

**HINDOLVESTON- PF/23/1091 - Erection of single storey self-build dwelling following removal of remains of derelict cottage at Hope House, 2 Melton Road, Hindolveston**

**Minor Development**

**Target Date:** 17.07.2023

**Extension of Time:** 31.04.25

**Case Officer:** Darryl Watson

**Full Planning Permission**

**RELEVANT SITE CONSTRAINTS:**

- The site is within the Countryside for the purposes of the Core Strategy's spatial strategy
- It is within the Zone of Influence of a number of European sites
- It is within the Tributary Farmland (TF1) landscape type as defined in the North Norfolk Landscape Character Assessment
- It is within the surface water catchment of the River Bure, and Hindolveston Sewage Treatment works discharges to the River Bure which is a component part of the Broads Special Area of Conservation and Ramsar site which is affected by nutrient pollution.
- Hope House to the northwest is a grade II\* listed building

**RELEVANT PLANNING HISTORY:**

CL/21/3186: Lawful Development Certificate for existing dwelling within the grounds of Hope House - Application withdrawn

NCC ref. D606: New wash house, bathroom and WC – approved 25/11/1951

**THE APPLICATION**

Site Description:

The site is within the heart of the village forming part of the extensive grounds to Hope House which is off the east side of Melton Road. It is occupied by the ruined remains of a cottage understood to date from the 19<sup>th</sup> Century, which are to the southeast of Hope House and its range of outbuildings and set back about 80 metres from the north side of The Street along which there are existing dwellings. Hope House is a grade II\* listed building, but the cottage is not within its curtilage and not covered by the listing. Currently there is no physical boundary between the application site and the rest of the grounds. Other than the remains of the cottage, the site comprises a grassed area with a few trees.

Immediately to the southeast are three dwellings (69, 71 and 73 The Street) with a hedge along the boundary with their shared driveway, which continues along the boundary with part of No 73's garden. Along the northeastern boundary there is a mix of hedgerow and post & wire fencing adjoined by open land. To the west are the grounds to Hope House and a driveway with an access to short track to The Street.

Proposal:

A three-bedroom detached dwelling is proposed. It would be on the same footprint as the existing building. The dwelling would have two floors with the first floor contained within the

roof space with dormers to the front and dormers and rooflights to the rear. There would be a lower section on the righthand side of the dwelling. External materials would comprise flint to the front elevation with brick detailing and plinth. The side and rear elevations would be brick to match the main house. Windows and doors would be powder coated aluminium or painted hardwood, with pantiles to the roof.

The existing driveway and vehicular access to Melton Road serving Hope House would be used to serve the proposed dwelling.

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

The application has been referred to committee at the request of Councillor Mike Hankins for the following reasons:

*“The Garden Cottage has been assessed by officers to be a new open market dwelling and as such they take the view that it is unacceptable in principle and contrary to policies SS1 and SS2 of the North Norfolk Core Strategy. The applicant is challenging this conclusion as there are substantive grounds in parish records evidencing the fact that the original cottage was occupied as a standalone residence. I would like this matter determined by Committee as I believe there is merit in the applicant’s suggestion”*

### **CONSULTATIONS:**

**Hindolveston Parish Council:** No objection

**North Norfolk District Council Landscape:** Comments - raised concerns regarding the initially proposed strategy to deal with nutrient neutrality issue and its appropriateness for a development of this scale, in particular with respect to the practicalities and ongoing management of the willow bed which would need to be secured for an 80-year period.

The applicant is now intending to purchase credits to provide the required mitigation. The amended nutrient budget calculator is considered to be acceptable.

**North Norfolk District Council Conservation and Design:** Support following amendments to the design of the proposed dwelling.

**Norfolk County Council Highways:** No objection to the amended access arrangement (utilising existing access to Melton Road serving Hope House), subject to conditions.

**Historic England:** Not offering advice. Recommend seeking the advice of the Council’s specialist conservation advisor.

**Natural England:** Comments - refer to the comments made by the Council’s Landscape Officer and on that basis the required HRA, is likely to conclude that there is insufficient information to determine ‘no adverse impacts’ because of the lack of information on nutrient load of the development, scientific certainty in the mitigation measures and a potential connection to the mains sewage (which also raises questions as to how the applicant would adhere to General Binding Rules).

Note - Now it is proposed to purchase credits once details of the credit certificates have been submitted to the Council a Habitats Regulations Assessment would need to be completed and Natural England re-consulted on that.

## **REPRESENTATIONS:**

One received with comments summarised as follows:

- As the application is for full planning permission it is surprising that there is no indication of the vehicular access drive or garage and/or parking areas on the proposed site plans. The exact positioning of these and adequacy of screening could impact on the amenity of adjoining properties to a greater or lesser degree and are a material planning consideration.
- If permission is granted it should include a condition regulating construction days and hours to avoid disturbance to the occupiers of nearby cottages.

## **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, refusal 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.

## **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 PLANNING POLICIES:**

### **North Norfolk Core Strategy**

SS 1: Spatial Strategy for North Norfolk

SS 2: Development in the Countryside

SS 4: Environment

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

CT 5: The Transport Impact of New Development

CT 6: Parking Provision

Material Considerations:

## **National Planning Policy Framework**

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 12: Achieving well-designed places  
Chapter 15: Conserving and enhancing the natural environment  
Chapter 16: Conserving and enhancing the historic environment

## **Supplementary Planning Documents and Guidance:**

North Norfolk Design Guide (2008)  
North Norfolk Landscape Character Assessment (2021)  
North Norfolk Landscape Sensitivity Assessment (2021)

## **Other material documents/guidance:**

Emerging North Norfolk Local Plan  
Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy - Habitats Regulations Assessment Strategy Document (2021)  
Technical housing standards – nationally described space standard (March 2015)  
Natural England's letter to local authorities relating to development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites (March 2022)

## **OFFICER ASSESSMENT**

### **Preliminary Considerations**

The site is occupied by the remains of a dwelling which is understood to have been built in the 19<sup>th</sup> century. The fact that historically, it was occupied as a standalone dwelling is accepted, but this was now many years ago. What remains of it however is in a ruinous state and is totally uninhabitable.

As set out in the planning history above, in 2021 an application (ref. CL/21/3186) for a Certificate of Lawfulness was made to establish the lawfulness of the dwelling. This was withdrawn following officer opinion that the lawful residential use of the dwelling/site had been lost through being 'abandoned'.

Any judgement on abandonment is a matter of fact and degree and cases have shown that the time which has to elapse after cessation of use for "abandonment" to have occurred is extremely variable and to a large extent relies on the level of physical deterioration. Abandonment involves the cessation of use in such a way and for such a time as to give the impression to a reasonable onlooker, applying an objective rather than a subjective test, that it was not to be resumed. Case law has established that there are four key criteria against which the question of abandonment needs to be assessed. These are as follows:

- **the physical condition of the land or building;** the condition of the building is very poor and has the appearance of a ruin. The roof as whole is missing along with large parts of the front wall and the gable ends. A reasonable amount of the rear elevation remains but is in part covered with vegetation which, along with self-set trees, is growing within what would have been the interior of the building. There is no evidence of any recent attempts to repair it or preserve the limited remaining fabric.

- **the period of non-use;** This is difficult to establish precisely but the Planning, Design & Access Statement (PDA&S) submitted with the application refers to the cottage having been unoccupied since the 1950s, which is considered to be a considerable amount of time in this context
- **whether there had been an intervening use;** there is no evidence of any other use of the building having taken place
- **evidence regarding the owner's intentions as to whether to suspend the use or cease it permanently.** Again, this is difficult to establish clear evidence as to what owner's intentions were with regard to a building due to changes in ownership over time, most recently understood to be in 2016. From the state of the building, it is considered not unreasonable to assume previous owner/s had not intended to repair and reuse the building as to deteriorate to its present condition is likely to have taken many years. It is also noted that the PDA&S explains that *"the cottage had a demolition order given by the then Walsingham Council after lots were sold off for death duties following the death of the Duke of Westminster"*

On the basis of the above it is considered that the residential use has been abandoned and as such the proposal has been considered as being for a new dwelling rather than a replacement.

Whilst the emerging North Norfolk Local Plan is at an advanced stage, all matters are not yet resolved, and the final form of policies may yet change, so it currently has little weight in decision taking. The site application site itself would, however, remain within the Countryside for the purposes of its spatial strategy and Hindolveston is not identified as a Small Growth Village (which have 1 key and 3 desirable services/facilities)

The two most recent appeals relating to proposals for dwellings on sites elsewhere in the village where the suitability of the location was one of the main issues are also material considerations to which some weight should be given. These are:

- *Appeal Ref: APP/Y2620/W/19/3222639 – The Mill House, Foulsham Road. Proposed construction of two dwellings. Decision date: 25th June 2019*

Appeal allowed - the Inspector acknowledged that the proposal conflicted with Core Strategy (CS) policies SS1 and SS2. Also, that occupiers of the new dwellings would have a relatively high dependency on private car use to access a full range of essential services and facilities, similar to existing residents of Hindolveston. However, he considered that the small degree of further harm from two additional households in this respect had to be balanced against the benefits of maintaining the vitality of the village. In this regard he gave greater weight to the less unequivocal stance of the NPPF, compared to that of the earlier CS, over restricting anything but affordable housing within this rural settlement. In his conclusion the Inspector stated, *"any limited harm deriving from the conflict with CS policies SS1 and SS2 would be outweighed by the modest social benefits provided to rural housing supply and the vitality of the village"*.

- *Appeal Ref: APP/Y2620/W/20/3252915 - Land off The Street. erection of 2 no dwellings with associated access - Decision date: 15 September 2020*

Appeal dismissed – the Inspector referred to the lack of services and facilities in the village and because of the lack of sustainable transport option considered access to and from the proposed development would therefore rely almost wholly on the use of the private car. He stated that *"the principle of the proposed development would not be acceptable, and the appeal site would not be suitable for new housing. It would encourage unsustainable patterns of new development, contrary to Policies SS1 and SS2 of the Core Strategy..."*

*These policies seek to ensure that new development is delivered in the right places for its type and function and is restricted in certain areas to support the objective for sustainable patterns of development”.*

**Main issues for consideration:**

- 1. Whether the site is a suitable location for a new dwelling, having regard to accessibility to everyday local facilities and services by a range of modes of transport**
- 2. The design/appearance of the proposed dwelling and its effect on the character and appearance of the area and setting of Hope House**
- 3. The effect of the proposed development on landscape features and the wider landscape**
- 4. The effect of the proposed development on the living conditions of the occupiers of nearby dwelling**
- 5. The effect of the proposed development on highway safety and the surrounding highway network**
- 6. Biodiversity and the effect of the proposed development on the integrity of habitats sites with regards to recreation impacts and nutrient neutrality.**

**1. Suitable location**

In accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The development plan for the area currently includes the North Norfolk Local Development Framework Core Strategy (adopted September 2008), the Site Allocations Development Plan Document (February 2011), and the Minerals and Waste Development Framework - Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026. The National Planning Policy Framework (NPPF) constitutes guidance which the Local Planning Authority (LPA) must have regard to. The NPPF does not change the statutory status of the development plan as the starting point for decision making but is a material consideration.

The application site lies outside of any settlement listed in policy SS 1 of the North Norfolk Core Strategy (the CS) and as such is within the countryside for planning purposes. Within land designated as countryside, policy SS2 seeks to limit development other than that in accordance with a list of exceptions. New market housing as proposed in this case, is specifically restricted in order to prevent dispersed dwellings that will lead to a dependency on travel to reach basic services and ensure a more sustainable pattern of development. The proposal does not satisfy any of the exceptions set out in policy SS 2 of the CS. Policy SS 4 sets the aim that development will be located so as to reduce carbon emissions and mitigate and adapt to future climate change.

Recent appeal decisions including ref. APP/Y2620/W/24/3344911 - *site at The Roost, Mundesley Road, Trunch for a two-bedroom dwelling (decision date 25/01/2025)* continue to confirm that these policies and the Council's spatial strategy are in general accordance with the aim of the NPPF to promote development in sustainable locations with good transport access to existing facilities and services.

Paragraph 110 of the NPPF identifies that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 115, states that in specific applications for

development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.

Further, at paragraph 117 the NPPF advises that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, second – so far as possible – to facilitating access to high quality public transport and create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

However, paragraph 110 sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

Hindolveston is quite a small generally linear settlement, with the majority of existing development along The Street. It only has a few services including a village hall, recreation ground, play area, pavilion and church. There is a mobile library (normally every 28 days). The village is lacking a shop, education and employment opportunities and healthcare. The closest Service Villages approximately 6.5km away are Melton Constable/Briston which between them have a reasonable range of everyday services including a primary school, small convenience store and a doctor's surgery. The closest Principal Settlements with a full range of services are Holt and Fakenham, approximately 10km and 11km away respectively.

Buses pass through the village with stops on The Street which are within easy walking distance of the site. There are 5 return services listed on the Travel Norfolk website. The No 24 runs between Fakenham and Norwich once a week on a Monday, The No 80 Wroxham – Dereham operates once a week on Fridays. The No 98 Foulsham – Fakenham operates once a week on a Thursday. Nos 308 and 605 are effectively school services between the village and Fakenham and Reepham respectively, operating on school days only. There are no weekend services.

It is considered that these bus services would be insufficient to rely on for day to day use as a genuine alternative to the use of the private car, particularly for ad hoc visits, appointments and employment. Hindolveston is linked to other settlements by narrow, unlit rural roads without segregated pavements. Given this, the distance and limited public rights of way, walking to reach services in the closest Service Village and Principal Settlements would not be a realistic option. Neither would cycling other than for some experienced, confident cyclists but would not be an attractive option during darker, winter months

Given the distance from the nearest settlement that would provide a full range of services for the day-to-day needs for future occupiers of the proposed development and the lack of sustainable alternatives, it is considered that access to and from it would therefore rely almost wholly on the use of the private car. This is the least sustainable transport option. As stated in the appeal decision relating to the site off The Street in Hindolveston, *"journeys might not be over a substantial distance, but neither would they be short. Given the lack of alternatives, they would be frequent and high in number despite the limited scale of the proposed development"*.

Consideration has also been given to paragraph 83 of the NPPF which advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. In this case, there are few, if any, services in the village that would benefit from having an additional dwelling. Settlements designated as Service Village in the Core Strategy and in the emerging Local Plan along with Small Growth Villages, have been identified as the locations where there is a level of existing services that would be supported by some modest growth.

It is considered that the site is not a suitable location for a new dwelling, with particular regard to the lack accessibility to everyday local facilities and services by a range of modes of transport. The development is therefore contrary to CS policies SS1 and SS2 and the spatial strategy for North Norfolk which aims to achieve sustainable patterns of development.

## **2. Design, character, appearance and setting**

CS Policy EN 4 requires that all development should be designed to a high quality, reinforcing local distinctiveness, be expected to be suitably designed for the context within which they are set, and ensure that the scale and massing of buildings relate sympathetically to the surrounding area. Paragraph 135(c) of the NPPF sets out that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change.

CS policy EN 8 requires that development preserves or enhances the character and appearance of designated assets and their setting through high quality, sensitive design. It should be noted that the strict 'no harm permissible' clause in the policy is not in full conformity with the NPPF. As a result, in considering the proposal, regard must be had to the guidance in Chapter 16 of that document as a material consideration.

Paragraph 212 of the NPPF advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost from amongst other things, development within their setting and that this should have a clear and convincing justification. Setting of a heritage asset is defined in Annex 2 of the NPPF as being "*the surroundings in which a heritage asset is experienced. Its extent may not be 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*".

Following concerns raised with the initial proposed plans, significantly revised drawings have now been submitted. Whilst not a facsimile of it, the proposed dwelling would now effectively re-instate the former cottage. The proposal follows the historic evidence and emulates the design, appearance and scale of the former cottage. Similar external materials would be used, and the proposal does not step outside the existing building footprint. On that basis it is considered that the proposal would be suitably designed for its context and would relate sympathetically to the surrounding area

With regards to the effect of the proposal on the setting of Hope House (which, being a grade II\* listed building, is a designated heritage asset of the highest significance), it has to be acknowledged that despite the current condition of the remains of the dwelling, the fact that it has been on the site since at least the mid-19th century sets something of a longstanding precedent for the principle of a dwelling in this respect. There is, however, no definitive evidence to demonstrate whether or not the use of the building was ever ancillary to the adjacent Hope House. Historic mapping does not appear to connect the two, despite their close proximity to one another.

As such, re-instating the cottage does not necessarily offer any opportunity to enhance the significance of Hope House, given that without evidence to the contrary, the cottage should be considered an independent dwelling. However, because of the nature of the site, with a high degree of intervisibility between Hope House and the cottage, there is an opportunity to improve the setting of the designated heritage asset. The existing cottage has been allowed

to fall to ruin and has become very overgrown, which does somewhat detract from the main house.

The Conservation & Design officer has suggested that in order to reinforce the separation of the new cottage from Hope House and its outbuildings, the existing planting between the two should be enhanced with additional native planting. This can be secured through a condition. There is also a need to avoid any potential over-domestication of the space around the dwelling, with the introduction of formal enclosures such as close board fencing and ground treatments. Having regard to paragraph 55 of the NPPF, it is considered this provides clear justification for removing national permitted development rights, including those relating to curtilage buildings, extensions to the dwelling and means of enclosure.

The access arrangements and driveway have only been shown indicatively on the submitted plans and there is no clear provision for parking albeit there is plenty of space for it, nor are there any landscaping proposals. Ideally, there should be little to no hardstanding around the cottage, if anything other than grass is required this should be limited and should be gravel or similar. It is considered that these are matters that could be dealt with through conditions.

For the reasons stated, and with the imposition of suitable conditions, the proposal is considered to be acceptable in terms of CS policies EN 4 and EN 8.

### **3. Landscape**

Core Strategy Policy EN 2 sets out that proposals should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment (LCA). Development proposals should demonstrate that their location, scale, design, and materials would protect, conserve, and, where possible, enhance the special qualities and local distinctiveness of the area.

The site is within the Tributary Farmland Landscape Character Type (as defined within the LCA), which is described as an open, tranquil and a strongly rural landscape area. This character type is particularly sensitive to increases in built development. The LCA sets out that development proposals should seek to integrate within the existing settlements, reinforcing traditional character and vernacular.

Officers consider that the proposal would protect and conserve the special qualities and local distinctiveness of the area and therefore would not result in any significant landscape impacts. This is primarily due to the set back location of the site with screening from trees within the grounds of Hope House and surrounding development on The Street and Melton Road, in combination with the modest height and scale of the proposed development.

Two trees would need to be removed to facilitate the development as they sit very close to the each of the gable ends, with one directly abutting the southeast gable. These trees are however, not in particularly good condition and have little, if any amenity value. Replacement trees could be secured as part of the additional planting to provide greater separation between the dwelling and Hope House as referred to above.

It is considered the proposal would accord with the aims of CS Policies EN 2 and EN 4.

### **4. Living conditions**

Policy EN 4 of the Core Strategy requires that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers. Paragraph 135 of the NPPF

states that “developments should create places with a high standard of amenity for existing and future users”.

The closest existing dwellings to the site are nos. 69, 71 and 73 The Street, which are located off a track to the west side of no. 79 and sit to the behind other dwellings on The Street. Their front elevations face the application site’s southeast boundary separated from it by a driveway. Because of the orientation between these dwellings and that proposed, along with the separation distance, it is considered there would be no harmful effects on the living conditions of their occupiers, with no conflict with the amenity criteria in the North Norfolk Design Guide (NNDG). Similarly, there would be no adverse impact on other nearby dwellings on The Street or on the occupiers of Hope House.

The proposed development would provide an excellent living environment for the future occupiers and would have an external amenity space/garden well in excess of the minimum suggested in the NNDG.

The proposed development therefore complies with the requirements of Core Strategy Policy EN 4 in this respect.

## **5. Highway impacts**

CS Policy CT 5 requires development to provide safe and convenient access for all modes of transport, including access to the highway network. Paragraph 116 of the NPPF states that “development 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, following mitigation, would be severe, taking into account all reasonable future scenarios”.

As amended, the proposal seeks to utilise the existing access onto Melton Road serving Hope House. This is instead of via the track from the south side of the site to The Street, as originally proposed, to address concerns raised by the Highway Authority regarding the available visibility to the east. The access on to Melton Road has better levels of emerging visibility and has adequate width for the first 5 metres from the highway boundary to allow two cars to pass within it. The gates across the access are set sufficiently far back to allow a car to wait off the highway when they are opened. Some upgrading of the first 5 metres of the access is however required, as it is currently surfaced with loose gravel with no drainage. This could be secured through a condition.

Based on the Trip Rate Information Computer System (TRiCs), which is a database of trip rates for developments, the Highway Authority advise that the proposed dwelling would generate 6 daily movements. Whilst the location of the site and the nature of the surrounding rural lanes would likely result in a high reliance on private car for most trips by occupiers of the development, no concerns have been raised in respect of the effect on the surrounding highway network in terms of safety or capacity.

It is therefore considered that with the conditions referred to, the proposed development complies with CS Policy CT 5.

### Car parking

Policy CT 6 requires adequate vehicle parking facilities to be provided by the developer to serve the needs of the proposed development. Development proposals should make provision for vehicle parking in accordance with the Council’s parking standards, including provision for

people with disabilities. In exceptional circumstances, these standards may be varied where appropriately justified.

The North Norfolk Design Guide states at paragraph 3.3.22 that *“in-curtilage’ parking is recommended where possible to take advantage of personal surveillance and defensible space”*. Based on the current adopted parking standards at Appendix C of the CS for a 3-bedroom dwelling, as proposed, two spaces are required. There is ample space to provide this within the site and, whilst not specifically identified on the application plans, could be secured through a condition. On that basis the proposal complies with CS policy CT 6.

No electric vehicle (EV) charging locations or details have been provided at this stage. The details and the provision of EV charging is required in order address the requirements of Emerging Policy CC 8, as well as the latest Building Regulations requirements. Again, this could be secured through a condition.

## **6. Biodiversity and effect on habitats sites**

The Council has a duty under the Natural Environment and Rural Communities Act 2006 to have full regard to the purpose of conserving biodiversity which extends to being mindful of the legislation that considers protected species and their habitats and to the impact of the development upon sites designated for their ecological interest.

Core Strategy Policy SS 4 states that *“areas of biodiversity interest will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged”*. Policy EN 2 requires that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries, and their function as ecological corridors for dispersal of wildlife.

Policy EN 9 requires that all development should protect the biodiversity value of land and buildings and minimise the fragmentation of habitats, maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features where appropriate.

Paragraph 187 of the NPPF states that *“planning policies and decisions should contribute to and enhance the natural and local environment”*. These include by protecting and enhancing sites of biodiversity value, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species.

Paragraph 193 advises that when determining planning applications, significant harm to biodiversity should be avoided, adequately mitigated, or, as a last resort, compensated for. Should this not be possible, then permission should be refused. Opportunities to incorporate biodiversity improvement in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Due to the state of the building and in particular as it has no roof, it was considered that a Preliminary Ecological Appraisal was not required as the potential for protected species to be present would be low. Notwithstanding this and the fact that the development would be exempt from the statutory biodiversity net gain requirements, in order to accord with the aims of Policy EN 9, the development should deliver some ecological enhancements such as the installation of bird boxes which could be secured through a condition. On that basis it is considered the proposal would comply with policy EN 9 in this respect.

*Nutrient Neutrality*

Foul water disposal from the dwelling is proposed to be via the public sewer. This accords with the foul drainage hierarchy (Planning Practice Guidance Paragraph: 020 Reference ID: 34-020-20140306), where the first presumption is for new development to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (operated by a sewerage undertaker). In this case the public sewer connects to Hindolveston Wastewater Treatment Works that discharges to the River Bure, which is a component part of the Broads Special Area of Conservation (SAC) and Ramsar site. This is a phosphorus and nitrogen sensitive catchment area and long-term nutrient pollution has led to adverse impacts upon Habitats Sites including these to the extent their condition is no longer considered favourable as set out in the guidance issued by Natural England on 16th March 2022.

This requires competent authorities to ensure any planning applications proposing a net gain in overnight accommodation (e.g. new homes) must evidence there will be no net increase in nutrient loads created within an affected catchment area as a result of the proposed development, i.e. the development will be nutrient neutral.

Based on the submitted and agreed Norfolk Budget Calculator, connecting the dwelling proposed would lead to an annual increase in nutrient discharge of 0.54 kg of Phosphorous/year and 2.26 kg of Nitrogen/year, thus mitigation would be required to provide an overall nutrient neutral development. The applicant has indicated mitigation is proposed through the purchase of credits. Once evidence of this has been provided to the council, a Habitats Regulation Assessment would need to be completed and Natural England reconsulted.

Therefore, at this stage it cannot be demonstrated beyond reasonable scientific doubt, that the development would be nutrient neutral to enable the council, as competent authority, to confirm that it is acceptable in this respect and in accordance with CS policy EN 9.

### *Recreational Impacts*

Norfolk local planning authorities (LPAs) have worked collaboratively to adopt and deliver a Green Infrastructure and Recreational Impact Avoidance and Mitigation (GIRAM) Strategy to ensure that the cumulative impacts of additional visitors, arising from new developments of housing and tourism to European sites, will not result in any likely significant effects which cannot be mitigated. The application site is within the Zone of Influence of a number of such sites with regards to potential recreational impacts.

In line with the RAM strategy a mechanism has been secured to ensure the appropriate financial contribution per dwelling prior to occupation as part of this proposal at the time planning permission is approved. It is considered that the contribution (£210.84) which was current at the time it was made, 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. As such the proposal complies with CS policy EN 9.

### *Biodiversity Net Gain (BNG)*

Due to the date on which the application was submitted it is subject to the statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

## Other matters

*Energy efficiency* - Core Strategy Policy EN 6 states that “*new development will be required to demonstrate how it minimises resource and energy consumption and how it is located and designed to withstand the longer-term impacts of climate change*”. All developments are encouraged to incorporate on site renewable and / or decentralised renewable or low carbon energy sources, and regard should be given to the NNDG in consideration of the most appropriate technology for the site.

The applicant has been asked to consider the use of an air source heat pump for the heating of the building which can be secured by condition, to ensure that the proposed development would accord with Policy EN 6.

*Previously developed ('brownfield') land* – this is defined in Annex 2 of the NPPF as “*land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land...*” Whilst it is considered that the residential use has been abandoned for the reasons explained above, having regards to this definition, it is considered reasonable to conclude that the site is previously developed land.

Chapter 11 of the NPPF emphasises the need to make effective use of land. Paragraph 125c) states “*planning...decisions should give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused*”. It is considered that the reuse of the land weighs in favour of the proposal but not to a degree that would outweigh the harm to the aims of the spatial strategy to achieve sustainable patterns of development

*Disturbance during construction* – given the scale and nature of the development proposed, it would be unlikely to result in noise and disturbance that would justify the inclusion of a condition regulating construction days and hours.

## PLANNING BALANCE AND CONCLUSION:

Because the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the development plan policies which are most relevant for determining the application are considered to be out of date. Paragraph 11 (d) of the NPPF requires that planning decisions should apply the presumption in favour of sustainable development.

In such circumstances paragraph 11d) indicates that planning permission should be granted unless:

- i) the application of policies in the NPPF that protect areas or assets of particular importance (which includes designated heritage assets) provides a strong reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

The proposed development is acceptable all respects other than in principle because of the site's unsustainable location. It is considered the harm that would arise must be given significant weight.

The main benefits are

*Economic* – these would be provided through the construction of the development with work for local contractors, trades people and suppliers. This, however, would be limited and short lived. Occupiers of the development would contribute to the local economy by spending within the surrounding area and the wider District.

*Social* – the provision of a new dwelling would add to choice and mix locally, increasing social cohesion and community as well as making a very modest contribution to the District's housing land supply

*Environmental* – the development would involve the reuse of a brownfield site. It would also provide some enhancement of the setting of Hope House which is a designated heritage asset. The building would be energy efficient and make use of renewable energy sources. The landscaping of the site would potentially deliver biodiversity gains

On balance, it is considered that the benefits of the proposal are outweighed by the adverse impacts of the development when assessed against the policies in the NPPF taken as a whole – most notably the unsustainable location of the proposed development.

Whilst the applicant's intention is to purchase credits to ensure the proposed development is nutrient neutral, as they are not yet secured, the development would result in harm to the integrity of habitats sites which would conflict with paragraph 193 of the NPPF.

As such, the recommendation is one of refusal.

## **RECOMMENDATION:**

### **REFUSAL for reasons relating to:**

- 1. Conflict with the District's spatial strategy and Core Strategy Policies SS 1 and SS 2 resulting in an unsustainable form of development.**
- 2. Nutrient neutrality and the effect on the integrity of habitats sites**

**Final wording of reasons to be delegated to the Assistant Director of Planning.**