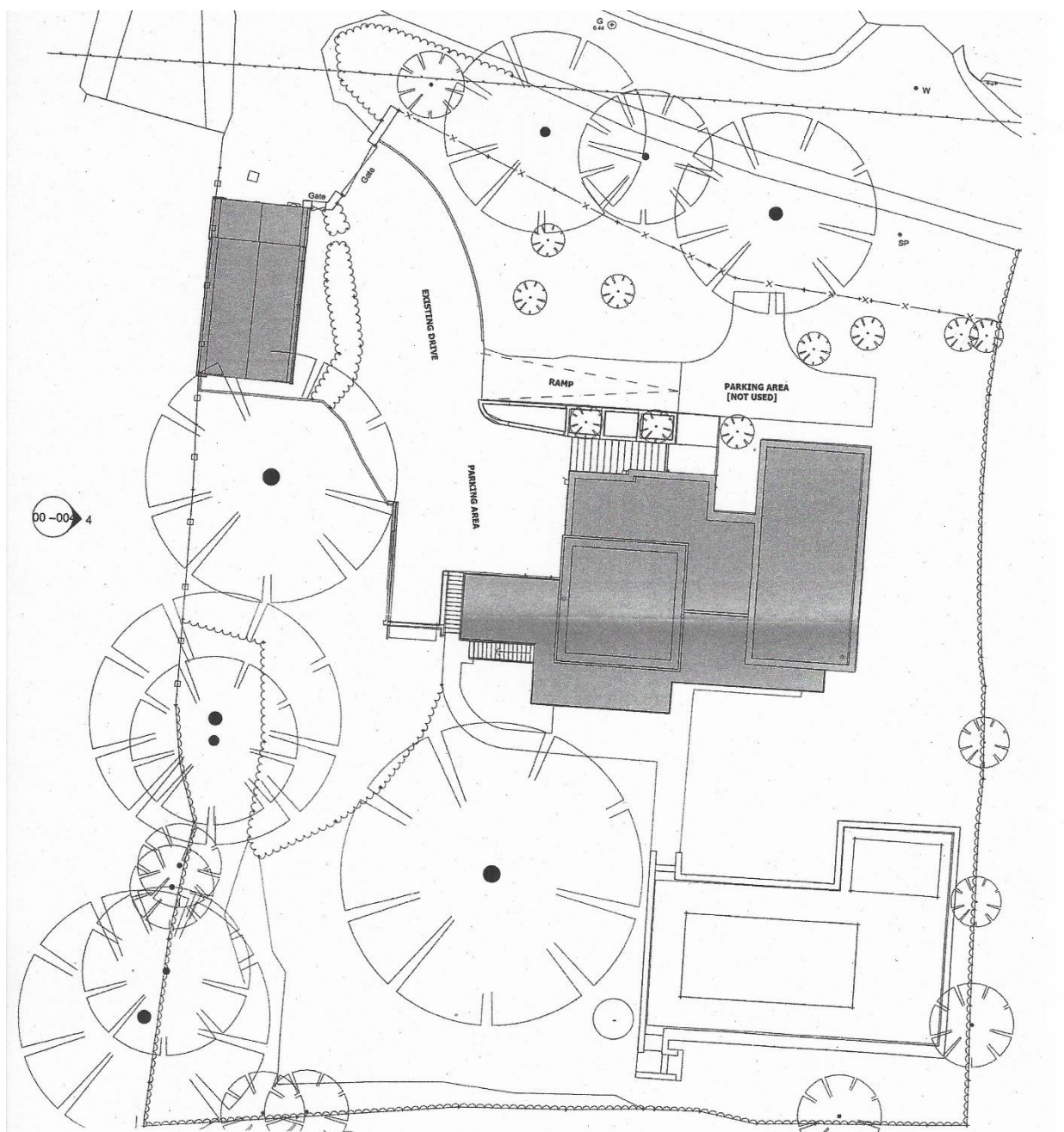
This is Plan 1 referred to in my decision dated: 17 May 2023

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

Land at: Arcady, Holt Road, Cley-next-the-Sea, North Norfolk NR25 7TU

Reference: APP/Y2620/C/19/3236385, 3236386

Scale: NTS





## Plan

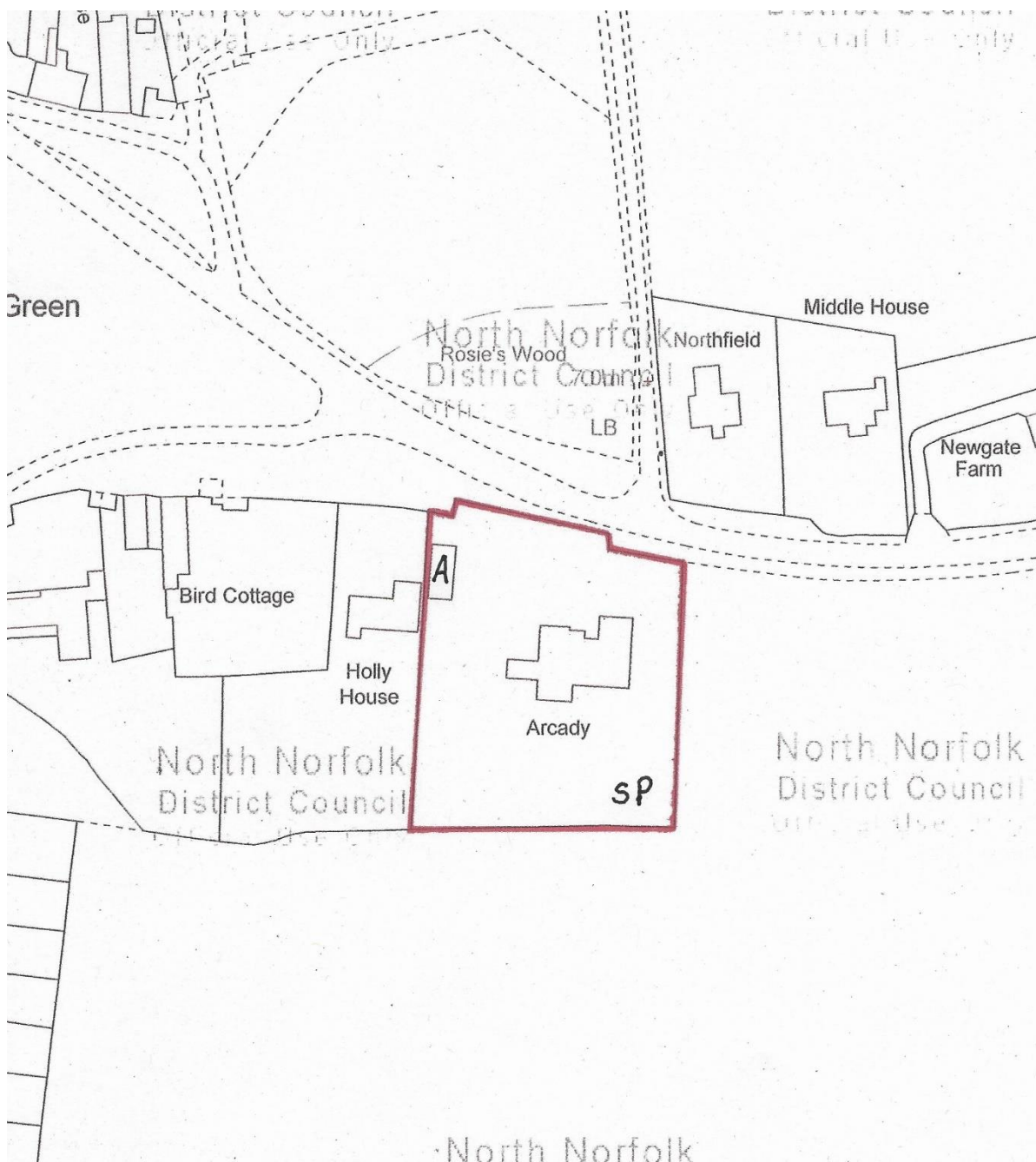
This is Plan 2 referred to in my decision dated: 17 May 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Arcady, Holt Road, Cley-next-the-Sea, North Norfolk NR25 7TU

Reference: APP/Y2620/C/19/3236385

Scale: NTS



## **APPEARANCES**

### **THE APPELLANTS:**

Robert Walton KC	Instructed by Howes Percival LLP
Jamie Childs	Director Howes Percival LLP
Richard Coleman Dip Architecture (Cant) ARB RIBA RIAI	Principal of Citydesigner
Mark Topping CMLI	Director of Landscape Architecture and Urban Design, Lanpro
Rebecca Burrows BA(Hons) MSc IHBC Assoc RTPI	Head of Heritage, Lanpro
Phillip Atkinson BA URP Dip MRTPI	Director, Lanpro
Daniel Orford BA(Hons) MArch PGDip RIBA	Chartered Architect, Lanpro
Charlotte Spiegel	Appellant
Adam Spiegel	Appellant

### **THE LOCAL PLANNING AUTHORITY:**

Josef Cannon, Barrister	
Charmain Hawkins BA MA MIHBC MRTPI	Director, Brighter Planning
Alison Hutchinson MRTPI	Partner, Hutchinsons
Christopher Jackson CMLI MALA BSc(Hons)	Senior Associate, Liz Lake Associates

### **CLEY PARISH COUNCIL:**

John Pugh-Smith of Counsel	
Gemma Harrison	Parish Clerk
Richard Allen	Vice-Chair
Dr Victoria Holliday	Chair of Cley Parish Council and Ward Councillor, North Norfolk District Council

### **INTERESTED PARTIES:**

Mrs Carter	Resident
Mr C Lamont	Resident
Ms Leeper	Resident
James Henderson	Resident
Mr Hudson	Resident

## **DOCUMENTS submitted at the hearing**

- 1A Appeal C amended plan ref 1660-00-008 D
- 1B Appeal C amended plan ref 1660-00-008 E
- 2 Minutes of Cley Parish Council Arcady briefing 20 January 2023
- 3 Plan of viewpoints Appendix 4 to Mr Coleman's Statement
- 4A Norfolk Coast AONB Management Plan Strategy 2014-19




- 4B Norfolk Coast AONB – Integrated Landscape Guidance Large Valleys
- 4C North Norfolk Landscape Character Assessment 2021 River Valleys
- 5 Appeal Decision ref APP/Y2620/W/21/3272150 dated 12 October 2022
- 6 Proposed development at Holly House Decision Notice ref PF/22/0429 dated 25 August 2022 + plans
- 7 Bundle of plans detailing levels
- 8 Landscaping schedule for Arcady November 2016 and plan 2317-05f
- 9 Quayside judgement *Council of the City of Newcastle upon Tyne v Secretary of State for Levelling Up, Housing and Communities and others* [2022] EWHC 2752 (Admin)
- 10 Plan of agreed viewpoint locations
- 11 Visualisations for Alternatives
- 12 Consultation comments on Archaeology, including conditions
- 13 Statement of Common Ground re Appeal C
- 14 Signed Statement of Common Ground re Appeal C dated 26 January 2023
- 15 Amended plan for Appeal C ref 1660-00-008 F
- 16 Public benefits submitted by the appellants
- 17 Plan for requirement 5(v) ref 1660-00-002
- 18 Draft planning conditions



## DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – MARCH 2023

### 1. INTRODUCTION:

- 1.1 This report briefly sets out performance in relation to the determination of planning applications in Development Management the period **February 2024**.
- 1.2 This report sets out the figures for the number of cases decided and percentage within time set against the relevant target and summary of 24-month average performance.
- 1.3 The tables also set out the percentage of the total number of decisions made that are subsequently overturned at appeal as 24-month average performance.
- 1.4 In addition, the tables set out the number of cases registered and validated within the specified months.

Performance Measure	Actual Performance	Target	Comments
<b>(Speed)</b> <b>Decisions Made</b> <i>(Period Feb 2024)</i>	<b>Major</b> 3 decisions issued.  100% within time period	60%  (80% NNDC)	24 month average to 29 Feb 2024 is  <b>100.00%</b> 
	<b>Non-Major</b> 78 decisions issued  96% within time period (three out of time)	70%  (90% NNDC)	24 month average to 29 Feb 2024 is  <b>95.00%</b> 
<b>(Quality)</b> <b>% of total number of decisions made that are then subsequently overturned at appeal</b>	<b>Major</b>	10%  (5% NNDC)	24 month average to 29 Feb 2024 is  <b>0% (Zero)</b>
	<b>Non-Major</b>	10%  (5% NNDC)	24 month average to 29 Feb 2024 is  <b>0.51%</b> 
<b>Validation</b> <i>(Period Feb 2024)</i>	197 applications registered  172 applications	3 days for Non- Major from date of receipt	Datasets do not currently breakdown validated apps by Major / Minor or those on PS2 returns, but performance data retrieval being reviewed.

	validated	5 days for Majors from date of receipt	
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## **2. S106 OBLIGATIONS**

- 2.1 A copy of the list of latest S106 Obligations is attached. There are currently five S106 Obligations being progressed.

## **3. RECOMMENDATIONS:**

- 3.1 **Members are asked to note the content of this report.**



**SCHEDULE OF S106 AGREEMENTS**

**UPDATE FOR DEVELOPMENT COMMITTEE:**

**04 April 2024**

Application reference	Site Address	Development Proposal	Parish	Planning Case Officer	Committee or Delegated Decision	Date of Resolution to Approve	Eastlaw Officer	Eastlaw Ref:	Current Position	RAG Rating
PF/22/1596 & PF/22/1784 (Duplicate)	Land South Of Norwich Road North Walsham Norfolk	Hybrid planning application, comprising the following elements: 1. Full Planning Application for the construction of 343 dwellings (including affordable homes), garages, parking, vehicular access onto Ewing Road and Hornbeam Road, public open spaces, play areas, landscaping, drainage and other associated infrastructure; 2. Outline Planning Application with all matters reserved for a phased development comprising 7 serviced self-build plots and associated infrastructure; and 3. Outline Planning Application with all matters reserved for the construction of an elderly care facility and associated infrastructure, landscaping and open space	CP071 - North Walsham	Russell Williams	Committee	25/01/2024	Fiona Croxon	21830	Draft s106 Agreement has been received and is being negotiated.	
PF/17/0680 & RV/22/0855	Land North Of Rudham Stile Lane & East Of Water Moor Lane Fakenham Norfolk	Variation of conditions 2, 3, 4, 5, 6, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 26, 28, 30, 37, 38, and 40 of outline planning permission PO/17/0680 (Outline planning application (all matters except primary means of access reserved for future approval) for residential development of up to 950 dwellings (Use Class C3), employment development (Use Classes B1/B2/B8), a primary school and children's nursery (Use Class D1), a hotel (Use Class C1), local retail (Use Classes A1/A3/A4/A5) and associated public open space and infrastructure) regarding the highways works associated with Condition 31i. (site access and roundabout from the A148 and associated works to Wells Road) and 31v. (scheme for the A148/A1065/Wells Lane (Shell Garage) including lane widening and road markings) are proposed to be undertaken directly by the Highway Authority and not the applicant. As such, these works are to be specifically excluded from the requirements and triggers indicated in the conditions that are proposed to be amended (See-Schedule of Condition amends) Amendments 21 March 2022)	CP030 - Fakenham	Russell Williams	TBC	TBC	Fiona Croxon	13791	Draft s106 Unilateral Undertaking is circulating. Applications on hold due to Nutrient Neutrality.	

PF/22/1928	Land South Of Sheringham House Cremers Drift Sheringham Norfolk	Full Planning Application: Revised scheme for the erection of 62. no retirement dwellings, access, roads, open space, parking areas and associated works	CP085 - Sheringham	Geoff Lyon	Committee	20/07/2023	Mary-Lou Clark	22577	S106 Obligation substantially completed pending inclusion of recession clause (requested by applicant).	
PO/23/0596	Land Off Overstrand Road Cromer Norfolk	Erection of up to 118 dwellings and up to 60 units of specialist elderly care accommodation with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point (Outline with all matters reserved except for access)	CP022 - Cromer	Russell Williams	Committee	07/12/2023	Fiona Croxon	23183	Draft S106 agreement agreed save for two points .	
PF/23/2259	Land On Ostend Road Ostend Road Walcott Norfolk	Development of 23 dwellings with associated access, parking and landscaping	CP134 - Walcott	Bruno Fraga da costa	Committee	11/01/2024	Fiona Croxon	TBC	Completing	

## **OFFICERS' REPORTS TO DEVELOPMENT COMMITTEE 04 APRIL 2024**

### **APPEALS SECTION**

#### **NEW APPEALS**

**ALBY WITH THWAITE - PO/23/0523** - Erection of 7 dwellings (2 pairs of semi detached properties and a terrace of 3 (all 2 bedroom) properties) to be sold under the government first homes scheme & Car park for Aldborough School and footpath (Outline application with all matters reserved apart from access)

**Land At , Alby Hill , Alby, Norfolk**

**For Mr. Matthew Hales**

WRITTEN REPRESENTATION

**Appeal Start Date: 22/03/2024**

**CROMER - PF/23/0958** - Change of use of annexe from ancillary accommodation to allow use for holiday let

**Annexe At, Great Gable, Metton Road, Cromer, Norfolk, NR27 9JH**

**For Mr Duane Wright**

WRITTEN REPRESENTATION

**Appeal Start Date: 19/03/2024**

**POTTER HEIGHAM - PU/23/2311** - Application to determine if prior approval is required for the change of use and building operations reasonably necessary for the conversion of an agricultural building - Barn B to create 1 Larger and 2 Smaller Dwellinghouses

**Glebe Farm, Marsh Road, Potter Heigham, Great Yarmouth, Norfolk, NR29 5LN**

**For Mr Robert Hall**

WRITTEN REPRESENTATION

**Appeal Start Date: 14/03/2024**

## **INQUIRIES AND HEARINGS – IN PROGRESS**

**CROMER – ENF/22/0026** - Appeal against Enforcement Notice Re Installation of a flue  
Lily Mai's, New Street, Cromer, Norfolk, NR27 9HP

**For Mr Hubbard, Lily Mai's**

INFORMAL HEARING – No date as yet

**Appeal Start Date: 17/01/2024**

**THURNING – ENF/19/0307** – Appeal against breach of planning control  
(and RV/21/2645 linked with the above) - Removal of Condition 3 of planning permission  
PF/13/1048 the condition to be simply deleted and not included in the the new permission  
**Courtyard Barn, Roundabout Farm, Hindolveston Road, Thurning, NR20 5QS**  
**For Mr & Mrs Kerrison**

**Appeal Start Date: 13/09/2022**

**INQUIRY – Date of Inquiry is 16 April 2024**

**Venue:- West Runton Scout HQ, Cromer Road, West Runton NR27 9NQ**

**THURNING – ENF/19/0307** - Appeal against breach of planning control  
(and CL/20/2055 linked with the above) - Certificate of lawfulness for existing use of "The Office"  
at Courtyard Barn as a residential dwelling (C3)  
**The Office, Roundabout Farm, Hindolveston Road, Thurning, NR20 5QS**  
**For Mr & Mrs Kerrison**

**Appeal Start Date: 13/09/2022**

**INQUIRY - Date of Inquiry is 16 April 2024**

**Venue:- West Runton Scout HQ, Cromer Road, West Runton NR27 9NQ**

## **WRITTEN REPRESENTATIONS APPEALS - IN HAND**

**ALBY WITH THWAITE – ENF/20/0066** - Appeal against Enforcement Notice Re: Erection of a building  
for residential use, garage and landscaping to create a garden

**Field View, Alby Hill, Alby, Norwich NR11 7PJ**

**For Mr Karl Barrett**

WRITTEN REPRESENTATION

**Appeal Start Date: 24/07/2023**

**BACONSTHORPE – PF/22/2224** - Change of use of land to provide tourist accommodation consisting  
of 3 x converted railway carriages, 3 x shepherds huts, 1 x air stream and 1 x timber cabin, parking  
areas, bin store and solar panels

**Land South Of New Road, Baconsthorpe, Holt, Norfolk NR25 6LW**

**For Mrs Susan Andrews**

WRITTEN REPRESENTATION

**Appeal Start Date: 01/11/2023**

**BODHAM – ENF/23/0169** - Appeal against Enforcement Notice against Change of Use of the land for the stationing of a static caravan for residential purposes. Change of Use of land for stationing of motor vehicles, vans, and body of Luton Van. Operational development consisting of the siting of a container.  
**Land North Of Hurricane Farm Bungalow, Church Road, Lower Bodham, Norfolk**  
**For Mr David Gay**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 10/11/2023**

**EAST BECKHAM – ENF/22/0289** - Appeal against Enforcement Notice Re: Material change of use of agricultural to land to storing of machinery and creation of a bund  
**Land North Hwrc, Holt Road (a148), East Beckham, Norwich, Norfolk NR11 8RP**  
**For Mr Eamon Denny**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 02/03/2023**

**EDGEFIELD – ENF/23/0092** - Unauthorised works to a protected trees and new camping activity.  
Dam Hill Plantation, Holt Road, Edgefield, Norfolk  
**For Mr Nigel Marsh**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 23/02/2024**

**FAKENHAM – CL22/1552** - Certificate of Lawful Development for existing use of land for storage purposes (Class B8)  
**Unit 4, RS Car Sales, Hempton Road, Fakenham. Norfolk NR21 7LA**  
**For Mr Shaun Brooker**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 08/09/2022**

**GUNTHORPE – ENF/23/0214** - Erection of a dwelling, the material change of use of the land for residential purposes and the creation access drive.  
Land On Holt Road, Bale, Norfolk  
**For Mr Josh Robinson**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 19/02/2024**

**GREAT SNORING – PO/23/1216** - Erection of self build two storey detached dwelling (outline with all matters reserved)  
Land West Of School Farm, Fakenham Road, Great Snoring, Norfolk  
**For Mr Tim Schofield**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 06/02/2024**

**HAPPISBURGH – PF/23/0640** - Change of use of detached building ancillary to Wishing Well to single dwelling

Wishing Well, The Street, Happisburgh, Norwich. Norfolk NR12 0AB

**For Mr David Pugh**

WRITTEN REPRESENTATION

**Appeal Start Date: 08/02/2024**

**HEMPSTEAD – PO/23/0695** - Erection of two detached single storey dwellings - outline with all matters reserved

Land Rear Of, The Knoll, Hempstead, Norfolk

**For Ms Trudi Seaman**

WRITTEN REPRESENTATION

**Appeal Start Date: 11/01/2024**

**HINDRINGHAM – PF/22/2657** - Demolition of existing dwelling and erection of two-storey detached dwelling

**Banes Cottage, Blacksmiths Lane, Hindringham, Fakenham, Norfolk NR21 0QA**

**For Mr C Tucker**

WRITTEN REPRESENTATION

**Appeal Start Date: 13/11/2023**

**HOLT – PA/22/2683** - Installation of a 15m lattice mast comprising 3 no antennas together with 4 no ground-based cabinets and ancillary development thereto for radio base station

**Land At Riverside Farm, Riverside Road, Letheringsett, Norfolk**

**For Cornerstone & Telefonica UK Ltd**

WRITTEN REPRESENTATION

**Appeal Start Date: 18/12/2023**

**NORTHREPPS – PF/22/1708** - Siting of 2 glamping pods for holiday use and creation of permissive footpath

Shrublands Farm Camping Site, Craft Lane, Northrepps, Cromer, Norfolk NR27 0LL

**For Northrepps Farming Company**

WRITTEN REPRESENTATION

**Appeal Start Date: 27/02/2024**

**ROUGHTON – CL/23/1650** - Lawful Development Certificate for use of land for siting of static caravan, and use of static caravan as a dwelling.

**Static Caravan At Woodview, Thorpe Market Road, Roughton, Norwich, Norfolk NR11 8TB**

**For Mr Alexander Brackley**

WRITTEN REPRESENTATION

**Appeal Start Date: 10/11/2023**

**RUNTON – ENF/23/0027** - Appeal against enforcement notice against erection of boundary wall above 1 metre in height

Homewood, Mill Lane, East Runton, Cromer, Norfolk NR27 9PH

**For Mr Calvin Pigott**

WRITTEN REPRESENTATION

**Appeal Start Date: 09/01/2024**

**SLOLEY – PF/23/1717** - Erection of garden room and fence (retrospective)  
The Old Workshop, Sloley Road, Sloley, Norwich, Norfolk NR12 8HA  
**For Mr & Mrs Harper Gray**  
HOUSEHOLDER APPEAL SERVICE – FAST TRACK  
**Appeal Start Date: 20/02/2024**

**SOUTHREPPS – ENF/22/0281** - Stationing of caravan and associated works including installation of septic tank and engineering works.  
**Land Rear Pit Street, Southrepps, Norwich, Norfolk NR11 8UX**  
**For Charlotte Daniels**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 26/05/2023**

**WELLS-NEXT-THE-SEA – ENF/23/0124** - Material change of use of the land for the siting of a pizza van  
**Land West Of 3, The Quay, Wells-next-the-sea, Norfolk**  
**For Mr Roger Lightfoot**  
WRITTEN REPRESENTATION  
**Appeal Start Date: 31/08/2023**

#### **APPEAL DECISIONS - RESULTS AND SUMMARIES**

**CORPUSTY & SAXTHORPE - PF/22/2767** - Erection of roof over walled garden to provide domestic outbuilding (studio/gym) - part retrospective with amendments to reduce size and scale of building to allow for external courtyard area  
**1 Manor Farm Barns, Norwich Road, Corpusty, Norwich, Norfolk NR11 6QD**  
**For Mr Walsh**  
Householder Appeal Service (HAS) (Fast track) – **APPEAL DISMISSED**

**FAKENHAM – PF/21/3158** - Siting of a static caravan to provide overnight accommodation for a security staff  
**RS Vehicle Hire, Hempton Road, Fakenham NR21 7LA**  
**For RS Vehicle Hire Shaun Brooker**  
WRITTEN REPRESENTATION – **APPEAL DISMISSED**

**FAKENHAM – PF/22/2647** - Construction of 1 No. 2 Bedroom house  
**Land Off North West Of Garden Court, Norwich Road, Fakenham, Norwich**  
**For Mr H C Moss**  
WRITTEN REPRESENTATION – **APPEAL DISMISSED**

**FAKENHAM - ENF/21/0002** - Appeal against Enforcement Notice - Material change of use of the Land for the siting of a static caravan to provide overnight accommodation for security staff  
**Unit 4, RS Car Sales, Hempton Road, Fakenham. Norfolk NR21 7LA**  
**For Mr Shaun Brooker**  
WRITTEN REPRESENTATION – **APPEAL DISMISSED**

**LANGHAM – PF/21/2186** - Change of use of land to storage of caravans and boats, siting of 39 storage containers, siting of portable building for office use and erection of boundary fence  
**Land On Langham Road, Langham, Norfolk**  
**For Mr Jonathan Cheetham**  
WRITTEN REPRESENTATION – **APPEAL DISMISSED**

**SCULTHORPE – PF/22/2443** - Installation of dormer windows to north and south elevations, window to west elevation to facilitate conversion of loft to habitable space and construction of porch to side  
**63 Moor Lane, Sculthorpe, Fakenham, Norfolk NR21 9PX**  
**For Ms E Maleed**  
Householder Appeal Service (HAS) (Fast track) – **APPEAL ALLOWED**

**STIFFKEY – RV/22/1002** - Variation of Condition 1 (approved plans) for Planning Permission RV/21/2924 to allow larger windows on first floor of south east elevation; addition of solar thermal collectors and solar photovoltaic panels on roof; addition of rooftop terrace; installation of Power Wall with electric vehicle charging points; installation of air source heat pump; installation of exterior lighting  
**Red Lion, 44 Wells Road, Stiffkey, Wells-next-the-sea, Norfolk NR23 1AJ**  
**For Mr Chris Cooke**  
WRITTEN REPRESENTATION – **APPEAL DISMISSED**