

**HOLT RV/20/2662 - Variation of condition 1 (plans) and deletion of condition 2 of reserved matters planning permission PM/15/0804 to vary house types/external finishes, with corresponding changes to layout and landscaping, as part of planning permission PF/15/0774 at Land East of 42 Cley Road, Holt**

## **Major Development**

**Target Date: 02 March 2020 - Extension agreed to 8 April**

Case Officer: Mr P Rowson

Full Planning Permission

## RELEVANT SITE CONSTRAINTS

Core Strategy Proposed Residential Use Allocation  
Controlled Water Risk - Medium (Ground Water Pollution)  
Unclassified Road  
Public Rights of Way Footpath  
Section 106 Planning Obligations  
Conservation Area  
Area of Outstanding Natural Beauty

## RELEVANT PLANNING HISTORY

PO/11/0978 PO: Development of up to 85 dwellings, access, public open space and associated infrastructure, Approved 26/06/2012

PF/13/0854 PF: Variation of Conditions 3 & 7 of planning permission reference: 11/0978 (residential development of up to 85 dwellings) to permit revised specification for Cley Road access which would serve 15 dwellings in lieu of 12 dwellings, Approved 19/09/2013

PF/15/0774 PF: Removal of conditions 19 and 20 of planning permission ref: 11/0978 to remove the requirement of Code Level 3 and to provide at least 10% of the development's energy supply from decentralised and renewable or low-carbon sources, Approved 02/09/2015

EF/18/1456 EF: Certificate of Lawfulness for implementation of planning application ref: PF/15/0774 without triggering the requirements of the S106 Obligation dated 22 June 2012 entered into in relation to application ref: PO/11/0978, Refused – Permission Required 23/08/2019.

## THE APPLICATION

The site comprises two parcels of agricultural land, north of Holt Allotments, laying to the west of residential development to Woodfield Road and east of ribbon residential development to Cley Road. There is a belt of pine and other trees along a large part of the northern site boundary. There is a public footpath along the southern boundary. Peacock Lane terminates to the south and Woodfield Road terminates to the north east.

The proposals seek to vary plans previously agreed under extant permission PF/15/0774. Amongst others the changes relate to substitution of house types, amendments to external materials, along with minor variation to landscape and layout. The proposals are inclusive of

12 affordable homes supported by s106 agreement in draft form. The public road layout, access points remains as previously approved.

#### REASON FOR REFERRAL TO COMMITTEE

The proposal is contrary to adopted plan policy H02. Significant prior planning history and local interest.

#### **Consultees:**

Holt Town Council – Support.

Question whether the road from Cley Road to Woodfield Road (proposed as a no through road) could be adapted to allow for the Hopper Bus to pass through. This would enhance the bus route allowing it to follow a circular route around the town. This would have significant environmental benefits as well as making the development a more attractive place to live.

Norfolk County Council Highways – no objections.

Norfolk County Council, Lead Local Flood Authority – No objection subject to conditions. Initial concerns removed following further revised plans and suitable conditional controls.

Anglian water – Comments awaited

Norfolk County Council infrastructure – No objection.

Does not wish to restrict the grant of permission.

Public Rights of Way Officer – No objection.

Highlight that a Public Right of Way, known as Holt Footpath 4 is aligned along the Southern boundary of the site. Welcome the inclusion of a 2m wide provision for this footpath. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation.

Ramblers Assoc. – No objection.

The Norfolk Area of the Ramblers Association notes that the south side of part of this development, is bordered by Holt FP4. Footpaths should be kept open, free and unnumbered during the development process. In particular, surface deterioration of this stretch of the footpath due to building machinery must be kept to a minimum

NNDC Strategic Housing – Comments

*The 12 affordable homes on the site are likely to be fully occupied, for example a two-bed home for three people is likely to house a three-person family. So it is important that the space standards are sufficient.*

*Technical housing standards – nationally described space standard provide an objective comparison. Of the 12 affordable homes 10 have space standards that meet the nationally described space standards. However, two of the homes, plots 54 and 56, which are described as two-bed three person houses at 64 m2 fall below the nationally described space standard of 70 m2. Meaning that these two homes will be small for families of three people.*

*Additional comment: The two shared equity properties (54 & 56) are not really large enough for three-person occupancy. That said the developer has come up with a solution to avoid one-bed shared ownership homes which in our experience are not popular in the district. These properties will be popular with couples who do not have an immediate need for a second bedroom but who might bring it into use if they start a family.*

*The delivery of the affordable housing on the site in perpetuity must be protected through the completion of a Section 106 Agreement containing the Council's standard terms in relation to phasing of delivery, protection as affordable housing, recycling and nomination arrangements.*

**Environmental Health** – No objection

Revised consultations support informative note for due diligence on contaminated land and confirms layout is acceptable on refuse collection.

**Design & Conservation** – No objection

The principle is already established; comments can only relate to the variation from the approved plans. The “dialling out” of the previous Georgian grandeur is supported. A series of initial concerns have been addressed by later amended plans provided.

**Landscape Officer** – No objections

Having reviewed the submitted information, the proposed changes raise no substantive landscape issues. The revised layout does not increase encroachment onto the protected mature tree belt to the north boundary within the Glaven Valley Conservation Area. The proposed soft landscape planting palette is acceptable and the materials for surfacing and boundary treatments remain acceptable.

**Representations:**

A total of 4 individual letters/e-mails have been received 2 objecting and 2 commenting on to the proposed development. These objections are summarised as follows:

- Constriction to access (lockable gates) at Lane End (SW corner of development).
- Approval for this development should be granted only if pedestrian and bicycle access is available to all, including non-residents, throughout the estate, from Peacock lane, Cley Road and Woodfield Road, i.e., that any gates marked "lockable gates" do not restrict access on foot or cycle to anyone. This is important to facilitate more circular walks around Holt, to encourage walking and cycling and to reduce car use and the traffic that this development will inevitably create.
- Initial designs afforded greater space / amenity around Lane End Bungalow.

**Relevant Core Strategy Policies:**

Policy SS 1: Spatial Strategy for North Norfolk

Policy SS 4: Environment

Policy SS 9: Holt

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 4: Design

Policy EN 8: Protecting and enhancing the historic environment

Policy EN 9: Biodiversity and Geology

Policy EN 10: Development and Flood Risk

Policy HO 2: Provision of affordable housing

Policy CT 2: Development contributions

Policy CT 5: The transport impact on new development

Policy CT6: Parking Provision

NNDC Design Guide - Basic Amenity Criteria

## **Appraisal:**

### MAIN ISSUES FOR CONSIDERATION

1. Background
2. Principle of development
3. Appearance, Layout, Scale
4. Impact upon designated heritage assets
5. Landscaping, biodiversity and On-site Public Open Space
6. Provision of Affordable Housing
7. Flood risk and surface water drainage associated with culvert works
8. Residential Amenity
9. Highways

## **1 Background**

The application site is allocated for residential development of approximately 100 dwellings under Policy HO1 in the Site Allocations Development Plan Document (DPD), adopted by the Council in 2011. Subsequently, outline planning permission was granted under application reference PO/11/0978 for development of approximately 85 dwellings, with an associated Section 106 agreement completed. Access for a maximum of 15 dwellings from Cley Road was secured by a variation of condition application PF/13/0854. The reserved matters application PF/15/0774 was then approved for 83 dwellings, it is this proposal that the current Section73 application seeks to vary via these proposals.

Members may also be aware of the refused application EF/18/1456 EF, seeking agreement to certificate of lawfulness in relation to development completion out with the historic S106 agreement attached to PO/11/0978. This matter was then subject to High Court consideration, under which the appointed judge agreed that the development may proceed without compliance with the historic s106 agreement. These proposals represent an opportunity for completion of a standalone S106 agreement which deliver 12 affordable homes. The applicant has agreed to be bound by previous payments and mitigation already provided to Holt Town Council under the historic S106 agreement.

## **2 Principle of development**

The site is allocated in the local plan allocations DPD; it also has an extant planning permission. On this basis the principle of the development is accepted. Having established the matter of land use principle then the development proposals will be considered again local and national plan policy within the context the extant planning permission; under the provisions of Section 73 of the Town & Country Planning Act 1990.

### **3. Appearance, Layout, Scale**

The site adjoins existing development to the south and east and is located on the edge of the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and the Glaven Valley Conservation Area. The Conservation, Design and Landscape Team Leader has provided detailed comment and is supportive of the scheme.

The original design approach was rooted in a pastiche Georgian style, the elevations provided significant levels of detailing and an arguably overly complex execution. Whilst this approach is perhaps not surprising in Holt, the revised proposals provide a design which is perhaps more in line with the terms of the emerging NNDC design guide. The level of detailing remains appropriate and perhaps more appropriately placed within the immediate context of the site and its immediate surroundings. The materials proposed are of high quality and would successfully support the proposed buildings. The main roof materials are all natural whilst the brick and render finishes would be sympathetic within a North Norfolk context.

It is considered that the proposed development would preserve the character and appearance of the Conservation Area and would be in compliance with the aims of Policies EN 4 and EN 8 of the North Norfolk Core Strategy. Furthermore, that the scale of development remains proposed at 83 dwellings meets with the provisions of the outline application.

### **4. Impact upon designated heritage assets**

There are no listed buildings or monuments within the vicinity of the scheme. The only designated heritage asset affected by the development would be the Glaven Valley Conservation Area which washes over the entire site and building 83 houses on the existing site. The proposals irreversibly change the character of the land, the site will no longer contribute to the existing transition from the urban area into the countryside. Instead the proposals would now support the extension of the urban form northwards.

In heritage terms, it is considered that the level of harm would be relatively modest due to the self-contained nature of the site, the site also occupies a marginal position the site occupies within the wider Conservation Area designation. Therefore, in accordance with para 134 of the NPPF, it is considered that the proposals remain as being of a “less than substantial” harm, whose wider contribution to local housing numbers, affordable homes and construction employment would more than outweigh the limited harm created.

### **5. Landscaping, biodiversity and On-site Public Open Space**

The Councils Landscape Officer has been involved in consideration of proposals at this site for some time. The proposed changes raise no substantive landscape issues minor revisions to the layout do not increase encroachment onto the protected mature tree belt to the north boundary or wider impacts on the Glaven Valley Conservation Area. The proposed landscape is acceptable, materials for surfacing and boundary treatments follow those previously approved. Similarly, the wider impact in the AONB is considered acceptable subject to imposition of appropriate conditions.

On-site public open space provisions are acceptable, matters of ownership and maintenance will be considered via suitable s106 clauses / conditional controls.

The proposal is acceptable under Policies EN1 and EN9 of the adopted North Norfolk Core Strategy.

## **6. Provision of Affordable Housing**

The historic outline application was granted consent with a corresponding Section 106 legal agreement requiring 45% of the dwellings to be affordable housing, in accordance with Policy HO 2 of the Core Strategy 2011. At the reserved matters stage the applicant provided a detailed layout delivering 45% affordable housing on the site, with 59.5% provided as affordable dwellings for rent and 40.5% for sale on a shared equity basis.

The subsequent refusal of EF/18/1456 and outcomes of the High Court case have comprehensively demonstrated that affordable housing cannot be delivered via this historic s106 agreement.

Current planning policy remains consistent with the requirement for on-site provision at 45% affordable housing under policy H02, no case is made under viability in relation to the delivery of a lesser quantum of affordable homes. The proposals offer 12 affordable homes (14.5%) and fail to comply with policy H02.

The application should be considered as a departure from policy H02. The departure may be viewed within the context of a potential "Fallback" position. There remains a realistic probability that the "Fallback" position under the extant historic permission will be delivered, technical approvals are in place and an initial commencement of development has been made on site. The applicant may reasonably choose to pursue the "Fallback" position should permission not be granted for the current proposals. On this basis the potential offer of 12 affordable homes represents a significant benefit to the "Fallback" position. As such the proposals may be supported as a departure from policy H02.

## **7. Flood Risk and Surface Water Drainage Associated with Culvert Works**

Initial objections on the subject of flood risk and surface water drainage are now understood to have been resolved, at the time of compiling this report the formal consultation response from LLFA remains to be reported. The details will be reported verbally to members on at the development Committee meeting.

## **8. Residential amenity**

The site is well contained in relation to neighbouring properties, being separated to the east by a track and to the south by a public footpath from existing residential properties. The positioning and relationship of the proposed dwellings has revised from the previously approved layout.

The application has a limited number of local comments relating to relationships in the South East corner of the site. Here the development sits adjacent to Lane End, two existing dwellings are impacted by the proposals in this area Three Gables and Lane End Bungalow. In considering impacts then relationships in terms of height, scale, mass and privacy are the principle issues. Those matters should be considered within the context of the extant planning permission. The approved sectional drawings show a substantive group of two storey town houses in close proximity to the adjacent dwellings. The relationship between the proposed apartments and near neighbours remains comparable in terms of height, scale, mass and privacy. Finished floor levels will be controlled to ensure limited if any detriment arises from the revised dwelling types at plots 44 to 53. In addition a separation distance of over 20m with drive way between properties will suitably ameliorate impacts.

The proposal is considered to be acceptable and would be in compliance with the aims of Policy EN4 of the adopted North Norfolk Core Strategy.

## **9. Highways**

The planning history shows restrictions remain for no more than 15 dwellings to be served direct from an access on to Cley Road with the remainder of the dwellings accessed from Woodfield Road. It was agreed that safety bollards will be used to prevent general vehicle movements through the site with the exception of access for emergency vehicles.

For the majority of plots garaging is provided, or on plot parking adjacent to the dwelling. A limited amount of parking courts is proposed in the east and South east of the site.

A traffic management plan has been previously agreed giving details of access during construction and detailed highways construction drawings have been provided for both the on-site and off-site works. Highways engineers have agreed specifications under s38 / 278 and conditions have been discharged for the road layout.

NCC Highways confirm that with reference to the application relating to the above development (as shown on drawing 1228/1- rev G), in relation to highways issues only, notice is hereby given that Norfolk County Council does not wish to restrict the grant of permission.

It is noted that the following mitigating off-site highways works were completed in 2017 to facilitate this development:

- Widening of Cley Road,
- Improvement of the Cromer Road/Kelling Road and Cromer Road/Grove Road junctions,
- Provision of a continuous footway along the west side of Kelling Road from Woodfield Road to Kelling Close,
- Improvement to the surfacing of Peacock Lane up to Footpath 4.

The proposed development is considered to comply with Core Strategy Policies CT5 and CT6.

## **Contamination**

Members will be aware of consultation response above, and the supporting documentation submitted by the applicants on this matter. At the time of reporting the position remains that the application relies upon a previously submitted historic assessment relating to the historic outline permission dated 13 April 2011.

The assessment was a desk based environmental assessment with a site walkover survey. The report included a review of available historical, geological, hydrogeological information and other relevant environmental sources obtained for the site. A conceptual model for the site in accordance with the current Contaminated Land Legislation was developed. At that time the site was noted has in agricultural use since 1886. No industrial activity or sources of contamination have been identified. Therefore, the site was assessed as low risk in accordance with Contaminated Land Legislation as no potential sources of contamination have been identified from the subject property. The author considered no further work was warranted on contamination.

A watching brief provision was made that if visual or olfactory evidence of contamination is encountered during the construction works, assessment by a suitably qualified environmental consultant of the potential contamination is recommended.

On this basis no contamination condition was attached to the Outline application.

A request is made under consultation for the current S73 application for an informative note to be added to the decision notice related to due diligence over contaminated land. The S73 proposals are unable to review the initial framework and principles already established under the outline permission. On this basis then officers must recommend that on the matter of

contaminated land that our recommendation must be subject to an informative note and be bound by the terms of the principles of the historic permission.

### **Other matters:**

Locking gates: Comments are from local residents relating to locking gates in the South east Corner of the site. The gates will provide private access to plots 56 -65; 44 -55 and also to the existing dwelling Lane End Bungalow. Specifically, for Lane End Bungalow the applicant confirms that the locking gates are to ensure access in either direction. This maintains the owner's current rights of access; gate keys will be held by that property only. An independent pedestrian access to/from the remainder of the development via the north end of Peacock Lane is provided.

Bus link: It is noted that the provision of a link east to west through the development is preferred by The Town Council. This is requested to enable through passage of the Hopper Bus to run between Cley Road and Woodfield Road. Unfortunately, the applicant is unable to facilitate the bus route via layout amendments, as this would necessitate significant amendments to the layout resulting in lost public open space and the creation of utilities constraint issues (substation, etc.). In addition, Norfolk County Council Highways has consistently opposed a through route from Cley Road to Woodfield Road including conditions limiting the number of dwellings accessible via Cley Road to a maximum of 15 dwellings.

### **Conclusion & Planning balance**

At its heart these proposals are a vehicle to seek revision and change to historic permissions which have proven less preferred to implement. The permissions have been unimplemented since the reserved matters approval in September 2015. Over 80 homes have been "mothballed" awaiting the commencement of development. It has to be to benefit for our local community that this development now comes forward, finally a local plan allocation for this site will be delivered. The planning system is changed and will be revised further to encourage innovation and flexibility to bring forward stalled sites such as this.

In making this decision the proposals must be measured against compliance with principles established under the historic permission and our current planning policy framework. The applicant has successfully challenged the historic S106 agreement. The Council is no longer able to rely on those provisions to provide affordable housing at the highest levels of local plan policy compliance. A positive offer is made to provide 12 affordable homes on site, this should be treated as a departure from plan policy H02 (no viability assessment accompanies the proposals). The offer is set against the likelihood of a fall-back position whereby development would otherwise go forward without affordable housing contributions being made. A positive weight in the matter of planning balance is attached to the additional affordable homes offered via these proposals.

The report notes that the proposals are broadly similar to previously approved details. No substantive objections are raised by technical consultees. Concerns are otherwise suitably mitigated by conditions previously imposed and discharged as matters of detail under the previous permissions. The proposals remain compliant with local plan policies. There are no overriding matters of harm relating to those key issues detailed above that outweigh the wider benefits associated with delivery of 83 homes on a local plan allocated housing site, subject to a s106 agreement.

The proposals are not complaint with Development Plan policy H02; but otherwise held in compliance with Development Plan policies SS1, SS2, SS4, SS9, EN1, EN2, EN4, EN8, EN9, EN10 and CT2, CT5 and CT6 of the adopted North Norfolk Core Strategy. For the reasons detailed within this report officers find that the material considerations in favour of



the proposed development offer suitable potential benefits, those benefits are considered capable of attracting sufficient weight to overcome the limited harm associated with the proposals. A positive planning balance results.

**Recommendation: Approval subject to completion of an appropriately worded s106 agreement to deliver:**

- **Affordable housing**

**And suitably worded conditions**

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

**The District Council adopted the North Norfolk Core Strategy on 24 September 2008, and subsequently adopted Policy HO9 on 23 February 2011, for all planning purposes. The following policy statements are considered relevant to the proposed development:**

**Policy SS 1: Spatial Strategy for North Norfolk**

**Policy SS 4: Environment**

**Policy SS 9: Holt**

**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 4: Design**

**Policy EN 8: Protecting and enhancing the historic environment**

**Policy EN 9: Biodiversity and Geology**

**Policy EN 10: Development and Flood Risk**

**Policy HO 2: Provision of affordable housing**

**Policy CT 2: Development contributions**

**Policy CT 5: The transport impact on new development**

**Policy CT6: Parking Provision**

Conditions relating to compliance with details on matters relating to:

- Time limit for commencement.
- Approved plans
- Open space management
- Landscaping
- Ecology
- Arboriculture
- Materials
- Boundary treatment
- Highways matters – limitation to access numbers, no through link, full details of the roads, footways, foul and on-site water drainage, visibility splays, access arrangements and parking provision in accordance with adopted standards.
- Construction Traffic Management Plan and Access Route / wheel cleaning facilities
- Surface water drainage scheme
- Finished floor levels
- Fire hydrants / fire service requirements
- Informative for Contaminated land.