

**CLEY-NEXT-THE-SEA - PF/21/0882 – Erection of dwelling and associated external works and landscaping at Arcady; Holt Road, Cley-Next-The-Sea.**

**Minor Development**

**Target Date: 2.6.2021**

**Extension of Time: 31.03.2022**

**Case Officer: Phillip Rowson**

**Full Planning Permission**

**RELEVANT SITE CONSTRAINTS**

Designated Open Countryside NNDC Core strategy

Within the Cley Conservation Area

Norfolk Coast AONB

Within the Drained Coastal Marshes (DCM2) Landscape Character Area as designated within the North Norfolk Landscape Character Assessment

**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 – scheduled as appeal hearing June 21, 2022.

**PF/21/0882**

Erection of dwelling and associated external works and landscaping.

Pending Consideration

**RV/21/2923**

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 - Date of Decision: 05/02/2014.

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

This application – pending consideration.

**THE APPLICATION**

**Site description:**

The appointed inspector for case APP/Y2620/A/13/2205045 (“the Appeal Decision”) described the site and surrounds in detail in his decision letter:

*The appeal site is located on the southern edge of the village of Cley-next-the-Sea, in an area known as Newgate Green. The site comprises an existing single storey dwelling and its*

*garden, and extends to approximately 0.3 hectare. It is adjoined to the west by a detached house, to the south and east by open fields, and to the north, on the opposite side of Holt Road, by the grounds of St Margaret's Church (a Grade I listed building). The site occupies an elevated position relative to Holt Road, with ground levels rising from north to south and west to east. The appeal site falls within the Cley Conservation Area and the Norfolk Coast Area of Outstanding Natural Beauty (the AONB), and is designated as countryside in the North Norfolk Core Strategy and Development Control Policies 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.*

At the time of the appeal decision the site itself was described as follows:

*The existing bungalow on the appeal site is largely hidden from view, unremarkable architecturally and does not contribute materially to the significance of the Conservation Area.*

Subsequently to the grant of planning permission made by that decision, the applicant has demolished the modest traditional bungalow and replaced the dwelling with a contemporary development, which officers consider substantively departs from the plans approved under the appeal decision APP/Y2620/A/13/2205045, and is thus unlawful. The Council has issued an Enforcement Notice requiring its demolition, which has been appealed; the appeal is stayed pending a mediation but is due to be heard later this year. The applicant has added landscape planting but otherwise the site and its context to key features remains essentially the same as described by the Inspector in the Appeal Decision.

#### Proposal:

The proposal seeks permission for the erection of a two storey dwelling, with associated works and landscaping. The proposed dwelling is a variation of the unauthorised development currently standing on site. As noted above, the unauthorised development is subject to an extant enforcement notice which requires its demolition, albeit that notice is subject to an appeal due to be heard in June 2022.

The application shows a large detached three storey building, comprising, playroom, 4 bedrooms, laundry, 2 studies, dressing rooms, kitchen dining room, sitting room, snug and lounge with roof terrace. The dwelling is served by a garage and has an annex, it has a gated access to Holt Road.

The proposals purport to offer remediation of the unauthorised development to address officer concerns and meet the requirements of a mediation agreement reached by the parties in the course of the appeal against the enforcement notice, ref. APP/Y2620/A/13/2205045. The details of that mediation agreement are not relevant to this application but did encompass the submission of a revised proposal (further commentary is offered later within this report). It did not require or indicate any particular outcome of such an application. The present proposals do consist of changes to the existing unauthorised dwelling as follows (as more particularly described by the plans):

- Hardwood boarding to eaves
- Brick plinth and insert detail - Charnwood Dark Victorian Handmade

- Flint panels 'blue flint' max. 100mm
- Six amended windows / openings (Dark Grey)
- Metal Flue – Black added.
- Aluminium Fascia to eaves - Dark Grey to match existing roof
- Metal Boiler Flue - Stainless Steel
- Aluminium gutter and downpipes - Dark Grey to match windows.
- Metal Vents - PPC in grey.
- Timber doors with vertical timber panelling.
- Grey cladding panel.
- Timber louvres to match existing cladding.
- Metal fascia - colour to match tones of timber cladding.
- Enamelled glass panel in frame to match existing windows.
- Two smart glass panels

The proposals are presented with a key drawing showing 5 Blocks, remediation (as against the existing dwelling) is presented with regard to the changes made to those blocks. The proposals are then presented as four comparative elevations which detail the works proposed:

Reductions are also proposed in the scale of development; block 3 is reduced in height by 1145mm and recessed by 700mm (above entrance door); block 4 is reduced in height by 730mm and block 5 is reduced in height by 200mm.

On the rear / Southern façade, dark staining is proposed to the central section (block 2).

A landscaping strategy accompanies the proposals; this strategy offers the removal of the existing ramp and turning area adjacent to front door to create additional area for soft landscaping and tree planting. Along with tree planting and boundary reinforcement to provide additional screening.

The proposals are supported by scale plans of the proposed building, survey drawings of the unauthorised building, landscaping plan, topographical survey, design & access statement, and a heritage statement. The proposals aim to reinstate the concept of a well-articulated design based upon a concept of interconnected blocks.

## **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.

## **CONSULTATION**

### **Cley Parish Council: Original consultation comment: Objects to the proposal.**

The planning application fails to comply with the following NNDC Planning Policies:

Policy H08 – Arcady as a replacement dwelling should not be disproportionately larger (in height or scale) and should not materially increase the impact on the surrounding countryside. Arcady clearly is significantly larger, and the height of the building still remains an area of concern for the Parish Council.

Policy EN1 – Development in the AONB must be appropriate to the social and environmental well-being of the area, or desirable for the understanding and enjoyment of the area and must

not detract from the special qualities of the AONB. Arcady is situated in the AONB in a particularly historically sensitive area of Cley opposite the Parish Church. The design of the building is out of character for the area and detracts from those nearby historic buildings.

Policy EN2- protection and enhancement of landscape and settlement character, development (The location, scale, design and materials) will protect and conserve and enhance special qualities of the area in historical, biodiversity and cultural character. Arcady is a modern design and makes no attempt to enhance or reflect the special qualities of the area. Policy

EN4- This policy focuses on scale and massing of buildings and indicates that development should relate sympathetically to the surrounding area. The height and scale of Arcady substantially overshadows the surrounding buildings and is most unsympathetic.

Policy EN8 and Para 72 of NPPF- protecting and enhancing the historic environment – the development should preserve or enhance the character and appearance of designated assets, historic buildings ...and landscapes

Landscape character assessment - ensure new development is well integrated and does not form a harsh edge, ensure new development respects existing densities and character styles. Special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Arcady lies within what would have been England's biggest and busiest harbour and opposite a significant and important Parish Church, the history relating to the harbour and the Dutch influences has shaped Cley to what it is today and therefore it is important for the historic landscape to be enhanced and protected. Arcady is not sensitively designed taking into consideration the surrounding buildings and historic importance of the landscape. The height and appearance of Arcady dominates the sensitive area.

**Amended plans comment: comment only**

The size of Arcady and the huge impact it has on Newgate Green is not disputed by Cllrs, it was during the build that Cllrs first raised concerns regarding the height and sheer scale of the building which was contrary to the permission granted. The Parish Council have gone on to receive many complaints about the building from parishioners, who all reference the negative impact it has on Newgate Green and Saint Margaret's Church, Cllrs acknowledge that the building has been built far bigger than anticipated and was done so without the required planning consent.

The enforcement case has been a long drawn out and complex process, Cllrs have attempted to follow the ongoing case but now feel that it has got to a stage which is beyond their expertise and remit. Cllrs were unable to settle on a preferred outcome for the case and as such voted on a majority vote to respond to the above planning applications with a neutral stance.

**Blakeney Parish Council: Object:**

We continue to fully support and reinforce all objections made to this development that have so far been lodged with NNDC with regard this site/development. The proposed variations are so minor and the drawings do not reflect what has been built and is contrary to a number of local planning policies.

**Norfolk Coast partnership: Object:**

The minor amendments as proposed do not mitigate the visual detriment this building has on the Conservation Area and the AONB. The scale, height, design and massing were all concerns raised through the Planning Appeal as well as the deviation from the original plans.

The original plans therefore need to be shown to ascertain what exactly was permitted and what could be deemed as acceptable on this basis for any future planning application. This application is making very minor changes to what has been proved to be an unacceptable development through an Enforcement Notice.

The application in any case remains contrary to policies H08, EN1, EN2 as well as NPPF 176 whereby development serves to 'conserve and enhance' the AONB. The development has negatively impacted the special qualities of the AONB namely 'Diversity and Integrity of Landscape, Seascape and Settlement Character and will continue to do so in this latest application.

**NCC Historic Environment: No objection subject to conditions**

The proposed development lies within the historic core area of Cley Next The Sea, fronting onto Newgate Green and close to the medieval parish church. It is possible that the development area fronts onto the medieval quay. In addition, archaeological observations made in 1973 in area close to the street frontage produced medieval pits and pottery. Consequently there is potential that heritage assets with archaeological interest (buried archaeological remains) may be present at the site and that their significance will be affected by the proposed development.

If planning permission is granted, we therefore ask that this be subject to a programme of Archaeological migratory work in accordance with *National Planning Policy Framework* para. 199. Mitigating conditions recommended.

**Landscape officer: Objection:**

*As submitted* - The proposals seek to make amendments to the as built dwelling in order to mitigate its landscape and visual impact. These comprise additional roof elements, some height reduction, changes to elevational treatment and additional soft landscape planting.

The proposed increase in planting on the front north elevation comprising additional heavy standard trees within the site and at the site entrance, together with a section of instant 2.5-3m planted height evergreen hedging will assist in filtering views of the mass of the built form from Holt Road within the Conservation Area and AONB and is appropriate in terms of species choice. However, in design terms, screening a development does not necessarily make it acceptable. The development should be compatible with its surrounding context without being overly concealed.

The proposed removal of the vehicle ramp on the front north elevation which is prominent within the Conservation Area and the surrounding designated landscape represents an improvement in eliminating the visual impact of an elevated parked vehicle and prominent section of hard standing. It should be noted that vehicle parking provision in this location was not a component of the original plans approved at appeal under PF/12/1219.

Increased planting is also proposed on the south boundary to mitigate views within the AONB from Bridgefoot Lane where the building is viewed together with Grade 1 listed St Margaret's Church. This additional hedge and tree planting will filter views of the dwelling and mitigate its

impacts to some degree, but due to the elevated height of the building and extent of high level glazing, the adverse daytime and nocturnal visual impact on the local landscape character of the AONB will be increased as a result of this development. Para 172 of the NPPF requires that 'great weight' is afforded to the conservation and enhancement of scenic beauty of designated AONB landscapes. It therefore follows that any identified harm should be given proportionate consideration in the overall planning balance.

The site with the former bungalow had a green recessive character resulting in a neutral impact on the immediate setting within the Conservation Area, as acknowledged by the Inspector in para. 5 of his appeal decision relating to PF/12/1219, *'the existing bungalow is largely hidden from view, unremarkable architecturally and does not contribute materially to the significance of the Conservation Area'*. This was due to the modest size of dwelling and surrounding vegetation. The Inspector in para. 9 of his decision considered that the contemporary design of the proposed replacement dwelling would have a limited impact on the wider street scene due to the secluded nature of the site, being seen principally in the context of its own landscaped grounds and the relatively modern houses styles immediately north and west, resulting in a dwelling *'that would not therefore appear overly dominant or out of scale with its surroundings'*.

In consideration of the design of the new dwelling in para. 7 of his appeal decision, the Inspector judged that *'Due its flat roofed design and the excavation of the lower levels of the property into the hillside, the new dwelling would be only marginally taller than the existing bungalow and would be lower than the adjacent house to the west'*. Comparison of the two photos below using the telegraph pole and wires as a benchmark demonstrates that the as built dwelling is significantly taller than the original bungalow, verifying that the design parameters set out by the Inspector which informed his decision have not been met.

*Amended plans* - the additional changes submitted do represent incremental improvements to the elevations and bring the as built dwelling slightly closer to some elements of the original approved scheme, but do not address the fundamental issue of scale and mass of the building and its localised landscape and visual impact on Cley Conservation Area and the Norfolk Coast AONB.

Elements such as additional eaves overhang, reorientation and staining of timber cladding, use of louvres and smart glass in some (but not all) windows, and the introduction of enamelled glass panels do make small changes that start to bring in some articulation to each elevation, but the massing and scale of the large built form remains, such that the development still incurs a considerable degree of harm to Cley Conservation Area and the special qualities of the Norfolk Coast AONB, to which proportional weight should be attributed in the planning balance.

### **Conservation and Design Officer: Objection.**

When this development first emerged in 2012, the Local Planning Authority were of the opinion that the proposed building would fail to preserve or enhance the character and appearance of the Cley Conservation Area. This resulted in a refusal being issued which was subsequently challenged at appeal. In allowing this appeal, the Inspector at the time referred to the *"secluded nature of the site"* and to the new build being *"largely hidden from view from the Holt Road"*. He therefore anticipated that the dwelling *"would not intrude into any significant views of the Church"* and that it *"would preserve the character and appearance of the Cley Conservation Area"*.

Since which time, things have moved on in two key respects;

- i) the basis of the Inspector's decision has been brought into question by virtue of the inaccuracies in the original material submitted,
- ii) and the dwelling as built departs significantly from that originally approved. Taken together, we are now faced with a significant new building which is not hidden from view and which instead is readily visible within the street scene.

Its impact is therefore far greater than the inspector judged it to be and can be summarised as follows: -

- Far from not intruding visually on any significant views within the conservation area, the 'as built' dwelling has become a dominant and intrusive focal element to Newgate Green. Indeed, by virtue of long street frontage and positioning on a bank, it presents a fortress like appearance to the Green.
- The dwelling does not reflect the vernacular scale of the houses and cottages which otherwise front the Green and is therefore not sensitive to the local context. Instead it is visually discordant and dominant.
- The dwelling is visually intrusive both within the conservation area and in the surrounding landscape setting when viewed from the South West (Bridgfoot Lane).
- The rectangular bulk of the dwelling also rises above the road and is highly visible and intrusive in the street scene when approaching the conservation area from the East (Holt Road).

## REPRESENTATIONS

31 letters of **objection** raising comments on the application were received at the time of reporting this case. The comments received are summarised as follows::

- The application fails to meet the requirements of the mediation agreement.
- The proposals fail to address the enormity of the number & scale of breaches observed
- The design changes are "tinkering" with the building and do not address the harm created
- The proposals water down the original design to an unacceptable level
- The submitted plans are inaccurate, in terms of reference to the historic bungalow height and levels, the proposed relationship of the proposed dwelling to its near neighbour.
- The original plans were misleading, the permission is a nullity
- As a replacement building for the original bungalow it is grossly disproportionate in height, scale and mass to the original bungalow and fails to meet the requirements of local plan policy.
- The building sits 12m above the level of Newgate Green and the proposed scale and bulk are unacceptably harmful to views over Newgate Green
- The proposals fail to effectively address the matters of height and bulk, no substantive reduction in height is proposed
- The raised drive is unacceptable and the proposals lack suitable landscaping.
- Views on the entrance to Cley from the East along Holt will be harmed.
- The proposals are contrary to the Cley Conservation Area Appraisal.
- Unacceptable Light pollution will be created over the AONB
- The proposals are contrary to policy HO8, ENV1, 2, 3, 4 & 8 and also NPPF para 176,199 & 200.
- The proposals are an ineffective resolution, the application should be refused and the enforcement process allowed to continue to preserve public confidence in the Planning Process.

**Ward Member comments:**

Based on representation from the local and wider community, I object to this application. It is thought that the height and mass of the dwelling, felt widely to be out of scale, are inadequately addressed in this latest design. The concern is that the adverse impacts on the conservation areas, landscape, AONB and Grade 1 listed church remain. Based on this feedback, the application does not comply with Local Plan policies EN1, 2, 4, 8 and HO8, and s 176 of the NPPF.

**HUMAN RIGHTS IMPLICATIONS**

Art. 8: The right to respect for private and family life.

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

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

**STANDING DUTIES**

Due regard has been given to the following duties:

Equality Act 2010

Crime and Disorder Act, 1998 (S17)

Natural Environment & Rural Communities Act 2006 (S40)

The Conservation of Habitats and Species Regulations 2010 (R9)

Planning Act 2008 (S183)

Human Rights Act 1998

Rights into UK Law – Art. 8 – Right to Respect for Private and Family Life

Planning (Listed Buildings and Conservation Areas) Act 1990 (S66(1) and S72)

**RELEVANT POLICIES****North Norfolk Core Strategy (September 2008):**

HO8: House Extensions and Replacement Dwellings in the Countryside.

EN1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads

EN2: Protection and Enhancement of Landscape and Settlement Character

EN4: Design

EN8: Protecting and Enhancing the Historic Environment

**Supplementary Planning Documents and Guidance:**

North Norfolk Design Guide

North Norfolk Landscape Character Assessment

North Norfolk Landscape Sensitivity Assessment

Cley next the Sea Conservation Area Appraisal

**National Planning Policy Framework (July 2021)**

Chapter 2: Achieving sustainable development

Chapter 4: Decision-making

Chapter 5: Delivering a sufficient supply of homes

Chapter 11: Making effective use of land

Chapter 12: Achieving well-designed places

Chapter 14: Meeting the challenge of climate change, flooding and coastal change



## **OFFICER ASSESSMENT**

### **Main Issues:**

- 1. Background**
- 2. Height, Scale Mass & Prominence**
- 3. Lack of articulation**
- 4. Fallback position**
- 5. Conclusion**

### **1. Background**

Planning permission was refused by Development Committee (see application PF/12/1219), however, permission was later granted for a replacement dwelling at appeal on 05 February 2014 (APP/Y2620/A/13/2205045), as set out in the Appeal Decision. The application proposed the demolition of the bungalow known as Arcady and its replacement with a two storey, flat roofed dwelling of contemporary design. That Inspector's decision notice identified one main issue – the effect of the proposal on the character and appearance of the Cley Conservation Area. The Inspector approved the appeal scheme finding that the proposed dwelling would be sensitive to its local context and that proposals protect the historic environment.

The Council received a complaint alleging that the dwelling was not being constructed in accordance with the approved plans; as a result of the investigation 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. 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, the parties remained in dispute.

Having exhausted all avenues for resolution the Council served Planning Contravention Notices, and upon receipt of the evidence along with Counsel Advice, an Enforcement Notice was issued on 05 August 2019. The notice requires demolition of the unauthorised building. The Notice is subject to an appeal by Mr & Mrs Spiegel and was scheduled for an appeal hearing on 08 February 2021. Prior to that appeal hearing, the parties agreed to mediation and deferred the appeal hearing with the agreement of The Planning Inspectorate. The enforcement appeal hearing is now due to be heard on 21 June 2022. The notice remains live.

The mediation process stands apart from the planning process and does not commit the Council to issuing any planning permission as a result (indeed, it could not lawfully do so). The mediation process sought to address key concerns relating to height and prominence along with the lack of articulation and definition in the unauthorised building to be considered along with the guidance of an independent mediator. The process resulted in a stand-alone agreement between parties which guided the process for the current planning application. The applicant made a series of pre application submissions and eventual submission of the current application in March 2021 (timed as per the agreement). The mediation agreement seeks to provide an opportunity for an application which addresses the concerns raised in the

enforcement notice and deliver a development which complies with the key criteria of the previous Planning Inspector's decision. The use of mediation is appropriate in complex enforcement cases and has facilitated a series of proposed remediating works that were not previously available for consideration via the appeal process. The applicant presents this case under the terms of mediation process, and in line with that process, the Council now has to determine it.

The route to this point has been long and complex. There is no doubt that the proposals offer a genuine attempt to remediate the harm observed by the Council and gives an opportunity to deliver a negotiated outcome that can deliver an appropriate development that can allow the enforcement process to be stood down.

Officers consider that the main issues in this matter remain the impact of the dwelling on the surrounding area and principally upon the Cley Conservation Area. The dwelling as built dominates the view looking southwards from inside the Conservation Area, and the unauthorised building, as a result of its height and prominence, along with the lack of articulation and definition is harmful to those interests.

It is important at this point to note that the Council do not challenge the residential development of this site, despite the ongoing works and demolition of the bungalow the use has never been abandoned; indeed, in general terms, the principle of a dwelling materially larger than the bungalow that once stood on the site is unlikely to be controversial in itself. The issue is the impact of the actual dwelling hereby proposed. Also, it is important to note that although the bungalow has long since been demolished and that strictly the replacement dwelling policy H08 cannot be applied, nonetheless similar considerations still apply, namely the extent of change resulting from the proposal as compared to what stands there now, the resultant height and prominence of the building and extent to which the proposed remediation provides sufficient articulation and definition to the design. We will consider the impacts of those matters on the heritage assets and wider AONB landscape.

This application seeks to address those key matters and is considered as follows.

## **2. Height, Scale Mass & Prominence**

The height of the finished building is considerably higher than was originally envisaged by either the Council or the Inspector when granting the appeal for the dwelling and appears to have arisen largely as a result of the errors in the approved drawing 2317-11b which showed the neighbouring dwelling Holly House incorrectly and the proposed dwelling (Arcady) to be 2.61 metres lower than the ridge of that house.

A revised drawing is under current consideration in application RV/21/2923 due to be heard alongside this application, as part of a s.73 application. That application is recommended for refusal on the basis of the impact of the building as shown by the proposed revised plans on the heritage assets and AONB.

The Council accepts that the original plan was drawn erroneously and when shown corrected, the building is taller than Holly House. The Council's appeal submissions note that the as built heights all exceed the approved plans and that in some instances these are as much as 1.16m taller. This has resulted in the dwelling as built being considerably more prominent in the street scene and in views from the Conservation Area than was ever expected or considered. Officers start from a position of the building as built being unacceptably harmful to heritage and landscape assets, and request members to now consider the remediation proposals.

**Essentially Members are being asked to consider: are the proposed changes described in this application sufficient to make the presently unacceptable building on the site, acceptable?**

This increase in height as shown in the most recent amended plans is now proposed to be addressed by a remediation of three of the interconnecting blocks:

- block 3 (reduced by 1145mm);
- block 4 (reduced in height by 730mm)
- block 5 is reduced in height by 200mm.

The applicant also intends to recess block 3 by 700mm, and complete the actions listed in the proposals section to remediate the impacts of height, scale, mass and prominence.

In addition a landscape strategy is shown on plan 1660-00-500-D, the strategy includes; “gapping up” the rear boundary hedge; specimen tree planted to the rear; tree screening planting to the access, instant evergreen hedging planting (2-3M height) to the Holt Road frontage, and removal of the ramped area of hardstanding / parking.

The proposals show the impacts of those changes across detailed scale elevation plans 1660-00-007 C and comparison drawings for each elevation. The applicant’s Design & Access statement is not updated in respect to these amended plans, it details and displays photomontages of the remediation as originally submitted.

The matters of scale and massing are interdependent on the height of the proposed building, with prominence similarly impacted by the design changes and landscaping remediation. The proposals are considered against Core Strategy policies EN1, EN 2, EN 4 & EN 8 within the conclusion.

Officers consider the proposals do not fundamentally alter the appearance of the building when taken as a whole, instead essentially proposing a series of minor variations to what has already been built. The most significant change is to the northern elevation, this assists in terms of the stepping of this elevation. That attempt does reduce the visual perception of height and mass, but the rest of the building sees limited change.

### **3. Lack of Articulation**

It is important to consider the appeal decision, which provides important context for consideration of this matter. The Inspector in his appeal decision considered that:

“The design of the new house would also help to reduce its visual bulk and apparent scale. The elevations of the house would be well articulated, stepping forward and back, under a broken and varied roofline, creating visual interest and the appearance of a series of interconnected blocks, rather than a much larger single volume. The proposed dwelling would not therefore appear overly dominant or out of scale with its surroundings.”

The contemporary nature of the building was accepted by the Inspector (and is accepted, in principle, by officers) as was the fact that it would be quite different in appearance to the traditional forms of development in the village (again, accepted by officers); but the Inspector noted that the ‘new dwelling would be well proportioned and detailed, and would be an interesting and high quality piece of architecture in its own right’.

The design quality of the building has been materially diminished between permission and completion, as a result of changes being made to the permitted scheme. The Council considers that cumulatively, these changes are significant and unacceptable, particularly combined with the unexpected increased height of the building and have therefore resulted in the building now being considered unacceptable. As built the dwelling has lost a number of the key factors described by the inspector in terms of articulation.

The key factors for consideration in this matter are roofline, changed articulation, changed fenestration and materials.

- a) **Roofline:** The roofline is shown to include variations in height as set out above. Those changes are proposed as a means of re-engaging with the concept of delivering a series of interconnecting blocks. The proposed variations in height are welcomed, however a key sticking point remains the height of Block 2. This remains as built. Other variations offered appear to be limited by the applicant's ability to vary the existing structure, rather than delivering the most appropriate design solution. It is important to note that detailing to the eaves of the building has been re-introduced. This helps define and separate each block element in the overall design and emphasises the efforts to provide a more varied and less heavy roofline.
- b) **Changed articulation:** The proposed remediation offers changes over all four elevations to the building, and these are broadly welcomed. Examples such as the receded dimensions of Block 3 with its brick cladding, along with insertion of a brick insert to Block 1 and dark staining block 2 on the rear elevation all help to deliver greater articulation than the building as built. However, it should be noted that the extensive number of departures from the approved plans observed along with their individual and in combination effects set a high bar to overcome. For example, the south elevation sees the addition of a balcony across the entire elevation which erodes articulation, and this is not suggested to be removed or reduced in extent. Furthermore, the lack of changes in Block 2 serves to limit articulation over key elevations.
- c) **Changed fenestration:** again the significant number of departures from the permitted scheme in this matter creates a difficult position to remediate. The revised plans show attempts to introduce enamelled panels in some elevations to give a greater "portrait" elongation to some openings, some design features reinstated approved linear windows. There is an element of success in these changes but it is appropriate to mention some elements are not changed, for example as single broad window on the east elevation at ground floor is a clear outlier to the design concept. The South elevation sees louvres added rather than reintroducing approved elements to the design. Delivering the vertical emphasis and simplicity of the building as originally conceived is a substantial challenge, as built the design has an overtly horizontal emphasis, which emphasises the bulk and heaviness of the building.
- d) **Materials:** as built the use of timber cladding extends throughout the design. Remediation delivers brick work to block 3 and an insert to block 1. Flint panels are also introduced to the Holt Road elevations. The design offers reorientation of some elements of the cladding to give vertical emphasis. Dark staining is offered to a central section of the rear / south elevation.

Again, it is the changes to the northern elevation that offer the greatest change in articulation, and there is some success in addressing the monolithic appearance of the building as built. However, the wider limitations discussed above inevitably limit the overall effectiveness of the remediation when taken as a whole.

Overall the building proposed by this application – while an improvement on the as-built dwelling – would have an unacceptable impact and does not warrant a grant of planning permission.

#### **4. Fallback position**

The application RV/21/2923 is reported on this agenda and is to be considered with a recommendation for refusal. The current planning permission PF/12/1219 is considered to be irreparably broken by the inaccurate sectional drawing 2317-11b, in that it could not be lawfully implemented<sup>1</sup>. On its present terms it cannot be considered a realistic fallback. The proposed replacement of this drawing by an updated section 1660-00-008 by way of the s.73 application is recommended for refusal principally as a result of the unacceptable impacts of the proposed development. As a result, officers consider that no fallback position is available on this matter, i.e. this application is determined on its own individual merit rather than with the benefit of any positive implications arising from an extant planning permission which could be considered a 'fallback' if permission was refused.

#### **5. Conclusion**

In arriving at a conclusion on this matter it is appropriate to consider that the changes proposed have been carefully considered by the applicant and that these changes represent significant revisions to the building as built. These proposals will require the family home to be vacated and significant further costs to be incurred. The genuine willingness to offer remediation and impacts of these actions is appreciated and is not to be lightly set aside.

In landscape impact terms the introduction of stepped blocks along the northern elevation does not address the concerns previously raised in regard to the overall building heights. The introduction of these blocks interferes with and is detrimental to the original intent behind the architectural design of the northern elevation. The eastern elevation reintroduces a vertical brick insert and breaks up the mass of timber cladding, this is offset by a lack in consistency on the proposed fenestration. The proposed enamel panel to windows on this elevation will be noticeable on entry to the village. The south elevation offers some changes but retains the significant balcony along the entirety of the elevation. The west elevation is dominated by the block Five, the tallest block proposed. The addition of roof line detail assists and gives some articulation. Overall questions remain about the exact nature of the enamel panels and the ability of smart glass in a limited number of windows to offset the light shed from this building.

The landscape masterplan would be better placed with a native species hedgerow to Holt Road, and removal of the parking ramp is welcomed and suitable planting recommended, albeit that planting to the rear / southern elevation falls short of recommendations and fails to address concerns over views from the south, across the AONB towards St. Margaret's Church and the Conservation Area.

It is acknowledged that the changes bring the overall appearance of the as-built structure closer to that assessed by the Inspector. However, from a landscape impact point of view those changes are largely 'cosmetic' and lack the real impact on the overall mass, scale and height of the building. The proposals are considered contrary to policies EN1, EN2 and EN4.

The Historic Environment is considered under policy EN8 and NPPF Chapter 16. Proposed changes to the front and side elevations seek to address the differences between the

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<sup>1</sup> *Choiceplace Properties Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWHC 1070 (Admin)*

approved and as built elevations. The proposals may improve the unauthorised building but reservations are retained over the use of some detailing e.g. the “enamel” glass infill sections, and also the limited to the south / rear elevation. The Heritage Statement fails to acknowledge the impact of the rear elevation in any views to the heritage assets, most notably the Church and Conservation Area. Officers disagree with the central findings of that Statement, and consider harm is created, as set out by the consultation response.

The focus on detailed elevation changes rather than height, scale and mass fails to effectively address harm to the heritage assets. The proposed changes largely consist of additional roof elements, some height reduction, changes to elevational treatment and additional soft landscape planting.

The proposals are highly visually intrusive both within the conservation area itself and for views into the conservation area. The visually dominant building in its elevated position fails to preserve the open setting of the church as considered in the historic planning permission.

The proposed building would fail to preserve or enhance the character and appearance of the Cley Conservation Area by virtue of:

- unacceptably intrusive impact on views over Newgate Green,
- the scale, massing and appearance are imposing upon the simple vernacular scale and appearance of dwellings in the vicinity,
- intrusive impact on the surrounding landscape and from views into the Conservation Area and St Margaret’s church from Bridgfoot Lane,
- the bulk and mass of the building are disruptive to views into the Conservation Area from the east along Holt Road.

The proposals are considered to be contrary to policy EN8.

The position of the development as a replacement dwelling under policy H08 is considered to be of limited direct relevance, as the original bungalow has long since been replaced by the unauthorised building. There is no authorised dwelling to replace. That said, the principle of a replacement dwelling in this location is not controversial, or even a more modern building that is materially larger than the bungalow that once stood there, so long as its impacts were sufficiently mitigated by its design to minimise harm. Officers consider there is no Fallback position in relation to the historic planning permission. The proposals retain a significant height scale and mass (particularly compared to the original bungalow). They are considered to cause harm. If Policy HO8 were directly applicable, the proposals would fail to meet its requirements.

No significant public benefit is identified to offset the harm arising to the heritage assets or Norfolk Coast AONB, as such the significant weight to be afforded under the Listed Buildings and Conservation Areas) Act 1990 and National Planning Policy Framework 2021 dictates that the proposals are refused in accordance with Development Plan provisions.

## **RECOMMENDATION: Refusal**

**It is considered that the proposed scheme fails to satisfy concerns raised in relation to the excessive and harmful height, scale mass & prominence of the proposed dwelling. Furthermore, that by failing to suitably articulate the interconnecting development blocks, in features such as the roofline, fenestration, and materials that already adverse impact is unacceptably exacerbated. The design quality has been diminished to the**

**extent that it is no longer considered to be high-quality design required for this prominent and sensitive site.**

**The proposals are considered to be contrary to policies EN1, EN2, EN4 & EN8 of the adopted North Norfolk Core Strategy, paragraphs 135, 174, 176, 199, 200 & 202 of the National Planning Policy Framework 2021, and Section 66(1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.**