

Town and Country Planning Act 1990

Appeal by LW Developments Ltd

Northaw House, Coopers Lane, Northaw, EN6 4NG

Planning Application Reference 6/2021/0072/MAJ
Listed Building Application Reference 6/2021/0071/LB

Statement of Case Submitted on Behalf of the Appellant

19th November 2021

Contents

1.	Introduction	2
2.	General Context for this Appeal	4
3.	The Appeal Site	6
4.	Planning Policy Context	11
5.	Summary of the Case for the Appellant	16
6.	Green Belt	19
7.	Heritage Assets	31
8.	Planning Obligations	34
9.	Benefits of the Proposed Development	37
10.	Reasons for Allowing the Appeal	40
11.	Determining This Appeal	42
A1.	Heritage Appeal Statement	43
A2.	Viability Appeal Statement	96
A3.	List of Appeal Core Documents	151

1 Introduction

- 1.1 This Statement of Case is prepared on behalf of LW Developments Ltd (“the Appellant”). It relates to and is submitted in support of an appeal (“the Appeal”) pursuant to Section 78 of the Town and Country Planning Act 1990, in response to the decision by Welwyn Hatfield Borough Council (“the Council”) to refuse to grant planning and listed building consent in relation to planning application 6/2021/0072/MAJ (“the planning application”) and 6/2021/0071/LB.
- 1.2 Where relevant references are made to Core Documents (CD). A full list of these documents is contained within Appendix 3.

The Proposed Development

- 1.3 The appeal proposes the following development (as set out on the Council’s decision notice, which contains a similar description to that on the application form):

“Repair, refurbishment and conversion of Northaw House to form 11 apartments (including refurbishment of existing single caretaker’s flat) and underground parking area, the Ballroom Wing to form 2 dwellings, the Stable Block to form 1 dwelling, refurbishment of existing dwelling at Oak Cottage, construction of 2 new Gate Lodge dwellings, 4 new dwellings on the East Drive, 3 new dwellings within the Walled Garden, 7 new dwellings within the Settlement Area, refurbishment of the Walled Garden, refurbishment of access routes and reinstatement of old route, provision of hard and soft landscaping, car parking and supporting infrastructure.”

Reasons for Refusal

- 1.4 The Council refused the planning application, on 26th May 2021, for the following reasons (see CD3.6):
- 1. The proposed development, which is located on land designated as Metropolitan Green Belt, would constitute inappropriate development, causing harm to the openness and purposes of including land in the Green Belt, which is by definition harmful to the Green Belt. Additionally further harm is caused to the visual amenities of the Green Belt. No very special circumstances appear to exist which outweigh the potential harm of the development to the Green Belt by reason of inappropriateness, and the other harm identified. Accordingly, the proposal fails to comply with Policies RA10 and D2 of the Welwyn Hatfield District Plan 2005, Policy SADM 34 of the Emerging Local Plan 2016, the Council’s Supplementary Design Guidance and the National Planning Policy Framework.*
 - 2. The proposed development would materially harm the setting of heritage assets on the site. Whilst this is less than substantial harm and there would be a benefit to restoring the heritage assets on the site, it is not considered that this benefit would outweigh the harm identified to the setting and significance of the designated heritage assets on site. As such, the proposal is contrary to Policy SADM15 of the Emerging Local Plan 2016, National*

Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. *The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required financial and non-financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies H2, IM2, M4 and H7 of the Welwyn Hatfield District Plan 2005, Policies SADM1, SP7 and SP13 of the Emerging Local Plan 2016.*

1.5 The Council refused the listed building application, on 26th May 2021, for the following reason (see CD3.7):

1. *The proposed development would materially harm the setting and significance of the Grade II Listed Buildings and whilst this is considered to result in less than substantial harm, public benefits to outweigh the identified harm do not exist. As such the proposal is contrary to SADM15 of the Emerging Local Plan 2016; National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.*

2 General Context for this Appeal

- 2.1 This appeal seeks full planning permission and listed building consent for the repair, refurbishment and residential conversion of Northaw House and adjacent buildings, and additional residential new-build development. The new-build residential development is enabling development, which is required to fund the much needed restoration of the Grade II listed buildings of Northaw House and its Stable Block, and the refurbishment of the walled garden. It is also required to fund the conversion of the listed buildings to residential use, which is their optimum viable use, in order to secure their future preservation.
- 2.2 Planning and listed building consent has already been granted for a similar form of development to that which is proposed by the current appeal. The only differences relate to the omission from those permissions of the 2 Gate Lodge houses, and the 4 East Drive houses. These new-build houses formed part of the proposals which the Appellant discussed with the Council at the pre-application stage, but they were omitted from the proposals which were granted consent, due to the Council's view that they were not required as enabling development. As such, this appeal essentially only relates to these additional 6 houses, as the remainder of the proposed development has already received consent.
- 2.3 The Appellant has not accepted the Council's view of the amount of enabling development required. However, they have also always been mindful of the need to protect the listed buildings, and to make progress in working to secure their future. The Appellant took the pragmatic decision to accept the limited planning and listed building consents on offer from the Council, and purchase the site, in order to allow them to get underway with the initial phase of enabling development, and to undertake initial works to protect the listed buildings and curtilage listed walled garden.
- 2.4 Construction is currently underway on the new-build housing in the Settlement Area (see Section 3 below, and the Planning Design and Access Statement, for an explanation of the different character areas within the site). Further construction work is planned with the new-build housing within the Walled Garden, and the refurbishment and extension of Orchard Cottage. This enabling development will provide some funding for the repair of the listed buildings and curtilage-listed structures, to prevent further harm occurring to them in the foreseeable future. However, the development which has been approved to date will not provide sufficient funding to complete the repair and restoration of the listed buildings, and convert them to residential use. Further enabling development is required to bridge this funding gap. The Appellant's position on this matter has been consistent throughout the pre-application and planning process.
- 2.5 The Appellant also considered it essential to return the wider site to an active use, to help prevent further damage to the listed buildings; this had been occurring whilst the site was unoccupied, due to the theft of bricks from walls within the site, and lead from the roof of Northaw House. These thefts have led to damage to Northaw House and the loss of historic fabric. This damage was highlighted to the Council in the planning application documents, and the Appellants have acted decisively to ensure that the damage was stopped and the buildings protected. The construction of enabling development is a continuation of their positive custodianship of the site as a whole.

- 2.6 It is also important to note that the existing planning and listed building consents (and the associated S106 agreement) allow the Appellant to construct and sell 12 dwellings, without any obligation to refurbish or convert the listed buildings and place them in their optimum viable use. As LW Developments do not consider that this is currently financially viable, there is no realistic prospect of these works occurring if this appeal is refused. However, rather than walking away, they have continued to press for the enabling development which is required, in the face of the Council's opposition, and this has included funding a further planning application and now this appeal.
- 2.7 If this appeal were to fail, then there is no realistic prospect that the listed buildings will be converted to their optimum viable use¹. The buildings' recent history has demonstrated that the buildings' current use, as offices, is not capable of ensuring their protection in the long-term, and it is only a residential use which can achieve this. The buildings have deteriorated over the course of the last 20 years or so. The Council accepted the need for residential enabling development in their determination of a 2004 planning application (S6/2004/0573/FP, CD3.8) in 2009, though only after having fought hard to reduce the amount of enabling development. That development was not implemented, and the permissions lapsed, as the level of development approved was not financially viable. The condition of the heritage assets has deteriorated noticeably since that time, and the cost of their refurbishment as a consequence will now be higher. Whilst the Council have not been able to resist the principle of enabling development, their consistently negative approach, in seeking to severely restrict the amount of enabling development which can be provided, has nevertheless put the heritage assets at risk.
- 2.8 This Statement of Case sets out the case in favour of the proposed development, and responds to the Council's reasons for refusal. It demonstrates that the Council's concerns are unfounded, and that the balance of planning considerations lies firmly in favour of allowing this appeal, and saving these heritage assets, rather than allowing their degradation to continue further.

¹ For a discussion of why the proposed use is the optimum viable use in this case, see Section 3 of the Heritage Statement (CD1.14), and Section 6 of the Planning, Design and Access Statement (CD1.3).

3 The Appeal Site

Heritage Assets

3.1 Originally known as Nyn Lodge, Northaw House sits at the centre of its own estate. The appeal site contains all of the land which is now associated with this estate, and it is around 10 Ha in area. The layout of the site and surrounding area are shown on the map below, which also identifies the location of the designated heritage assets within and adjacent to the appeal site.

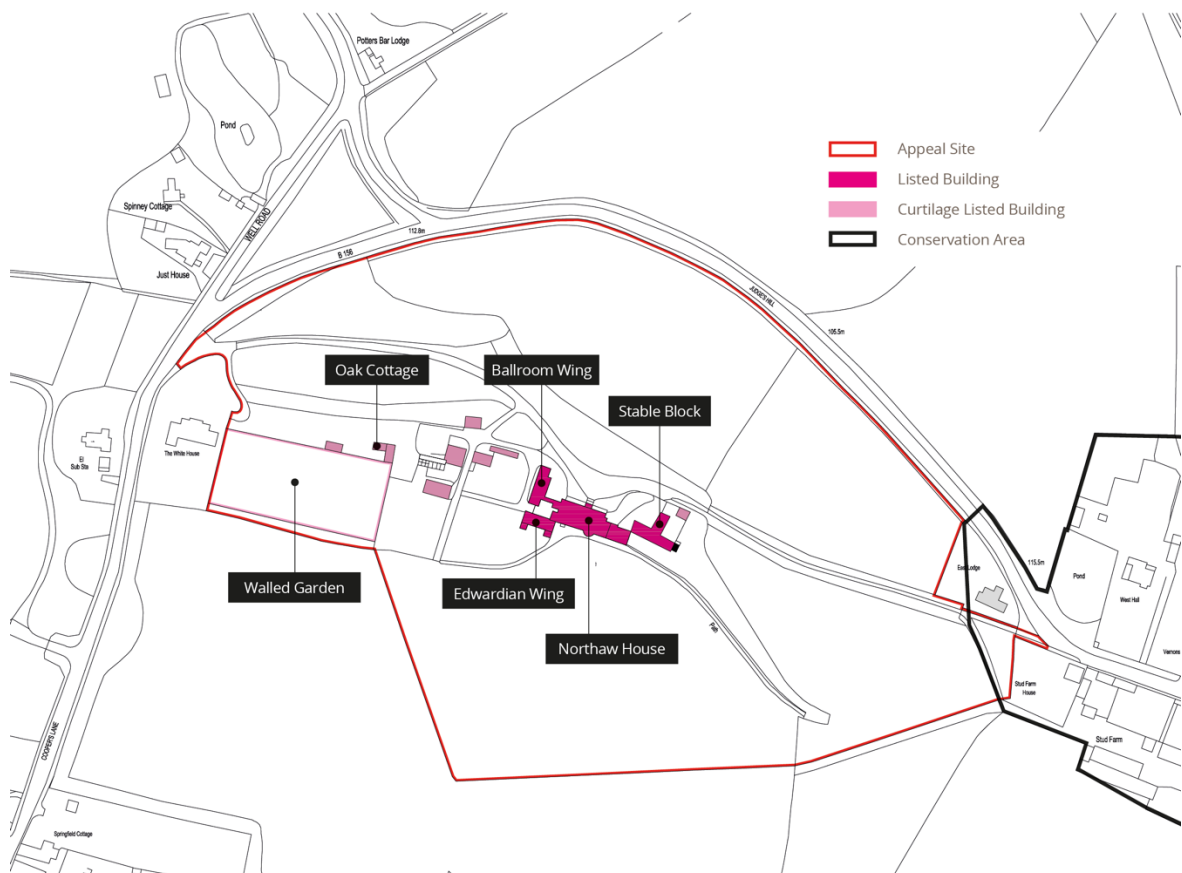


Figure 1: the appeal site boundary and designated heritage assets

3.2 Northaw House and its associated Stable Block are both Grade II listed buildings. Several curtilage listed buildings and structures also exist within the appeal site. The eastern boundary of the appeal site overlaps with the Northaw Conservation Area, which covers the nearby village, but generally excludes the appeal site. The Conservation Area, the listed buildings of Northaw House and the Stable Block, and other curtilage listed structures and buildings are all designated heritage assets. Further details of these buildings and their heritage significance are set out in the Heritage Statement (CD1.4 & 1.5).

3.3 The appeal site is also designated as an Archaeological Area of Significance (AAS 42) in the Welwyn Hatfield District Plan 2005. The Archaeological Desk Based Assessment (CD1.6) considers the potential for below-ground archaeology.

Recent History

- 3.4 Northhaw House and the attached Ballroom Wing were used as offices for an Architectural practice (Architects Co-Partnership), from 1972 to 2014, when the practice ceased to trade. The building's previous use as offices did not provide the investment that was required to maintain the historic buildings in a good condition. The building has been vacant since 2014.
- 3.5 It is not realistic to expect that Northhaw House could now return to its original use as a single residential dwelling, given the substantial cost of purchasing and repairing the property. There are very few individuals who would be capable of purchasing such a property. It was marketed for several years, following the grant of planning permission for its change of use to form residential accommodation, with some enabling development, in 2009 (see below). However, no prospective purchaser considered that the planning permission would result in a viable development, and it remained unsold. The Appellant was the only serious purchaser to emerge through several years of marketing. LW Developments acquired an option to purchase the site, subject to the grant of planning permission for the repair, refurbishment and residential conversion of Northhaw House and the adjacent buildings, and additional new-build residential development. Following this, they engaged in 2.5 years of pre-application discussions with the Council, in the lead-up to the previous applications (6/2019/0217/MAJ and 6/2019/0218/LB), during which time they had to pay to extend their option agreement due to the time this process took. They became involved because they are a local company, whose Directors were familiar with the site, and they wanted to do what they could to protect the listed buildings.
- 3.6 Unfortunately, Northhaw House has been subject to the theft of lead from its roof, which has significantly worsened its condition in the years since it has become vacant. There have been various acts of destruction and theft of materials from the buildings and the boundary walls, including bricks from estate walls. Since taking control of the site, the Appellant has taken precautionary action to protect the building from further damage, by constructing scaffolding and a temporary metal roof, to prevent any further water damage to the building. They have also based their offices within the site, and put security measures in place in an attempt to prevent further thefts and damage to the heritage assets. Most recently, they have begun the construction of some development, which will ultimately help to protect the heritage assets by providing a constant presence within the site.
- 3.7 The Stable Block is also in a very poor condition, having been left without an active use for many years, with little or no investment in its maintenance. It is currently considered unsafe and inaccessible due to its poor condition, and it has been identified as a dangerous structure. The Appellants have undertaken initial work to safeguard its structure from further deterioration, but its repair and refurbishment will require a substantial amount of funding.

Recent Planning History

- 3.8 Details of the site's planning history are set out within section 2 of the Planning, Design and Access Statement (CD1.3). Of particular relevance to this appeal are three previous applications, which have seen planning and listed building consent being granted for the residential conversion of Northhaw House and the Stable Block, and new-build enabling development within the wider site, to provide funding for the repair and conversion of these buildings.

- 3.9 Applications S6/1999/1099/FP and S6/1999/1100/LB sought to convert the Stable Block into a house. It proposed the demolition of some single-storey elements of the building, and their replacement with a new extension and garage. In addition, a new Western Gate Lodge was to be constructed of a similar design, in the position where the foundations had already been laid (in accordance with a previous planning application from the 1970's). When considering this application, Officers concluded that *"with regard to the conversion of the stable, a residential conversion is realistically the only option for restoring the building which has suffered from neglect"*. The stable block was not renovated at this time, but the consents remain extant, as they were implemented, with one of the two gate lodges having been constructed.
- 3.10 Planning and listed building applications S6/2004/0572/LB and S6/2004/0573/FP proposed the conversion of Northaw House and the Stable Block, each into a single dwelling, the Ballroom Wing into 3 dwellings, the extension and alteration of Oak Cottage, and 7 new-build dwellings within the wider site. These applications were submitted to the Council in April 2004, but it took the Council 3.5 years, to November 2007 to consider them at a meeting of their Planning Committee. It then took a further 2 years to issue a decision, in October 2009, following the signing of a s106 agreement. The issue with these applications appears to have been tension between the Council and the Applicant over the detail of the proposals, and the extent of enabling development which would be allowed. For instance, the Council insisted on Northaw House being used as a single dwelling, rather than the original proposals to convert it into 8 apartments. The lengthy delay in signing the s106 agreement appears to have related to the Applicant's hesitancy to accept a consent which they feared was not financially viable; these fears were realised when they were unable to sell the site prior to the consents expiring, despite marketing the property.
- 3.11 As we have mentioned above, the Council have also granted planning permission for proposals which are almost identical to the current appeal proposals, other than the omission of the 2 new-build gate lodges and 4 East Drive houses (applications 6/2019/0217/MAJ and 6/2019/0218/LB). These houses were included in pre-application discussions with the Council, but they were omitted due to the Council's view of the financial viability case. LW Developments first took the decision to omit the East Drive Houses from the applications, in order to allow for discussions to progress with the Council over the remainder of the development, after the Council had made it clear that they would not support an application which included these houses. The Council's position then changed once the application was submitted, and they stated that they required the Gate Lodges to be omitted, if they were to support the applications. Again, LW Developments took a pragmatic decision to remove these houses, so as to secure planning and listed building consent for the remainder of the proposed development. However, they stated to the Council again at that stage that the development was still not financially viable. LW Developments have found it necessary to submit the current application, which seeks all of the new-build housing originally proposed.

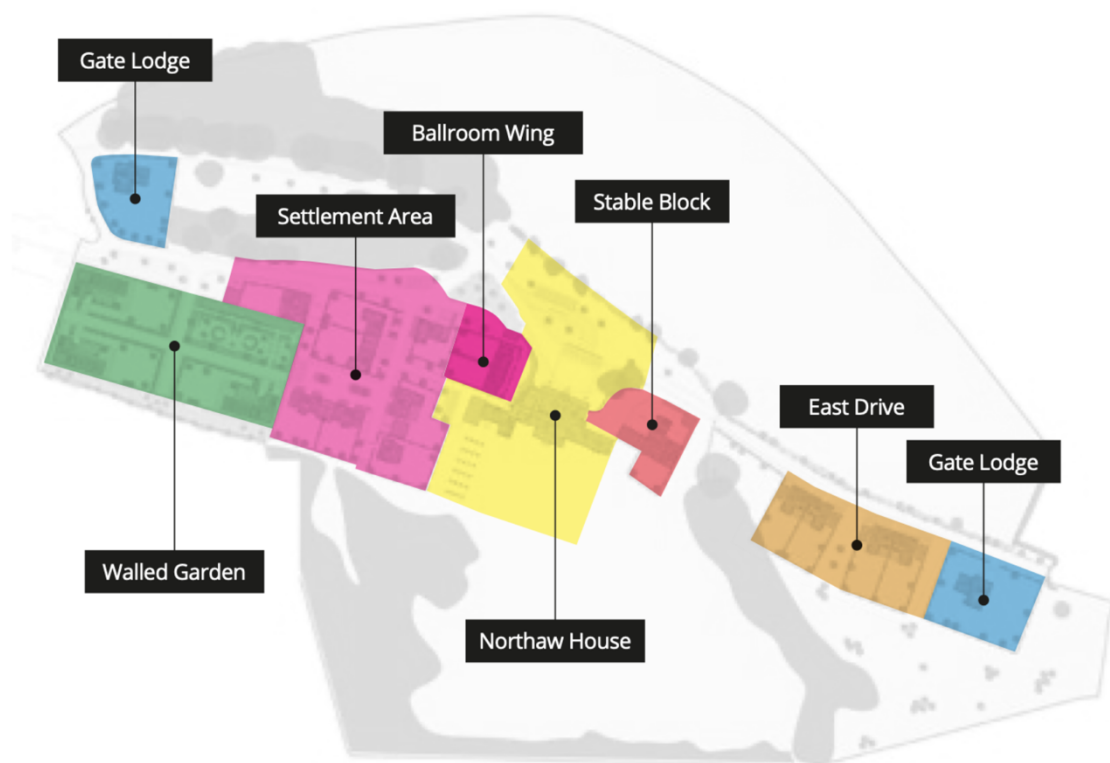
The Lawful Use of Northaw House

- 3.12 The Viability Appeal Statement by Bailey Venning Associates, at Appendix 1 to this Statement, notes that the Council's viability advisers, Aspinall Verdi, have based their views in part on a contention that Northaw House no longer has a lawful use. This view is based on the idea that, by implementing the existing planning consent, through construction of the new homes in the Settlement Area, Northaw House has lost its established use as an office. The existing consents allow for Northaw House to be converted into residential apartments. However, that conversion has not yet taken place, and indeed it cannot yet lawfully take place, as the relevant pre-commencement conditions relating to the listed building consent, have not yet

been discharged. As things stand, Northaw House has not been altered, and the work which has taken place relates to another part of the application site. A change of use to residential apartments will not be affected until those conversion works are undertaken. At present, Northaw House retains its established office use, and that remains its lawful planning use.

Character Areas

- 3.13 The Planning, Design and Access Statement explains the appeal proposals in relation to different character areas within the site. Details of these areas, both as they are, and as the proposed development would relate to them, are set out within that document. The plan below, taken from Section 2 of the Planning, Design and Access Statement, shows their location within the site. Reference is made to these areas throughout this statement.



Character areas within the appeal site

Accessibility

- 3.14 The appeal site is currently served by a vehicular access from Judges Hill, on its western boundary. A further access is available on the site's eastern boundary, also onto Judges Hill, at the point of a mini roundabout and the entrance to the village. Details of the proposed access arrangements are set out in Section 5, and in the Transport Statement by KMC Transport Planning.
- 3.15 Northaw contains a range of facilities for local people, including a pre-school, primary school, village hall, church, pub and restaurant. As such, many local trips can be accommodated with facilities within walking distance of the village's population.

- 3.16 Northhaw Church of England Primary School and Squiggles Pre-School are both within walking distance of the appeal site. There are several secondary schools in Potters Bar, all of which are accessible by car. Transport to Dame Alice Owen's Secondary School is provided on the 242 bus, with additional runs for school children during term time.
- 3.17 The nearest towns are Cuffley and Potters Bar. Both are around 1.5 miles from Northhaw, and are easily accessed via a short journey by car or bus. They each host a variety of schools, supermarkets, shops, service providers and recreational activities, as well as a variety of employment opportunities.
- 3.18 The nearest bus stops are within a 5-minute walk of the site, close to its western entrance, and in the village around 300m to the east of the site. The Transport Statement contains details of the timetable for the 242 bus, which travels from Waltham Cross to Potters Bar several times a day.
- 3.19 Potters Bar railway station has a direct line to London Kings Cross, which currently departs every 30 minutes, and takes a maximum of 19 minutes to complete the journey. The frequency of this service appears to have reduced, from every 10 to 15 minutes at the time the application was made, presumably due to the reduced demand for rail travel following the coronavirus pandemic. Cuffley Railway station also offers train links on the Great Northern Hertford Loop, running services to Finsbury Park, Moorgate, Hertford and Stevenage.
- 3.20 Whilst it is likely that residents within the site would make some journeys by car, this would not be unlike those made by the residents of many towns. For instance, supermarket shopping is typically undertaken by car or via home delivery due to the weight of bags. In any case, we note that the National Travel Survey 2015² records that the national trend is for 76% of trips under 1 mile to be made on foot, and that an average walking trip is 18 minutes in duration; this would be sufficient to reach the nearby bus stops, primary school, and pub. A walk to Potters Bar High Street, along the footpath on Cooper's Lane, would be 1.2 miles in length, and would take approximately 25 minutes.

² <https://www.gov.uk/government/statistics/national-travel-survey-2015>

4 Planning Policy Context

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications and appeals to be determined in accordance with the development plan, unless material considerations indicate otherwise. We consider both the policies of the development plan and the relevant material considerations below, and throughout this Statement.

Welwyn Hatfield District Plan (2005)

- 4.2 The District Plan is now becoming very old, in planning terms, at 16 years. Its policies are not only based on long outdated national policies, but also the Hertfordshire Structure Plan, which was itself adopted in 1998. The evidence base behind the Structure Plan dates from the 1990s, and this has serious implications for the relevance of the District Plan in some respects, such as in relation to the provision of housing.
- 4.3 A more comprehensive consideration of the District Plan is contained within the Planning, Design and Access Statement, and we have not sought to repeat that information here. Rather, we comment on the policies which we consider to be the most relevant to the determination of the appeal.
- 4.4 The appeal site lies within the Metropolitan Green Belt which surrounds London, as is the case with the majority of the Borough's rural areas. The Council's first reason for refusal relates to alleged harm to the Green Belt, and this is discussed further in Section 6 below. Policy RA1 concerns development in the Green Belt, but it is not a saved policy, and so it no longer forms part of the adopted development plan. Accordingly, it is not referenced in the Council's reasons for refusal, and these refer to policies relating to landscape character (R10) and character and context (D2), and a policy from the emerging Local Plan (SADM34); we comment further on these policies in Section 6, where we discuss the relevant reason for refusal.
- 4.5 The site also lies adjacent to the village of Northaw, which is washed over by the Green Belt. The village is identified by the adopted District Plan as one of the more sustainable villages within the Borough, *"with a degree of self-sufficiency"* (CD4.1, paragraph 15.6). Policy RA2 (which is saved) allows for new development within the village *"to accommodate the specific needs of the settlement and the surrounding local rural area for housing, employment, local facilities, services and leisure"*. We explain in Section 9 below that the need for housing is very pressing. The District Plan does not define a village envelope within which Policy RA2 is relevant, and this matter is left open to interpretation. We consider that the provision of housing in this location accords in principle with this policy, and this is also discussed in the Planning, Design and Access Statement (CD1.3); interestingly, despite this policy having been highlighted in the application submission, it is not mentioned in the Council's delegated officer report (CD3.5).
- 4.6 The appeal site is not allocated for residential development by the adopted District Plan. As such, any new homes would comprise *"windfall development"*. Policy H2 concerns windfall residential development, and it is considered both in the Planning, Design and Access Statement which accompanied the application (CD1.3, paragraphs A1.67 – A1.69) and also the Officers' delegated report (CD3.5). Officers conclude that the proposed development would comply with the Policy's criteria (i), (ii) and (iv), relating to the availability of previously

developed land, accessibility by non-car means, and the demand it would provide for local services and infrastructure. Officers conclude as follows with regard to Policy H2:

“In principle the site could be suitable for new residential development, subject to the proposals impact upon the existing environment and the development’s ability provide appropriate infrastructure to appropriately support the development.”

- 4.7 Whilst the Council’s conclusions differed from our own, with regard to the acceptability of the proposed development’s effect on heritage assets and the Green Belt, it is clear from the above quote that if the Inspector should agree with the Appellant on these matters, the proposed development would accord with Policy H2.

Emerging Welwyn Hatfield Local Plan

- 4.8 The Council began production of its new Local Plan in 2006, and it took over a decade before it was finally submitted for examination, in May 2017. That examination remains ongoing, and we understand that it is now the longest-running Local Plan examination in the country. The essential reason for the delay in completing the examination process is the Council’s reluctance to allocate sufficient housing to meet the need for development. This matter has been subject to lengthy discussions in examination hearings, and the examining Inspector has set out his views on the level of housing required. Despite this, the Council have consistently failed to identify sufficient housing, and the most recent proposals fall short of the total level of housing which the Inspector has indicated is required, by around 1,750 dwellings.
- 4.9 Most recently, the Council have indicated that they are pausing work on the emerging Local Plan, pending discussions with the new Secretary of State for Levelling Up, Housing, and Communities, over whether the housing target can be reduced (see the Council’s letter to the Inspector of 15th October 2021, at CD4.4). Whilst the Secretary of State’s response is not yet available, it is clear that the Council have shown, over the course of several years, that they are reluctant to progress with the production of a new Local Plan which will inevitably have to remove land from the Green Belt; it is apparent that they are not prepared to actively meet the need for new homes.
- 4.10 In light of this, it cannot be concluded that the emerging Local Plan is in any way close to being adopted. An Inspector considering a recent appeal, at Roundhouse Farm, Colney Heath, commented as follows in this regard³:

“Turning to consider the position at WHBC, the adopted plan dates from 2005, some 16 years ago. The emerging plan was submitted for examination some 4 years ago. As was outlined during the inquiry, Interim Findings issued by the Inspector in October 2020 and subsequent round up notes issued by the Inspector in March 2021 set out that findings in relation to the FOAHN, windfall allowance and green belt boundaries at proposed development sites are yet to be issued. As a result, I am unable to conclude with any certainty when the WHBC Plan will be found sound and as such attach very limited weight to this emerging plan.”

- 4.11 The weight which can be accorded to the policies of emerging Local Plans in decision-taking is explained at paragraph 48 of the NPPF, which explains that the stage of preparation of the emerging Local Plan, the existence of unresolved objections and consistency with national

³ APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926, paragraph 62 (CD6.1).

policy are all relevant considerations. In the case of the Roundhouse Farm appeal, the Inspector gave the emerging Local Plan “*very limited weight*”. We consider that the Inspector’s conclusions remain entirely valid and relevant in the context of the current appeal.

National Planning Policy Framework (July 2021)

- 4.12 The planning and listed building applications were determined under the previous version of the NPPF (February 2019), but this has since been superseded by the July 2021 version. There have not been any significant changes to the paragraphs which are of the greatest relevance to this appeal.
- 4.13 Paragraph 11 of the NPPF concerns the presumption in favour of sustainable development. We explain below in Section 9 that this is engaged in this instance for two reasons. Firstly, this is because the Council are unable to demonstrate a 5-year supply of housing land, plus appropriate buffer (20% in this case), in accordance with paragraph 74 of the NPPF. Secondly, it is engaged because the number of new homes delivered within the Borough has fallen below 75% of the required level, according to the Government’s Housing Delivery Test 2020. This has the effect of rendering the policies which are the most important for determining the appeal out of date, in accordance with footnote 8 of the NPPF. In this context, paragraph 11(d) of the NPPF is engaged, which states that planning permission should be granted unless one of the following circumstances apply:
- i. “the application of policies in this Framework that protect areas or assets of particular importance provides a clear 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 this Framework taken as a whole.”*
- 4.14 Neither of these circumstances apply to this appeal. With regard to (i), the proposed development complies with policies relating to development within the Green Belt, and designated heritage assets. With regard to (ii), the proposed development also accords with the policies in the NPPF taken as a whole. We explain these matters further throughout the course of this statement.
- 4.15 Also of particular relevance to this appeal is national policy relating to development within the Green Belt. Paragraphs 147 and 148 relate to development which affects the Green Belt.
- 147 “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*
 - 148 When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*
- 4.16 Case law relating to very special circumstances to justify development within the Green Belt is discussed at Appendix 1 of the Planning, Design and Access Statement (CD1.3).

- 4.17 Paragraphs 149 and 150 set out forms of development which are not considered inappropriate within the Green Belt. These include the following:
- 149 c) *“the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
 - 149 d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
 - 149 e) *limited infilling in villages;*
 - 149 g) *limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - *not have a greater impact on the openness of the Green Belt than the existing development;*
 - 150 d) *the re-use of buildings provided that the buildings are of permanent and substantial construction.”*
- 4.18 National policy in relation to heritage assets is also of great relevance to this appeal. Paragraph 189 notes that heritage assets are *“an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”*. Paragraph 190 notes *“the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation”*; and it recognises *“the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring”*.
- 4.19 Paragraph 197 states that, when determining applications, local planning authorities should take account of:
- a) *“the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
 - c) *the desirability of new development making a positive contribution to local character and distinctiveness.”*
- 4.20 Paragraph 199 states that:
- “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*
- 4.21 Paragraphs 200 to 204 concern substantial and less than substantial harm to heritage assets. Paragraph 201 concerns substantial harm. It is common ground that no substantial harm

would be caused in this case; such harm is equated to the “total loss of significance” of a heritage asset. Paragraph 202 concerns less than substantial harm, and states:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

4.22 Paragraph 208 sets out national policy with regard to enabling development in relation to the conservation of heritage assets:

“Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”

4.23 Policies relating to heritage assets are discussed further in the Heritage Appeal statement by HCUK, at Appendix 2.

5 Summary of the Case for the Appellant

- 5.1 At the heart of this appeal is the question of whether the proposed amount of enabling development is necessary to pay for the repair and refurbishment of the listed buildings and curtilage listed structures, and for their conversion to residential accommodation. It is agreed that these works are necessary, as the listed buildings are currently at risk, and this would protect them from further decay, and provide them with a viable future. As we have noted above, most specifically, the Council's objection relates to the additional enabling development of 2 Gate Lodges and 4 houses on the East Drive, as the remainder of the proposed development already has consent. The appellant's case in relation to each of the Council's reasons for refusal is summarised below.

Financial Viability

- 5.2 It is relevant to the consideration of compliance with policy requirements relating to both heritage and Green Belt matters that the proposed development should be the minimum amount necessary to provide a financially viable development. The Viability Appeal Statement by Bailey Venning Associates at Appendix 1 sets out why the Council and their advisers are mistaken in this regard, and that the proposed enabling development is the minimum amount required to secure the proposed heritage benefits.

Green Belt

- 5.3 The Council alleges that the proposed development is not supported by the very special circumstances required to justify development within the Green Belt. They also allege harm to the openness, purposes and "visual amenities of the Green Belt".
- 5.4 The Council's assessment of the visual effects of the proposed development has been formed without the benefit of any specialist professional advice, and in contrast to the view formed by the professional Landscape and Visual Impact Assessment (LVIA) provided with the application, which followed the Landscape Institute's guidance. The Council have also taken no account of the potential for new landscape planting to provide mitigation. The LVIA demonstrates that the proposed development would not have the significant effects which the Council allege on the character of the local landscape, and it would not be anywhere near as visible as the Council assume.
- 5.5 We demonstrate that the proposed development would not cause any harm to the purposes of the Green Belt. The Council's conclusions in this regard ignore important considerations, such as the high level of need for housing, which means that approving these houses will have no effect on the impetus for urban regeneration.
- 5.6 With regard to very special circumstances, we note that when the Council approved the recent applications, in January 2020, they concluded that these existed to justify that development. The circumstances which they relied upon related to the heritage benefits the proposals would bring. However, in granting consent, the Council failed to secure those benefits. The consents which the Council have issued only require the repair, refurbishment and conversion of the listed buildings following the construction of the 13th dwelling, and the Appellant could

in theory walk away following the construction of the 10 new-build houses which have been approved. The only means by which these heritage benefits could be provided would be by allowing the current appeal.

- 5.7 The Council previously failed to give any weight to various other factors which we set out in our Planning, Design and Access Statement (CD1.3, Section 7), all of which add weight to the very special circumstances in this case. One of these factors, of particular note, is the provision of new homes, which would help to meet an identified need. An appeal relating to land at Roundhouse Farm, Colney Heath, within both Welwyn Hatfield Borough and St Albans District,⁴ has since been allowed on a greenfield site in the Green Belt, where planning permission was granted for 100 homes, on the basis of the need for housing. The Inspector considering that appeal gave *“very substantial weight”* to the provision of market housing, due to the very high level of unmet need. This is a further matter which adds considerable weight to the totality of very special circumstances which support the appeal proposals.
- 5.8 It is very clear that the Council have failed to give full weight to the relevant very special circumstances, and that the case in favour of the proposed development is far stronger than they have acknowledged. We consider it is clear that the necessary very special circumstances exist to justify the proposed development, and the appeal proposals would accord with the relevant planning policies and guidance relating to development within the Green Belt.

Heritage Assets

- 5.9 The Council allege that the proposed development, meaning the additional new-build development proposed in the Gate Lodges and on the East Drive, would harm the setting of the listed buildings, and cause less than substantial harm, which would not be outweighed by other benefits.
- 5.10 The Council’s argument rests on the assumption that the heritage benefits, of the repair and restoration of the listed buildings, and their conversion to residential use, could be achieved through the existing consents. As we have noted above, this is not the case.
- 5.11 The Heritage Appeal Statement by HCUK, at Appendix 2, concludes that the appeal proposals would be no more harmful to the significance of the listed buildings than the development which has already been approved. This also concludes that the proposals are compliant with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF.
- 5.12 If this appeal is not allowed, it will not be possible to secure the listed buildings’ future, and they will be placed in significant jeopardy. This is a reality which the Council have failed to recognise, and it is one which indicates that the appeal must be allowed.

Planning Obligations

- 5.13 The Council have stated that the proposed development would fail to satisfy the sustainability aims of the plan and secure the proper planning of the area due to the lack of a legal agreement securing enhanced financial contributions towards education, library, youth and bin facilities and the provision of fire hydrants, and affordable housing.

⁴ APP/B1930/W/20/3265925, Roundhouse Farm, Colney Heath, June 2021 (CD6.1).

- 5.14 The Council's suggestion that affordable housing should be provided ignores the fact that the adopted District Plan makes no policy requirement for affordable housing provision in this location, and it is only the draft Local Plan which requires this. The draft Local Plan is a material consideration which a recent appeal decision has confirmed can be accorded only very limited weight. Paragraph 65 of the NPPF does indicate that 10% affordable housing should normally be provided in major developments, but paragraph 208 of the NPPF also states that in cases of enabling development, such as this appeal, consideration must be given to whether the heritage benefits would outweigh the disbenefits of departing from policies such as this. Providing additional affordable housing would clearly place a greater financial burden on the development, and necessitate additional enabling development. This would clearly be illogical, and it would conflict with policies relating to heritage assets and the Green Belt. The Council accepted, when determining the previous applications, that affordable housing should not be provided, and nothing has changed in this regard.
- 5.15 A legal agreement or undertaking will be provided to pay for the other planning obligations which have been requested.

Benefits

- 5.16 The proposed development would provide a range of benefits. These would include the preservation of the heritage assets within the site, through their repair, restoration and conversion. This would both reverse many years of physical decline, and also give them a new active use, their optimum viable use, which would ensure their future maintenance and preservation. This is a matter which we consider should be accorded very substantial weight in the planning balance.
- 5.17 The proposed dwellings would also help to meet a pressing need for housing within the Borough. There is a substantial and longstanding shortfall in the supply of housing. The Council have identified only a 2.58 year supply of housing land (and the situation may well be somewhat worse than that), whilst the Housing Delivery Test has also been failed; these are both factors which engage the presumption in favour of sustainable development. As we have noted above, these factors have recently led an Inspector to allow an appeal for housing on an unallocated greenfield Green Belt site purely on the basis of housing need, the first time such a decision has been made nationally for well over a decade. That Inspector gave very substantial weight to the provision of market housing, and the same should be the case in relation to the current appeal.
- 5.18 The proposed development would also bring a number of other benefits, including in terms of employment and demand for local services (economic benefits), and highway safety improvements, which we consider should be accorded moderate weight.

Planning Balance

- 5.19 The appeal proposals accord with the policies of the adopted development plan, where relevant policies exist. They also accord with national policies and guidance. The presumption in favour of sustainable development automatically applies due to the poor supply and delivery of housing. There are no reasons for this not to apply, due to the proposals' compliance with policies relating to the preservation of heritage assets and development within the Green Belt. There are also many strong reasons for allowing the appeal. We consider that it is clear the proposed development should be granted without further delay.

6 Green Belt

Reason for Refusal

6.1 The Council's first reason for refusal is as follows:

1. *The proposed development, which is located on land designated as Metropolitan Green Belt, would constitute inappropriate development, causing harm to the openness and purposes of including land in the Green Belt, which is by definition harmful to the Green Belt. Additionally further harm is caused to the visual amenities of the Green Belt. No very special circumstances appear to exist which outweigh the potential harm of the development to the Green Belt by reason of inappropriateness, and the other harm identified. Accordingly, the proposal fails to comply with Policies RA10 and D2 of the Welwyn Hatfield District Plan 2005, Policy SADM 34 of the Emerging Local Plan 2016, the Council's Supplementary Design Guidance and the National Planning Policy Framework.*

Appropriate Development

6.2 The Council's delegated officer report notes that the majority of the proposed development already benefits from planning and listed building consent, and so *"it is not necessary to reassess these aspects of development here"*. We agree with this view, and as with the officer report, our comments below relate only to the additional enabling development proposed, namely the 2 Gate Lodges and the 4 East Drive houses.

6.3 The Council's delegated officer report concludes that these proposed houses would not fall within the exceptions set out at paragraphs 145 and 146 of the NPPF 2019 (these are now paragraphs 149 and 150 of the NPPF 2021, reproduced in Section 4 above, and the wording has not changed). We do not disagree with this assessment.

6.4 As a consequence, the delegated officer report concludes that the proposed development falls within the category of inappropriate development within the Green Belt. As we have noted in Section 4, paragraph 148 of the NPPF states that inappropriate development can be justified, where there are very special circumstances which clearly outweigh *"the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting for the proposal"*. The matter in contention with regard to this appeal is whether these very special circumstances exist, and we discuss this further below.

Openness

6.5 The delegated officer report makes reference to case law and the Government's Planning Practice Guidance, relating to the way that the visibility of development can affect the openness of the Green Belt. It draws a distinction between the new development within the site which has already been approved, and the Gate Lodges and East Drive houses, noting that *"As the majority of the new residential development would be located within Northaw House, and immediately around it, it is judged that these changes within the site would have a moderate impact on the generally open and unobtrusive nature of the wider site."* It then goes on to contrast this with the land on which the East Drive houses and Gate Lodges are proposed, as follows:

“In contrast, the two gate houses at both entrances of the site and the four houses located to the east of Northaw House would be located within parts of the site that are currently open and undeveloped. In addition, the four dwellings proposed to east of Northaw House in a prominent location because they would be located on a natural ridgeline which runs from Northaw House to Northaw village. As a consequence this means that they are on land that is significantly higher than the land to the north of site and would be visible from extensive views from outside the site from several public vantage points. As a consequence, the creation of these six additional new dwellings over those already approved, as well as their domestic curtilages would significantly alter the open and undeveloped parts of the site where they are located within.

In addition to the physical form of the new dwelling, the introduction of dwellings would markedly change the character and appearance of the parts of the site that they are located within from one that is quite typical of countryside to one that is overtly residential in nature. Although their proposed curtilages would not be extensive, outdoor areas would be likely to have an element of associated domestic paraphernalia. It is considered that the addition of further enclosing boundary treatments and ancillary domestic structures, patio areas, residential-style landscaping, play equipment, washing lines and a range of other domestic paraphernalia would be probable in the event that planning permission were granted for a residential use. All of these, as well as additional vehicles parked on the site, would be incongruous additions to the character of the site and would not be in keeping with the rural landscape.

Whilst permitted development rights could be removed by condition and this may go some way towards limiting the impact on the openness, character and appearance of the site. The harm would not be entirely overcome and it remains questionable how effective these measures would be especially in terms of enforceability.

As a consequence of the above it is considered that the amendments proposed within this application would mean that the proposed development would result in a substantial reduction in the openness of the Green Belt.”

- 6.6 The report goes on to comment that these houses would also change the character of the landscape, by introducing new development to an area which is currently open.
- 6.7 The Council’s analysis, in the delegated officer report, highlights what they consider to be the differences between the approved development within the Settlement Area and the Walled Garden, and within the listed buildings themselves, and the additional development now proposed in the East Drive houses and the Gate Lodges. They contend that these additional houses would be far more visible than the approved development, and that they are in areas which are both currently open and undeveloped, and in which introducing a new residential use would change the character of the local landscape.
- 6.8 These applications were accompanied by a Landscape and Visual Impact Assessment by Landscape Collective (CD1.19), which follows the Landscape Institute’s best practice guidance, including the Guidelines for Landscape and Visual Impact Assessment (3rd Edition). This professional assessment considers how visible the proposed development would be, and also the effect it would have on the character of the landscape. The Council do not have an in-house specialist with similar knowledge, and this is the only professional report on the subject which was before them. However, this document is not mentioned in the Council’s analysis of

the proposed development, and the Council have not, as far as we are aware, ever sought to commission any specialist evidence of their own in relation to this application.

6.9 With regard to intervisibility, the LVIA comments as follows:

“5.20 The level of intervisibility within the landscape surrounding the site varies but is typically low. The layering effect of vegetation and especially the presence of extensive areas of woodland and frequent smaller blocks of woodland all combine to reduce the opportunity for intervisibility within and across the landscape. Views of and into the site are similarly restricted from most locations within the surrounding landscape despite the site’s elevated position. Occasional more expansive views are afforded from more open areas of high ground such as from the Northaw ridge. In the case of the latter, views are afforded south- eastwards as far as Enfield.”

6.10 With regard to landscape character, the LVIA comments as follows:

5.31 “The proposed residential development would not materially change the key landscape characteristics or elements and features, identified in either the published landscape character assessment or the author’s own landscape character assessment. The existing pattern of the wider landscape that provides the landscape with its character, would be retained and would continue to prevail with the proposed development in place.

5.32 The proposed development would be contained within the wider landscape’s existing pattern of large houses of differing architectural styles, lodge houses, areas of settlement, agricultural fields and woodland. The proposals would reinforce one of the key characteristics of the landscape that of built form, and large/country houses being located on ridgelines and would strengthen the connection with Northaw House and Northaw village.

5.33 Although the proposals would bring about some inevitable change to the site, the existing elements and features that currently characterise the site and particularly the existing tree and shrub cover would be retained substantially unaltered with the proposed residential development in place. The topography of the site would be subject to only localised changes and the generally sloping profile of the site would prevail with the new residential development in place. The existing retained vegetation on and around the application site would be included as an integral part of the proposals and would help maintain a degree of visual enclosure to the proposed development. As part of the proposals, the landscape framework of the site and the wider area would be reinforced and enhanced through new planting. The proposed development responds to and would be consistent with the form and scale of existing buildings on site and to other nearby residential properties.

5.34 Overall, the physical characteristics of the surrounding wider beyond the site boundary and its predominantly rural nature would be materially unchanged with the proposed development in place. The wider landscape is accommodating of a wide variety of human influences including built form, infrastructure and settlement but within approximately 2km of the site boundary retains a generally rural agricultural and parkland quality. In this context, the existing pattern and landcover of the local landscape comprising fields, fenced estates and woodland

over a rolling and undulating topography would all continue with the proposed development in place.”

6.11 With regard to visual amenity, the LVIA comments as follows:

- 6.7 *“A detailed visual assessment has been undertaken from the representative viewpoints to determine how the proposed development might influence the visual amenity of the surrounding landscape. The assessment was undertaken as part of the site survey, with the photographic assessment recording the nature of the view and the existing visibility of the application site.*
- 6.8 *The site survey and photographic assessment were undertaken in September 2017. Leaf cover on the existing vegetation was beginning to reduce but visibility through the vegetation was still minimal. Consideration has been given to the effect of the period of the year when the vegetation is bare of leaf cover. The detailed assessment of the effects of the proposed development on the various viewpoints is given in Appendix 1.*
- 6.9 *The visual assessment outlined above demonstrates that views of the proposed development from within the wider landscape would typically be restricted by topography or through the presence of existing built form or vegetation or through a combination of one or more of the above features in the intervening landscape between the visual receptor (person/ people) and the site boundary. Even at a distance of 500 metres or less most potential views of the proposed development would still be restricted.*
- 6.10 *Typically, any proposed residential development on the site would be most evident in close or very close views but would be seen only as discrete elements rather than in its entirety. Existing vegetation on and off the site together with the topography, would act to filter or partially filter views of the proposed housing. The scale of effect for the majority of the representative views would be moderate or less.*
- 6.11 *The intention to reinforce and enhance the retained existing vegetation on the site with new planting would over time, once the planting has become established and begins to develop, help reduce any visual effects. Overall it is considered that the proposed development would have a limited effect that would not be unacceptable on the visual amenity of the wider landscape beyond the application site boundary.”*

6.12 With regard to residential curtilages, the LVIA notes the following:

- “3.23 *To avoid an undesirable fragmentation of the setting of Northaw House and the stable block/coach house, boundary treatments demarking the individual curtilages of the dwellings have been carefully considered. The intention is for planting to be the predominant boundary treatment throughout the proposed development. Hedges and/or shrub planting would typically define the curtilages and rear gardens to the proposed dwellings, supplemented with the more limited use of metal estate fencing and walls as appropriate.”*

6.13 The Council's assessment, in the delegated report, comments on the Council's Landscape Character Assessment, and draws conclusions at a very local level. In contrast with the LVIA,

this analysis is not a specialist professional one, and it has not been undertaken in accordance with the Landscape Institute's best practice guidance.

- 6.14 It is notable that the Council's analysis depends on their conclusions that the site is both open, and that new development in the location of the proposed Gate Lodges and East Drive houses would be highly visible, leading to a "significant" change to the appearance of this part of the site. These comments are in distinct contrast to the professional view set out within the LVIA.
- 6.15 The Council ignore the presence of other nearby buildings, and the way that the proposed houses would be seen in the context of these structures. These existing buildings include both the East Lodge, which would be adjacent to the proposed houses, and the various buildings at the western end of the village, including Stud Farm House, which is also accessed from the East Drive. The LVIA explains that the proposed houses would be seen both in the context of these buildings, and the wider Northaw House estate, which they would be seen as part of. The Council's comments in this regard contrast with their comments on the Settlement Area and Walled Garden houses, which they consider are acceptable, due to the way they would be seen in the context of the surrounding structures; to reiterate, their conclusions on that matter were as follows:
- "As the majority of the new residential development would be located within Northaw House, and immediately around it, it is judged that these changes within the site would have a moderate impact on the generally open and unobtrusive nature of the wider site."*
- 6.16 The LVIA explains that the proposed houses on the East Drive and the Gate Lodges should be considered in a similar way.
- 6.17 The Council's analysis also entirely ignores the potential for new landscape planting, which the LVIA both recommends, and notes would be consistent with the character of the landscape. The Council appear to have attempted to paint a picture which is somewhat more extreme than would realistically be the case, in order to support their point of view.
- 6.18 With regard to the residential curtilages of these houses, the planting proposed would mark their boundaries, in a way which would be entirely appropriate to the character of the site and wider landscape. Details of that planting is set out within the submitted Landscape Masterplan, but it is also possible for a planning condition to be imposed requiring further or altered details to be submitted following the grant of planning consent. Such a condition could specify both the type of planting, and the precise location of the planting, including moving the boundaries of the properties' gardens, should this be considered necessary.
- 6.19 It is clear that the proposed houses would not have the significant effects the Council allege on the character of the local landscape, and they would not be easily visible, particularly following the provision of new planting as mitigation. The Council's comments in this regard are not based on the same type of robust and specialist professional assessment contained within the LVIA, and they cannot be accorded any significant weight in the determination of this appeal. A more appropriate conclusion is that these additional houses should be seen in a similar context to the new-build enabling development which has already been granted consent, and to which the Council clearly have no significant objection in this regard.
- 6.20 Returning to the Council's first reason for refusal, it is clear in light of the evidence within the LVIA that the appeal proposals would create no conflict with Policy RA10 of the District Plan, which relates to the conservation, maintenance and enhancement of the local landscape.

- 6.21 Similarly, there would be no conflict with Policy D2 of the District Plan, which requires new development to respect and relate to the character and context of the area in which it is proposed. This is manifestly the case, in light of both the evidence provided within the LVIA and also the Heritage Statement (CD1.14 & 1.15) and the Appeal Heritage Statement at Appendix 2.

Purposes of Green Belt Land

- 6.22 With regard to the purposes of the Green Belt, the Council's delegated officer report comments as follows:

"The development would not, by virtue of its scale and location, lead to the sprawl of a large built up area, result in neighbouring towns merging into one another or fail to preserve the setting and special character of historic towns. The development by virtue of its residential design, appearance and layout would introduce an urban form of development into the countryside. This urbanisation of the application site would fail to safeguard the countryside from encroachment, contrary to paragraph 134(c) of the NPPF. In addition, both existing and emerging policy seeks to channel development towards larger urban areas away from more rural locations to assist in urban regeneration. To allow this kind of residential development in the Green Belt would encourage a pattern of development in a Green Belt location that is contrary to this aim. Taking this into account, the development fails to assist in urban regeneration by encouraging the recycling of derelict and other urban land. This is contrary to bullet point (e) within paragraph 134."

- 6.23 The Council allege a conflict with the following two purposes of Green Belt land:

"c) to assist in safeguarding the countryside from encroachment;

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land."

- 6.24 Taking purpose (c) first, the Council are wrong to suggest that the East Drive houses and Gate Lodges would *"encourage a pattern of development within the Green Belt"* which would lead to further encroachment of the countryside. The proposed development is clearly a very specific proposal, justified by very special circumstances which relate to the preservation of designated heritage assets. The specific circumstances which relate to this appeal do not provide a template or precedent for further development within the village. In addition, as we have noted in Section 4 above, Policy RA2 of the District Plan envisages that some new development can take place in Northaw, and national policy also allows for limited development, such as infilling within the Green Belt. Limited new development such as this, where it is located in proximity to other buildings and in the context of a village, is not inherently harmful to this purpose of the Green Belt.

- 6.25 With regard to purpose (e), the Council's failure, over the course of many years, to plan to meet the need for housing in this area, has resulted in both a substantial shortfall in the supply of new homes, and also very great pressure for development within urban areas. The Roundhouse Farm appeal, mentioned in Section 4 above, confirmed that the Council's assessment of the supply of housing land, as of June 2021, stood at only 2.58 years (the Appellants in that case claimed it was actually only 1.85 years), against a requirement for 5

years + 20% (effectively 6 years)⁵. We discuss the significance of this further in Section 9 below, but simply note here that the proposed development would have absolutely no effect on urban regeneration within the Borough. The Council refer to their existing and emerging policies. As we have explained in Section 4, the existing policies are hopelessly out of date, being based on housing targets which are over 2 decades old, whilst the emerging Local Plan is currently on hold, and it may well never be adopted, due to the Council's refusal to date to meet the need for housing.

Very Special Circumstances

Overall Case on Very Special Circumstances

- 6.26 Section 7 of the Planning, Design and Access Statement sets out the very special circumstances which were put forward in justification of the planning application. These were themselves based on the very special circumstances which the Council considered, in relation to the earlier applications, justified a similar form of development, albeit without the Gate Lodges and the East Drive houses. They include factors such as the improvements to the condition of the listed buildings, the fact they would be placed in their optimum viable use and their future secured, improvements to (and the maintenance of) the landscape which forms their setting, the provision of housing, economic, highway safety and ecological benefits. We have not sought to repeat here the details of the very special circumstances set out in the Planning, Design and Access Statement, on the assumption that the reader will cross-refer to them, and we consider that they remain entirely relevant in the context of this appeal.

The Council's Consideration of the Previous Applications

- 6.27 In determining the previous applications, the Council concluded that very special circumstances existed to justify what was by definition inappropriate development within the Green Belt. The Council's report to the Development Management Committee (CD3.1) set out the weight which Officers considered should be given to various matters, and the minutes of the committee meeting (CD3.2) do not indicate that Members disagreed with Officers' views with regard to any aspect of their report. The committee report lists the weight accorded to each factor, with "*substantial weight*" accorded to the restoration and preservation of the heritage assets, and it then goes on to note the following:

10.110 "In respect of those matters which weigh in favour of the scheme, subject to the applicant agreeing to a Section 106 Agreement which would require that they fund the restoration of the listed buildings and the permanent management of the application site in its current estate form, which would include a condition removing permitted development rights to create means of enclosure and extension to the houses on the site, it is considered that these aspects of the development would make a very positive contribution to the community and to the wider area. It is therefore, considered that these aspects weigh substantially in favour of the development."

10.113 "In light of the above, it is concluded that very special circumstances do exist, in the form of the restoration of the listed buildings on the site and the permanent management of the site in a form which is similar to the current estate form, to

⁵ See CD6.1, paragraph 48.

warrant a departure from established and adopted Green Belt policies. In addition, further to the above although the proposed development would result in a less than substantial harm to the heritage assets on the site it is judged that as the harm would be decisively outweighed by the benefits of the proposal it would accord with criteria (g) of the English Heritage's guidance discussed above on enabling development and Para. 196 of the NPPF. As a consequence, the principle of the proposed development within Green Belt is therefore considered to be acceptable in this instance as there are other considerations that weigh in its favour."

- 6.28 The committee report also lists other matters, such as ecology and drainage, noting that there would not be adverse effects, but not specifically concluding that there would be a benefit in those regards. It notes that there would be *"enhanced landscape value"* due to the proposals, but it does not say what weight is given to that benefit. Similarly, in relation to highway matters, no specific weight is attributed to any benefit, other than noting that it is *"in favour of the proposal"* due to there being no harm to highway safety. Only *"limited weight"* is given both to the economic benefit of employment generated during the construction period, and additional demand for local services.
- 6.29 It is clear that the Council's conclusion, that the previous applications benefitted from the necessary very special circumstances to justify the proposed new-build development within the Green Belt, rested either entirely, or almost entirely, on the heritage benefits that would be secured. In this regard, it is important to note that the Council considered that approving those applications would secure the restoration and conversion of the listed buildings, and that this formed a critical part of the very special circumstances case. However, by approving the previous applications, the Council did not actually secure this benefit.
- 6.30 The consents which have been granted require the developer to complete the works to restore the listed buildings prior to the occupation of the 13th dwelling within the site. 10 new-build homes are permitted, and these are currently under construction. There is no mechanism by which the Council can require the developer to undertake any specific works on the listed buildings, and it is open to LW Developments to complete the construction of the new-build homes, sell them, and leave the site otherwise untouched. This is not LW Developments' intention, as is evidenced by their pursuit of this appeal. Nevertheless, there is currently no incentive for them to undertake the works required for the repair and restoration of the listed buildings, and to facilitate their conversion to residential use, particularly given their clear view that this would result in them making a substantial financial loss.
- 6.31 The Council's failure to secure the repair, refurbishment and conversion of the listed buildings is contrary to paragraph 208 of the NPPF, which requires enabling development to *"secure the future conservation of a heritage asset"*. The grant of these consents with the limited controls which the Council have put in place is also contrary to Historic England's guidance, contained in their *Good Practice Advice Note 4 (GPA4): Enabling Development and Heritage Assets (CD2.4)*. Paragraph 25 of this document requires enabling development to *"ensure the long-term conservation of a heritage asset is secured"*, and it suggests that planning conditions and obligations should *"ensure the repair and maintenance of the asset can be secured and enforced"*. It requires the funds for the preservation of the heritage assets to be provided *"as early as possible"*, and *"almost certainly before completion of occupation of the enabling development"*. Whilst this Historic England guidance was published after the previous consents were granted, it is nevertheless clear that the Council failed to secure their primary aim in granting consent for the enabling development.

- 6.32 In light of this, the benefits which the Council considered comprised the very special circumstances to justify the new-build housing has not yet been secured, and there is no means by which these benefits can be secured, other than through the approval of this appeal. We consider that these benefits should be accorded very substantial weight in the determination of this appeal.

The Need for and Supply of Housing

- 6.33 As we have noted above, when determining the previous applications, the Council's committee report stated that Officers had not given any weight to the need for housing, and the homes that would be provided by the development. The report commented as follows on this matter:

10.103 "The application has stated that the Council's failure to have a 5-year supply of housing amounts to a very special circumstance in the case of this application.

10.104 It is the Council's position that the ministerial statement 2013, the Courts and the NPPF 2019 are clear that the lack of a five year housing land supply would be insufficient on its own to justify housing on Green Belt land. The ministerial statement from 2013 clarified the government's position on whether unmet housing need overcome Green Belt limitation by stating as follows;

"unmet demand for housing is unlikely to outweigh the harm to the Green Belt and other harm so as to constitute the very special circumstances justifying inappropriate development in the Green Belt." (Ministerial Statement 1 July 2013)

10.105 Although the Ministerial Statement pre-date the current NPPF it is considered that the revisions within the revised NPPF do not alter the significance of them. This is because it is considered that paragraph 11 and footnote 6 make clear that Green Belt restrictions set out within the NPPF should not be overridden by the lack of a five year housing land supply. As a consequence, it is judged that this only provides some weight in favour of the proposal."

- 6.34 This view was also advanced by the Council in relation to the recent appeal at Roundhouse Farm, in June 2021 (CD6.1), where it was rejected by the Inspector, who commented as follows:

"Provision of Market Housing

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the

Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.

48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.

49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas."

6.35 The Inspector did not consider the Ministerial Statement to be a reason for failing to give appropriate weight to the need for housing, within the very special circumstances which were relevant to that appeal. This approach is also consistent with case law on very special circumstances, as outlined in Appendix 1 of the Planning, Design and Access Statement. In addition, the Inspector concluded that the provision of market housing in these circumstances was a matter which should be accorded "very substantial weight". That is greater than the "substantial weight" which the Council accorded to the heritage benefits which led it to grant the previous consents. Given that this was not a matter to which the Council gave any weight in their approval of the previous applications, it is clear that the very special circumstances case is demonstrably stronger than the Council have so far assessed it to be. We discuss the level of housing need and supply further in Section 9 below.

6.36 It is also important to note that the Roundhouse Farm decision represents the first time in over 10 years that any appeal nationally has resulted in the grant of planning permission for housing on a greenfield Green Belt site, which was not a draft allocation, based purely on the need for housing. In this context, it is very clear that the need for housing, and the provision which the appeal proposals would make, is a matter which is not only highly relevant to the very special circumstances case, but which could potentially be considered sufficient alone to justify the additional new-build housing which is proposed.

The Need for Further Enabling Development

6.37 The differences between the applications approved in 2020 and the current proposals relate to the East Drive houses and the Gate Lodges. The view advanced by the Council's viability consultants, Aspinall Verdi, is that this additional enabling development is not required in order to protect the designated heritage assets. This argument is itself examined within the Viability Appeal Statement by Bailey Venning Associates, at Appendix 1 to this Statement of Case.

- 6.38 Bailey Venning Associates conclude that the proposed development is the minimum amount necessary to fund the repair, refurbishment and conversion of the listed buildings to residential accommodation. They note that it is not in dispute that these works, and other repairs to heritage assets (e.g. the restoration of the curtilage listed walled garden wall) are not themselves financially viable, and so it is also agreed that there is a need for enabling development. As they explain, what is not agreed between the Appellant and the Council is the extent of the enabling development required.
- 6.39 When pre-application discussions were taking place, the Council were content to consider the provision of all of the new-build development which is proposed by the current appeal, including the Gate Lodges and the East Drive houses, on the basis that it may be required as enabling development. The Heritage Appeal Statement at Appendix 2 sets out details of those pre-application discussions, and explains that all of these proposed houses were subject to detailed discussions concerning their design. Whilst the design of the Gate Lodges was accepted at an early stage, the East Drive houses were subject to more protracted discussions, and the Council's heritage advisor Tim Murphy in particular provided detailed guidance which strongly influenced their design and appearance. It was only at a late stage in those pre-application discussions, when viability assessments were undertaken by both the Applicant and the Council, that the Council's advisers, BNP Paribas, set out their view that the East Drive houses were not required as enabling development, and the Council stated that they would not support a proposal which included them. The Council did state at the conclusion of the pre-application discussions that they were prepared to support the proposals with the Gate Lodges included. It was only once the applications were being considered, when BNP Paribas revised their view, and stated that the Gate Lodges were also not required, that the Council also said they would not support the applications unless they were removed.
- 6.40 It is clear from the pre-application discussions that the Council would have been prepared to support the proposals with the Gate Lodges, and the East Drive houses, if it had been agreed that these new-build properties were required as enabling development. This view is supported by the wording of the conclusions to the section of the Council's delegated officer report which considers the *"Restoration of the Listed Building"*, which states the following:
- "As part of their application the applicant has submitted a further viability appraisal to support this position. As a result the Council has appointed a speciality viability consultant, Aspinal Verdi, to appraise the viability appraisal submitted by the applicant. This assessment of the applicant's viability appraisal data has concluded that the 25 dwelling scheme granted as part of permission 6/2019/0217/MAJ is still viable and that the applicant has failed to demonstrate that the proposed additional units represent the minimum amount of development necessary to enable the restoration of the heritage assets on the site.*
- As a consequence of the above, it is apparent that the additional dwellings proposed as part of this application are not necessary for the applicant to deliver a viable scheme for the developer. On this basis, a conservation deficit does not exist and therefore, enabling development is not required. Accordingly, it is judged in this case that the scale of enabling development proposed is not justified, with the result that the proposal is contrary to the NPPF, Policy SADM15 of the Council's Emerging Local Plan 2016 and Historic England's publication "Enabling Development and Heritage Assets" 2020."*
- 6.41 The second paragraph is clear, through its use of the words *"therefore"* and *"accordingly"* that it is only because the Council considered a conservation deficit did not existing that they

concluded the additional enabling development was not required, and so there was a policy conflict. The wording of this paragraph makes it quite clear that a different view would have been reached, had the Council taken a different view on the viability evidence.

Conclusions on Very Special Circumstances

- 6.42 The Council concluded, in relation to the previous applications, that the heritage benefits of repairing and restoring the listed buildings and curtilage listed structures, and converting the buildings to residential use, comprised sufficient very special circumstances to justify the 10 new-build properties approved under those applications. In doing so they gave little or no weight to any other factors. The Council have also indicated in their handling of appeal scheme that additional enabling development is only considered to be unjustified on the basis that they do not consider the financial viability argument indicates it is necessary, meaning that it could be justified if the viability case were to be viewed differently.
- 6.43 Section 7 of the Planning, Design and Access Statement explains that there are in fact a wide range of factors which collectively contribute to the very special circumstances in favour of the proposed development. This includes a number of factors to which the Council have given little or no weight. We consider that these matters should be accorded far greater weight, and this clearly means that the weight of very special circumstances in this case is far greater than the Council have acknowledged.
- 6.44 Of particular importance is the very high level of need for housing, and the fact that the appeal would provide 31 dwellings. The Roundhouse Farm appeal decision has indicated that the provision of market housing in this Borough should currently be accorded *“very substantial weight”* in the planning balance, and that this is sufficient to provide the very special circumstances required to justify new-build housing on a greenfield site in the Green Belt. The Appellant could complete up to 12 dwellings without the need to refurbish the listed buildings, and 10 of these are the new-build homes which are under construction. The appeal proposals would result in the provision of a further 21 homes above this number, which would make a valuable contribution to the need for new homes. The Council have previously indicated that they accord substantial weight to the proposed heritage benefits (we consider this should be higher, at very substantial weight), and the Roundhouse Farm appeal makes it clear that a similar or greater level of weight should be accorded to the provision of market housing.
- 6.45 We consider that the various very special circumstances which support this appeal, and which are substantially greater than the Council have acknowledged, are very clearly more than enough to justify the proposed enabling development within the Green Belt.
- 6.46 Finally, returning to the Council's first reason for refusal, this refers to Policy SADM 34 of the emerging Local Plan. As we have noted in Section 4, this Plan can only be given very limited weight as a material consideration. However, there is also no conflict, as the proposed development would comply with national policy concerning development in the Green Belt, as we have explained above.

7 Heritage Assets

Reason for Refusal

7.1 The Council's second reason for refusal in relation to the planning application is as follows:

- 2. The proposed development would materially harm the setting of heritage assets on the site. Whilst this is less than substantial harm and there would be a benefit to restoring the heritage assets on the site, it is not considered that this benefit would outweigh the harm identified to the setting and significance of the designated heritage assets on site. As such, the proposal is contrary to Policy SADM15 of the Emerging Local Plan 2016, National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.*

7.2 In addition, the Council's reason for refusing the listed building consent application is as follows:

- 1. The proposed development would materially harm the setting and significance of the Grade II Listed Buildings and whilst this is considered to result in less than substantial harm, public benefits to outweigh the identified harm do not exist. As such the proposal is contrary to SADM15 of the Emerging Local Plan 2016; National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.*

Delegated Officer Report

7.3 The Council's delegated officer report (CD3.5) concludes of the Gate Lodges that they would cause harm in heritage terms, and *"while this harm is not significant it is considered that it amounts to less than substantial harm"*. With regard to the East Drive houses, the Council conclude that *"while it is considered that this harm would be significant it is not considered that it would amount to substantial harm with the result that it is judged that these dwellings would result in less than substantial harm"*.

7.4 The report then goes on to conclude that the heritage benefits proposed by the appeal scheme, namely the repair and restoration of the listed buildings and curtilage listed structures, and the conversion of the buildings to residential use, *"could be achieved through permission 62019/0217/MAJ with less harm to these designated heritage assets"*. This leads the Council to state *"It is therefore considered that the applicant has failed [sic] demonstrate that there is sufficient public benefit to outweigh the less than substantial harm which would result from the development"*.

Heritage Appeal Statement

7.5 The Heritage Appeal Statement by Heritage Collective, at Appendix 2, sets out a different view on harm. This concludes as follows:

- 7.4 "Following the assessment presented in the preceding section (and supported by the tabular GPA3 assessment in Appendix 2) it is concluded that the additional 6no*

units would not result in any harm to the significance of either Northaw House or the Stable Block. As such, the appeal scheme is no more harmful than the consented 2019 scheme. As part of the 2019 scheme it was common ground between the Council and applicant that the scheme resulted in less than substantial harm to the significance of the heritage assets but that the benefits of the scheme, which include securing the future of both listed buildings, outweighed the harm incurred.

7.5 *Based on this assessment, together with the assessment presented in the Appeal Statement of Case and Viability Assessment, the appeal scheme is compliant with relevant heritage policy contained within the NPPF (found at Section 16) and in accordance with the decision makers duty under Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The appeal scheme is also compliant with relevant local planning policy and relevant national guidance."*

Discussion

7.6 The Council's argument in refusing these applications is, in terms of heritage considerations, that the harm which the 6 additional houses would cause would not be outweighed by the benefits they would bring. Central to this conclusion was the belief that the same benefits could be delivered by the existing consents, which permit 10 new-build enabling development houses, rather than the 16 which are proposed by this appeal. That view is flawed for two reasons. Firstly, the existing consents do not obligate the developer to undertake the repairs to the listed buildings and convert them into what is agreed would be their optimum viable use, as they can in theory walk away after buildings and selling the 10 new build houses in the Settlement Area and the Walled Garden. Secondly, LW Developments are firmly of the view that the amount of enabling development which the Council have permitted is insufficient to fund the works required to the listed buildings. There is no incentive for them to undertake those works, as they would incur a substantial financial loss.

7.7 We have noted in Section 6 above that the Council's grant of the previous consents failed to accord with the NPPF's definition of enabling development, formerly set out at paragraph 202 of the 2019 version, and now 208 of the 2021 version; this requires enabling development to "secure the future conservation of a heritage asset". We have also noted that the failure in this regard does not comply with the June 2020 guidance on *Enabling Development and Heritage Assets* from Historic England (CD2.4). Paragraph 72 of that guidance document states the following:

"The purpose of enabling development is not just to repair the heritage asset, but also to secure its future, as far as reasonably possible. Once repaired, proper and regular maintenance should ensure no further enabling development will be required."

7.8 It has not to date been possible to reach agreement with the Council in relation to the amount of enabling development which is actually required to secure the repair, refurbishment and conversion of the heritage assets, and place them in their optimum viable use. LW Developments have consistently pointed out the flaws in the Council's case on financial viability. Nevertheless, they are still left pursuing the form of development which they claimed several years ago, at the pre-application stage, was required to enable these heritage benefits. They are still keen to undertake this work, but they will be unable to do so if this appeal is not allowed.

- 7.9 The Council have consistently taken a very hard line on proposals for enabling development on this site. It took 5 years for the Council to issue a decision on the 2004 applications which initially proposed enabling development. During the course of that time the Council persuaded the applicant to reduce the amount of development proposed, to a point where it was no longer financially viable. This was borne out by the years of marketing which followed, and ultimately the expiry of those permissions without them being implemented. The Council's handling of the more recent proposals put forward by LW developments shows a similar story, of substantial delays (pre-application discussions initially began over 5 years ago, in mid-2016), and watered-down proposals, with pressure applied to ensure the removal of 6 dwellings. The Council's reasoning for this was based on evidence concerning financial viability which changed over time, and which contained clear omissions and inaccuracies; this advice was not sufficiently robust to enable the Council to conclude beyond doubt that the amount of enabling development they were seeking would be sufficient secure the conservation of the heritage assets.
- 7.10 LW Developments have acted in an exemplary manner. They have engaged with the Council in pre-application discussions, and ultimately agreed to the Council's suggestions on changes to the design. When faced with ultimatums from the Council, they have amended the proposals in a pragmatic manner, allowing them to proceed and ultimately to begin the construction of some enabling development. This will provide the funding to secure the listed buildings, making them weather-tight, and preventing the loss of further historic fabric, but it will not be sufficient to fully fund their conversion.
- 7.11 The Historic England guidance (CD2.4) states (at paragraph 81) that *"it is good practice to take the decision in the light of a realistic view of the consequences of refusal"*. The buildings' condition can be seen to have degraded over the time that the Council have been considering applications for enabling development on this site. Photographs in Section 6 of the Planning, Design and Access Statement, clearly show that the buildings' condition has worsened in the 17 years since 2004, when the first applications were made for enabling development. If this appeal is refused, this situation will ultimately continue to worsen. The buildings need to be put into their optimum viable use, which it is agreed is residential use. If this is not achieved, they will ultimately remain in jeopardy.
- 7.12 The appeal proposals would provide a very substantial heritage benefit, by securing the repair, refurbishment and conversion of the listed buildings, and curtilage listed structures, and placing them in their optimum viable use. This benefit would significantly outweigh any less than substantial harm which the proposed development may be considered to cause, although we note that Heritage Collective have concluded that the additional 6 houses of enabling development proposed by this appeal would not cause any harm. Taking heritage matters alone, it is clear that there would be a benefit, and this weighs heavily in favour of allowing this appeal.

8 Planning Obligations

Reason for Refusal

8.1 The Council's third reason for refusal is as follows:

3. *The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required financial and non-financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies H2, IM2, M4 and H7 of the Welwyn Hatfield District Plan 2005, Policies SADM1, SP7 and SP13 of the Emerging Local Plan 2016.*

Delegated Officer Report

- 8.2 The Council's delegated officer report notes that national policy (NPPF, paragraph 65) requires at least 10% affordable housing to be provided in major residential developments. It then goes on to quote the emerging Local Plan's policy requirement (Policy SP7) for 35% affordable housing in residential developments of 11 or more dwellings.
- 8.3 The delegated report also notes that Hertfordshire County Council have requested a higher level of financial contributions towards the provision of education facilities, library and youth services, and the provision of fire hydrants. The report comments that as the S106 contributions have already been paid to in relation to the 2020 consents, it would only be necessary to pay the difference, and a legal agreement would be required to secure these payments.
- 8.4 The District Council requires the provision of funding for bins for the proposed homes, and a monitoring fee.
- 8.5 The delegated officer report also mentions the need for a legal agreement to secure the site's future maintenance and management arrangements, similar to the one imposed on the existing consents.

Discussion

Affordable Housing

- 8.6 It is worthy of note that the report does not refer to the policy within the adopted District Plan which relates to affordable housing (Policy H7). This policy is within the section of the District Plan titled "*Policies for Urban Areas*", and in the text of the policy specifies that it relates to proposals "*within the towns and specified settlements*". Policy GBSP2 clarifies that these settlements do not include Northaw. As such, there is no requirement within the adopted

development plan for affordable housing to be provided on any residential development in this location.

- 8.7 We have explained in Section 4 above that the emerging Local Plan cannot yet be considered to be at an advanced stage, and there is significant uncertainty as to when it will be adopted, or even whether it will be adopted at all. We have also noted that the Inspector considering the Roundhouse Farm appeal concluded that only “*very limited weight*” could be accorded to the policies of the emerging Local Plan, and we consider that this continues to be the case.
- 8.8 The most relevant consideration in this regard is that of national policy in the NPPF, and as we have noted above, the NPPF (now paragraph 65 of the 2021 version) requires the provision of 10% affordable housing in major residential developments. However, the NPPF must be read as a whole, and it is also relevant to note that paragraph 208 states the following:

208. *“Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”*

- 8.9 Clearly in this case the desirability of providing affordable housing must be weighed against other considerations, including the need to provide the minimum amount of enabling development required to fund the repair and restoration of the heritage assets and their conversion to residential use, and similarly the minimum amount of development required within the Green Belt. If a further financial burden is to be placed on the development, this would require further enabling development to be provided to pay for it. The Council’s committee report on the previous applications, considered in 2020, commented as follows on this matter:

10.91 *“The applicant has not proposed any affordable housing, with the result that the proposal would fail to comply with the Council’s emerging policy on affordable housing. As the proposed development is considered to be enabling development it is not considered that it would reasonable or appropriate to require any affordable housing provision in this case. The reason for this is because it would likely result in the quantum of development necessary to support the proposal being increased which would likely result in addition harm to the heritage assets on the site. This opinion is supported by a robust viability data which has been appraised by the Council’s appointed viability consultant’s BNP Paribas, who concluded within their viability assessment, dated July 2019, that the proposed number dwellings is the minimum necessary to facilitate the restoration of the heritage assets on the application site.”*

- 8.10 Despite this view, the Council also sought further planning obligations from the developer, whilst not taking account of these additional costs within their assessment of the position on financial viability. This only worsened the situation, and clearly made it even less likely that the proposed development would secure the conservation of the heritage assets.
- 8.11 With this in mind, we consider it is clear that the Council’s conclusion on the matter of affordable housing in relation to the appeal scheme is entirely based on their separate conclusion that the 6 additional new-build houses are not required as enabling development. If they had reached a different conclusion on that matter, their written report on the previous

applications shows that their conclusion would also have been different in relation to the need to provide affordable housing.

Other Planning Obligations

- 8.12 A legal agreement will be provided in relation to this appeal to ensure the payment of the required sums in relation to other planning obligations, as listed in the delegated officer report. With this, we consider that the Council's objection in this regard should be satisfied.
- 8.13 Similarly, a legal agreement will be put forward which will secure the other requirements listed by the Council. As we have noted above, the existing consents do not specifically require the developer to complete the repair, refurbishment and conversion of the listed buildings, and this matter can also be addressed through a revised legal agreement. This is a matter which clearly weighs heavily in favour of allowing this appeal.

9 Benefits of the Proposed Development

- 9.1 The Planning, Design and Access Statement (CD1.3) has already set out the range of planning benefits which the appeal proposals would bring, and we have not sought to repeat all of these matters here. However, we have set out a summary of the relevant considerations below, and an update on the matter of the need for housing.

The Preservation of Heritage Assets

- 9.2 We have already commented in Sections 6 and 7 above, and within the Planning Design and Access Statement, on the pressing need to preserve the designated heritage assets within the site. They are at risk, and the Council have consistently resisted attempts, both by the current Appellants and previous parties, to secure consent for sufficient enabling development to undertake the works required. This amounts not only to making them secure from damage by the elements, but also restoring them and converting them to residential use. It is only once they are in their optimum viable use, which it is agreed is residential, that their future will be secure.
- 9.3 The existing consents would not secure the preservation of these heritage assets. The Council have failed in their role, as they have not ensured either that sufficient enabling development would be provided to secure the conservation of the heritage assets, and nor have they put in place a mechanism which will ensure these benefits would be realised. Whilst it is not their intention, as is clear from the fact they are pursuing this appeal, the Appellant could nevertheless simply construct the 10 new-build houses and then leave the listed buildings untouched. It remains necessary to allow this appeal in order to secure the long-term protection of the heritage assets, and doing so would accord both with national policy and the Historic England guidance.
- 9.4 As we have noted in Section 7, the appeal proposals would undoubtedly provide a net heritage benefit. This is a matter which we consider must be given very substantial weight in favour of allowing this appeal.

The Provision of Market Housing

- 9.5 The need for housing is extremely pressing. There is a substantial shortfall in the supply of housing land. This stems from a long-term failure to provide an up to date development plan, identifying potential locations for development. The current adopted Local Plan dates from 2005, and it seeks to meet the need for housing identified in the 2001 Hertfordshire Structure Plan, which planned for the period up to 2011, and which was itself adopted in 1998. As such the housing requirement which the adopted development plan seeks to provide for was calculated well over 20 years ago.
- 9.6 The shortfall in the supply of housing is recorded in the results of the Government's Housing Delivery Test (HDT), which are as follows:

Year	Housing Required	Housing Delivered	% Requirement Delivered	Consequence
2018	1,701	1,493	88%	Action Plan
2019	2,034	1,448	71%	Buffer
2020	2,284	1,450	63%	Presumption

Housing Delivery Test Results for Welwyn Hatfield Borough

- 9.7 It is immediately apparent when comparing these results that the percentage of the required level of housing which has been delivered has been declining year-on-year. It is also clear that this is not due to a reduction in delivery – the number of homes delivered has stayed relatively static – it is instead due to an increasing need for housing. This is itself a symptom of under-provision within the Borough and the wider area, when set against the level of demand. The result of only having delivered 63% of the required level of housing in the 2020 HDT is that the presumption in favour of sustainable development is engaged by default in relation to proposals for new homes⁶.
- 9.8 The poor performance against the benchmark provided by the Housing Delivery Test also means that a 20% buffer is required within the 5-year supply of housing land⁷. The supply of housing land within the Borough was recently considered at the Roundhouse Farm appeal (CD6.1), the decision for which was released in June 2021, the Council claimed to be able to identify a supply of 2.58 years⁸. The Roundhouse Farm appeal related to a site which spanned the border of the local authority areas of both Welwyn Hatfield and St Albans. The Appellants in that case claimed that the supply within Welwyn Hatfield Borough was in fact lower (at 1.85 years), but the Inspector considered that she did not need to adjudicate that point as *“Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant”*. In the case of that appeal, the Inspector granted planning permission for new housing, on a greenfield site in the Green Belt, on the edge of a village, which was not a proposed allocation within an emerging Local Plan; it was the first time for well over a decade that an appeal has been allowed on this basis, anywhere in England.
- 9.9 As we have noted in Section 4, it remains unclear when the new Local Plan will be adopted. However, even when this does finally happen, it is likely to be many years before the level of house building within the Borough rises to the level which is required. This is due to the long lead-in times which are anticipated in relation to many of the sites which will be allocated, the majority of which are currently within the Green Belt. As such, there is a particularly pressing need to provide homes wherever possible, and this will remain the case for some considerable time to come.
- 9.10 The negative effects of a shortfall in the supply of housing are substantial. This includes the worsening affordability of market housing, and a range of adverse social and economic effects, which are noted by national planning policy (for instance at NPPF, paragraph 8). But providing homes to meet the identified need would provide a very substantial social benefit.
- 9.11 The provision of housing would be a benefit even if there were not a shortfall in the supply of housing land. National policy clarifies that it is the Government’s objective to boost the supply

⁶ In accordance with paragraphs 11 and 222, and footnote 8 of the NPPF.

⁷ In accordance with paragraph 74 and footnote 41 of the NPPF.

⁸ See CD6.1, paragraph 48.

of housing (NPPF, paragraph 59). However, whilst there is a high level of need on a national basis, the situation is somewhat more critical at a local level. The Roundhouse Farm Inspector gave “*very substantial weight*” to the provision of market housing, and we consider that the same weight should be given to the provision of market housing in the case of the current appeal.

Economic Benefits

- 9.12 The proposed development would bring a range of economic benefits, including through the provision of employment during the construction phase, and increased demand for local services and facilities. It is also well established that new homes provide an economic benefit. This comes not only in the short-term through construction jobs, but also in the longer-term due to the way better access to housing supports local businesses, and increases Council Tax receipts. In addition, national policy identifies that a lack of suitable housing is a barrier to economic growth (NPPF, paragraph 82). This is a matter which we consider should be accorded moderate weight in favour of allowing the appeal.

Environmental Benefits

- 9.13 The proposals would ensure that the landscaped grounds would be maintained and protected in perpetuity. This would be funded by a service charge on the homes within the site. This would help to enhance the setting and significance of the listed buildings, providing a heritage benefit. It would also allow for the management of biodiversity enhancements within the site.
- 9.14 With regard to ecological habitats, the Ecological Impact Assessment by Environmental Business Solutions (CD1.9) comments as follows:

“The development of the Site actually gives an opportunity to vastly improve the biodiversity of the area. The native tree species planting, additional ponds and wetlands, hedgerow creation and areas being left to natural succession will enhance the ecology of the area. The new layout will create both habitat corridors and wildlife havens, providing ecological niches and an overall high net biological gain over the present habitats and the wider area.”

- 9.15 We consider that these benefits should be given significant weight in favour of allowing the appeal.

Highway Safety Benefits

- 9.16 The Transport Statement which accompanies this appeal explains that the proposed development would result in a reduction in vehicular movements during peak hours, and overall, when compared to the site’s lawful office use. It also sets out details of proposed improvements to the site’s western and eastern entrances, which would enhance highway safety. These would be clear public benefits, which we consider should be given moderate weight in favour of allowing the appeal.

10 Reasons for Allowing the Appeal

- 10.1 There are many reasons for allowing the appeal.
- 10.2 The appeal proposals comply with the policies of the development plan, where relevant policies exist. The adopted District Plan allows for new housing to be provided within Northaw to meet identified needs (Policy RA2). The proposals also comply with Policy H2, concerning windfall residential development. There is no relevant saved policy within the District Plan relating to Green Belt and heritage matters, and the proposals fall to be considered in relation to the requirements of national policy in these regards. Similarly, there is no requirement within the District Plan for the provision of affordable housing in this location. We have also explained why the proposals accord with policies relating to design and landscape. The appeal proposals accord with the relevant and saved policies within the development plan.
- 10.3 The proposals would secure the repair, refurbishment and conversion to residential use of the listed buildings. They would be saved from their current degraded condition, and their irreplaceable historic fabric protected. They would also be placed into what is agreed to be their optimum viable use, meaning that their future would be secured. These benefits would not be secured by the existing consents, and they can only be secured if the appeal is allowed. The majority of the proposed development already has consent, and the Heritage Appeal Statement at Appendix 2 concludes that the additional new-build enabling development proposed by this appeal would not cause harm to the setting and significance of the listed buildings. There would be a notable heritage benefit, and this is a matter which should clearly be accorded very substantial weight in favour of allowing the appeal.
- 10.4 The provision of new market housing would also help to meet a pressing need. This has recently been judged at appeal to be sufficient to justify the provision of housing on a greenfield Green Belt site, and accorded very substantial weight. The proposed development includes new homes which would not otherwise be delivered by the existing consents, both within the listed buildings and in the additional new-build housing which is proposed. The provision of these homes should be accorded very substantial weight, as was the case in the Roundhouse Farm appeal.
- 10.5 The proposed development would also provide a range of other benefits, including in economic terms and to highway safety. These matters also weigh in favour of allowing the appeal.
- 10.6 It is clear that very special circumstances exist that justify the proposed development within the Green Belt. It is also clear that the Council would have reached this conclusion themselves, had they considered that the proposed enabling development was required for financial viability reasons. The Viability Appeal Statement by Bailey Venning Associates at Appendix 1 sets out why the Council and their advisers are mistaken in this regard, and the proposed enabling development is the minimum amount required to secure the proposed heritage benefits. The proposed development accords with national policy with regard to development within the Green Belt.

- 10.7 Even if it were to be concluded, as the Council have, that the proposed development would not comply with the policies of the development plan, NPPF 11(d), relating to the presumption in favour of sustainable development, would still be engaged due to the Council's failure to publish a supply of housing land, the shortfall in the supply of housing land, and the failure against the Housing Delivery Test. In light of our conclusions in relation to Green Belt and heritage matters above, there are no policies in the Framework which indicate that planning permission should be restricted (NPPF 11(d)(i) and footnote 6). There would also not be any adverse impacts which would significantly and demonstrably outweigh the substantial benefits which the appeal proposals would bring (NPPF 11(d)(ii) and footnote 7). NPPF 11d is engaged, and this renders the policies which are the most important for determining the appeal out of date.
- 10.8 We consider that the proposed development complies with the policies of the development plan. But if it were to be considered that any weighed against approving this development, the weight which could be accorded to them would be limited, due to their being rendered out of date by NPPF 11(d). Conversely, the weight which must be attributed to the many benefits the appeal proposals would bring is very high.
- 10.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications and appeals to be determined in accordance with the development plan, unless material considerations indicate otherwise. It is clear that the proposals accord with the policies of the development plan, and that they should be approved. There are no material considerations which would indicate a different view should be taken. On the contrary, there are a range of matters which weigh very heavily in favour of granting planning permission. In addition, the presumption in favour of sustainable development weigh in favour of the appeal proposals. There is no doubt that planning permission should be granted without delay.

11 Determining This Appeal

- 11.1 This Statement of Case outlines the Appellant's case in lodging this appeal, including separate statements on specialist matters relating to the above reasons for refusal. Due to the complexity of the matters raised, we consider that it will be necessary to consider this appeal at a hearing.
- 11.2 It is anticipated that the hearing will need to accommodate specialist witnesses relating to planning, heritage and viability matters, and depending on the Council's response to this statement of Case, it may be that the range of issues which will need to be discussed could increase in scope. The complexity and breadth of the planning issues which must be considered necessitates that the Inspector should be provided with the opportunity to question the professional witnesses, and conduct a debate on the key issues.
- 11.3 The appeal proposals are also of significant importance to the preservation of the heritage assets. The consequences of not allowing the appeal are likely to be severe for the assets' future integrity. This is a matter of public interest, and it is a further reason for a hearing being required.
- 11.4 The application also raised a significant level of public interest. Accordingly, the Appellant considers that the most appropriate appeal procedure is for a hearing to be held.
- 11.5 We also consider that it will be necessary to present further evidence in due course, in accordance with the Planning Inspectorate's procedure for hearings, and this Statement of Case has been prepared in this expectation.

A1 Heritage Appeal Statement



Heritage Appeal Statement

Northaw House,
Judge's hill, Cuffley

November 2021 | Project Ref 2618G

HCUK Group is a multi-disciplinary environmental practice offering expert advice in archaeology, heritage, landscape, arboriculture, and planning. It began life in 2010 as Heritage Collective LLP, before becoming Heritage Collective UK Limited in 2014. In the coming years diversification saw the addition of Archaeology Collective, Landscape Collective and Planning Collective, before all strands came together to be branded under a single umbrella: HCUK Group, based on the acronym for the original company. A home working company since the beginning, we are pleased to employ a talented workforce of consultants and support staff, who are on hand to advise our clients.



Project Number: 2618G
 File Origin: https://heritagecollectiveuk.sharepoint.com/sites/Projects/Shared Documents/Projects 2501-3000/2618 - Northaw House, Cuffley, Enfield/2618G/HER/Reports/2021.11.11 Northaw House Heritage Appeal Statement_Final.docx

Author with date	Reviewer code, with date
SD 25.10.2021	JE 04.11.2021
SD 04.11.2021	
SD 12.11.2021	

Contents

1. Introduction	1
2. Relevant Planning Policy Framework.....	6
3. Background and Development	10
4. Statement of Significance.....	15
5. Summary of Heritage Consultation Responses	25
6. Heritage Impact Assessment.....	29
7. Conclusions	42

Appendices

App. 1 Scale of Harm table (HCUK, 2019)

App. 2 GPA3 Assessment: Historic England’s Guidance on Setting

1. Introduction

1.1 This Heritage Appeal Statement has been prepared by HCUK Group on behalf of LW Developments. It sets out the appellant's heritage case in relation to an appeal against the decision of Welwyn Hatfield Borough Council (WHBC hereafter) to refuse an application for enabling development at Northaw House (LPA refs: 6/2021/0072/MAJ and 6/2021/0071/LB). The description of development reads:

"Repair, refurbishment and conversion of Northaw House to form 11 apartments (including refurbishment of existing single caretaker's flat) and underground parking area, the Ballroom Wing to form 2 dwellings, the Stable Block to form 1 dwelling, refurbishment of existing dwelling at Oak Cottage, construction of 2 new Gate Lodge dwellings, 4 new dwellings on the East Drive, 3 new dwellings within the Walled Garden, 7 new dwellings within the Settlement Area, refurbishment of the Walled Garden, refurbishment of access routes and reinstatement of old route, provision of hard and soft landscaping, car parking and supporting infrastructure."

1.2 This report has been prepared by Sara Davidson, a Director at Heritage Collective who holds a postgraduate degree in the conservation of historic buildings and, prior to joining Heritage Collective in 2013, worked as a conservation officer for the Royal Borough of Windsor and Maidenhead. Sara specialises in dealing with planning matters in relation to the historic environment with experience assessing the significance of a wide variety of heritage assets and evaluating the impact of change and is a full member of the Institute of Historic Building Conservation (IHBC).

1.3 The appeal site comprises two designated heritage assets, Northaw House and the Stable Block (both grade II). There are a number of further buildings and structures on the site considered to form part of the listed buildings¹, for example the Walled Garden, Oak Cottage and a number of outbuildings.

¹ i.e. under Section 1(5)(b) of the Planning (Listed Building and Conservation Area) Act 1990.



Figure 1: Northaw House (grade II)

Relevant Planning History and Application Background

1.4 The full background to the application and appeal is provided within the Appeal Statement of Case (Waller Planning, 2021). However, in brief, consent for an enabling development scheme was previously granted on the site (LPA refs: 6/2019/0217/MAJ and 6/2019/0218/LB).

1.5 As part of this 2019 application (and extensive pre-application submissions beforehand) the applicant’s calculations for the conservation deficit and enabling development demonstrated that 31 units in total were required. However despite concerns raised by the applicant regarding the scheme’s viability:

- 4no. units (in the form of two pairs of semi-detached workers’ cottages located on the East Drive) were removed from the scheme in advance of the formal submission following a review of the viability by the Council’s advisors, BNP Paribas; and

- 2no. units (in the form of two Gate Lodges, to the east and west drives) were removed during the application at the insistence of the council following further review by BNP Paribas.

1.6

While the applicant's assessment that 31 units (not the consented 25) did not waiver, a commercial decision was taken to secure a planning consent. Following the consent of the 2019 scheme, the applicant's assessment of the scheme's financial viability confirmed the original findings, i.e. that 31 units were required. The 2020 submission that this appeal relates to is a re-submission of the consented application with the additional 6no units added.

1.7

The LBC Delegated Report provides more information regarding the application submission noting:

"As part of their application the applicant has submitted a further viability appraisal to support this position. As a result the Council has appointed a speciality viability consultant, Aspinal Verdi, to appraise the viability appraisal submitted by the applicant. This assessment of the applicant's viability appraisal data has concluded that the 25 dwelling scheme granted as part of 6/2019/0218/LB is still viable and that the applicant has failed to demonstrate that the proposed additional units represent the minimum amount of development necessary to enable the restoration of the heritage assets on the site.

As a consequence of the above, it is apparent that the additional dwellings proposed as part of this application are not necessary for the applicant to deliver a viable scheme for the developer. On this basis, a conservation deficit does not exist and therefore, enabling development is not required. Accordingly, it is judged in this case that the scale of enabling development proposed is not justified, with the result that the proposal is contrary to the NPPF, Policy SADM15 of the Council's Emerging Local Plan 2016 and Historic England's publication "Enabling Development and Heritage Assets" 2020."

1.8

Place Services (WHBC's heritage advisors) provided a consultation during the application (dated 13/03/2021). This consultation did not provide any assessment of the effects of the additional 6no. units apart from noting that these units "are considered to be the most harmful elements (to the setting of the heritage assets)". The consultation then concluded that:

"Should the viability demonstrate that additional funds are required, I recommend the council explore other means by which the applicant can deliver this scheme. This may include solutions such as off-site enabling development."

1.9 It should be noted that this appraisal directly contradicts various pre-application responses and the 2019 application consultation from Place Services. This is discussed in more detail within Section 5 of this report.

1.10 In May 2021, these applications were refused for a number of reasons. Reason for refusal 2 of the full application and the single reason for refusal of the listed building consent application read:

"The proposed development would materially harm the setting of heritage assets on the site. Whilst this is less than substantial harm and there would be a benefit to restoring the heritage assets on the site, it is not considered that this benefit would outweigh the harm identified to the setting and significance of the designated heritage assets on site. As such, the proposal is contrary to Policy SADM15 of the Emerging Local Plan 2016, National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990."

"The proposed development would materially harm the setting and significance of the Grade II Listed Buildings and whilst this is considered to result in less than substantial harm, public benefits to outweigh the identified harm do not exist. As such the proposal is contrary to SADM15 of the Emerging Local Plan 2016; National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990."

1.11 The LBC Delegated Report provides more information on the Council's position with regards to the additional units which is summarised below:

- **Two Gate Lodges:** The council concluded that these units were proposed to be "single storey, with white rendered walls and grey slate roofs" and that they are "of a modest scale and are designed a manner which attempts to reflect Northaw House, although simplified, as is expected of gate lodges." The Delegated Report considered that the eastern gate lodge "...should be set further east in a less prominent position and that both should be provided with smaller domestic boundaries." The report concluded that while the

principle of the gate lodges could be acceptable at present these proposals would result in less than substantial harm.

- **Four Workers' Cottages:** The council considers these units "*to be the most inappropriate*". This is summarised as being due to the former buildings on this area being long since demolished and of unknown form and appearance and due to the area now forming open land which forms part of the setting of Northaw House. The council concluded that these units "*would detract from both the setting of the heritage assets on the site which has existed for over a century, namely Northaw House and the Stables building*". As with the gate lodges, the council concluded that harm caused to the significance of the heritage assets would be less than substantial.

Purpose of this Statement

- 1.12** This Heritage Appeal Statement focus' specifically on the additional 6no units and the resultant effect of these on the site's heritage assets. Unless directly relevant to the overall effects of the scheme, impacts relating to previously consented elements of the enabling development scheme are not rehearsed here and the inspector is instead directed to Part 2 of the submitted Heritage Assessment (HCUK Group, then Heritage Collective).
- 1.13** This report should be read in conjunction with Parts 1 and 2 of the submitted Heritage Assessment (Heritage Collective, 2019 - now HCUK Group), the wider Appeal Statement of Case (Waller Planning, 2021), the Delegated Reports, decision notices and Place Services Consultation (13/03/2021).

2. Relevant Planning Policy Framework

2.1 The decision maker is required by sections 16(2) and 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building and its setting when exercising planning functions. The decision maker must give considerable importance and weight to the desirability of preserving the significance of the listed building, and there is a strong presumption against the grant of permission for development that would harm its heritage significance.²

2.2 For the purposes of this statement, preservation equates to an absence of harm.³ Harm is defined in paragraph 84 of Historic England's Conservation Principles as change which erodes the significance of a heritage asset.⁴

2.3 The significance of a heritage asset is defined in the National Planning Policy Framework (NPPF) as being made up of four main constituents: architectural interest, historical interest, archaeological interest and artistic interest. The assessments of heritage significance and impact are normally made with primary reference to the four main elements of significance identified in the NPPF.

2.4 The setting of a heritage asset can contribute to its significance. Setting is defined in the NPPF as follows:

The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

2.5 Historic England has produced guidance on development affecting the setting of heritage assets in The Setting of Heritage Assets (second edition, December 2017), better known as GPA3. The guidance encourages the use of a stepped approach to the assessment of effects on setting and significance, namely (1) the identification

² Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and others [2014] EWCA Civ 137. This principle has recently been followed, albeit in a lower court, in R (Wyeth-Price) v Guildford Borough Council [2020] EWHC 3355 (Admin).

³ South Lakeland v SSE [1992] 2 AC 141.

⁴ Conservation Principles, 2008, paragraph 84.

of the relevant assets, (2) a statement explaining the significance of those assets, and the contribution made by setting, (3) an assessment of the impact of the proposed development on the setting and significance of the assets, and (4) consideration of mitigation in those cases where there will be harm to significance.

2.6 The NPPF requires the impact on the significance of the designated heritage asset to be considered in terms of either “substantial harm” or “less than substantial harm” as described within paragraphs 201 and 202 of that document. National Planning Practice Guidance (NPPG) makes it clear that substantial harm is a high test, and case law describes substantial harm in terms of an effect that would vitiate or drain away much of the significance of a heritage asset.⁵ The Scale of Harm is tabulated at **Appendix 1**.

2.7 Paragraphs 201 and 202 of the NPPF refer to two different balancing exercises in which harm to significance, if any, is to be balanced with public benefit.⁶ Paragraph 18a-020-20190723 of National Planning Practice Guidance (NPPG) online makes it clear that some heritage-specific benefits can be public benefits. Paragraph 18a-018-20190723 of the same NPPG makes it clear that it is important to be explicit about the category of harm (that is, whether paragraph 201 or 202 of the NPPF applies, if at all), and the extent of harm, when dealing with decisions affecting designated heritage assets, as follows:

Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

2.8 Paragraphs 199 and 200 of the NPPF state that great weight should be given to the conservation of a designated heritage asset when considering applications that affect its significance, irrespective of how substantial or otherwise that harm might be.

2.9 Relevant local planning policy for Welwyn Hatfield Borough Council comprises the Welwyn Hatfield District Plan which was adopted in 2005. In 2008 a number of policies contained within the plan were ‘saved’. Of those saved policies it is only policy R27 which is relevant to this report.

⁵ Bedford Borough Council v SSCLG and Nuon UK Limited [2013] EWHC 4344 (Admin).

⁶ The balancing exercise was the subject of discussion in City and Country Bramshill v CC SLG and others [2021] EWCA, Civ 320.

2.10 R27 Demolition of Listed Buildings: This policy notes that listed building consent for complete or partial demolition of any listed building will not be granted except in the following exceptional circumstances:

i) Clear and convincing evidence has been provided that it is not practicable to continue to use the building for its present or previous use and that no viable alternative uses can be found, and that preservation in some form of charitable or community ownership is not possible;

ii) The physical condition of the building has deteriorated, to a point that it can be demonstrated that demolition is essential in the interests of public safety. A comprehensive structural report will be required to support this criterion;

iii) Demolition or major alteration will not be considered without acceptable detailed plans for the site's development. Conditions will be imposed in order to ensure a contractual obligation has been entered into for the construction of the replacement building(s) and / or the landscaping of the site prior to the commencement of demolition; and

iv) Where, exceptionally, consent is granted for the demolition or major alteration to a listed building, before any demolition or major alteration takes place, applicants will be required to record details of the building by measured drawings, text and photographs, and this should be submitted to and agreed by the Council.

2.11 A number of policies, primarily *R25 Works to Listed Buildings* and *R26 Alternative Uses for Listed Buildings*, were not saved following the 2008 assessment. As such, national planning policy contained within the NPPF falls to be the relevant consideration here.

Enabling Development and Heritage Assets: Historic Environment Good Practice Advice in Planning Note 4 (June 2020)

2.12 This document replaces earlier Historic England guidance on enabling development from 2008 and represents a more generic document than the earlier version which is more in line with paragraph 202 of the NPPF.

2.13 It notes that the case for enabling development rests on there being a conservation deficit which is defined by the document as:

"The amount by which the cost of repair (and conversion to optimum viable use if appropriate) of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs."

2.14 The remaining document includes sections on assessing whether enabling development may be appropriate and making the case for enabling development.

2.15 The final section, Making the Decision, notes that:

"To meet the policy in NPPF paragraph 202, an enabling development proposal can only be considered for approval if it provides benefits that outweigh the disbenefits, and where the decision-maker is confident that the scheme would secure the conservation of the heritage asset(s) – this involves assessing the position now and considering the asset's future. Whether the complete solution deals with the conservation of the totality of the heritage asset(s), or with a core group (as in paragraph 17 above), it is good practice to take the decision in the light of a realistic view of the consequences of refusal. Equally, a proven conservation deficit may not automatically lead to a grant of consent, where the disbenefits of failing to comply with other planning policies are considered to outweigh the benefits of conserving the asset."

3. Background and Development

3.1 This section of the Heritage Appeal Statement provides an overview of the historic development of Northaw House and its estate. A full appraisal of the historic background and development of the site is provided within Section 3 of the submitted Heritage Assessment (Part 1). This section of the previously submitted report also includes a full historic map regression (late 18th to late 20th century), historic images and phasing plans of Northaw House.

3.2 Northaw House, originally known as Nyn Lodge, was constructed in 1698 for Mrs Angin. Historically, to the north of the building was a large country estate, known as Nyn Hall. This building is said to have been constructed in approximately 1590 by the Earl of Warwick. Documentary research suggests that these two estates were linked, both spatially and through their ownership, until the demolition of Nyn Hall in 1774.

3.3 Since construction Northaw House, as it is known today, has passed through numerous hands. The most significant of these are as follows:

- Occupied in 1741 (length of time unknown) by Sir Samuel Pennant, Lord Mayor of London;
- Occupied for an unknown time by Mrs Lucy Leman who lived at the house in 1745;
- During the later 18th century occupied by the Blackford family;
- Occupied during the early 19th century by William Strode Esq;
- Purchased in 1811 at Auction by Sir Simon Le Blanc, family lived there until 1896;
- Purchased by Jack Joel with the estate becoming a horse racing stud until c.1910;
- Early 20th century associations with Reginald Beaton, Baron Woolavington and Dorothy Paget;
- In use as a children's hospital between 1943 and 1970;
- In use as an architects' office during the second part of the 20th century; and

- Now unoccupied.

3.4 Originally Northaw House would have been a modestly scaled building featuring a five bay frontage and double pile plan. Internally, the layout would likely have comprised four rooms per floor with the staircase to the rear though at ground floor this would have differed slightly with the entrance leading directly into the principle room; the hall (now forming part of the dining room). At this time it is likely that the building was detached with subservient blocks to the east and west comprising stables and kitchens etc.

3.5 A thorough assessment of the building was undertaken as part of JT Smith’s ‘Hertfordshire Houses: Selective Inventory’ (1993) and as part of this a sketch demonstrating the building’s original appearance was provided (**Figure 2**).

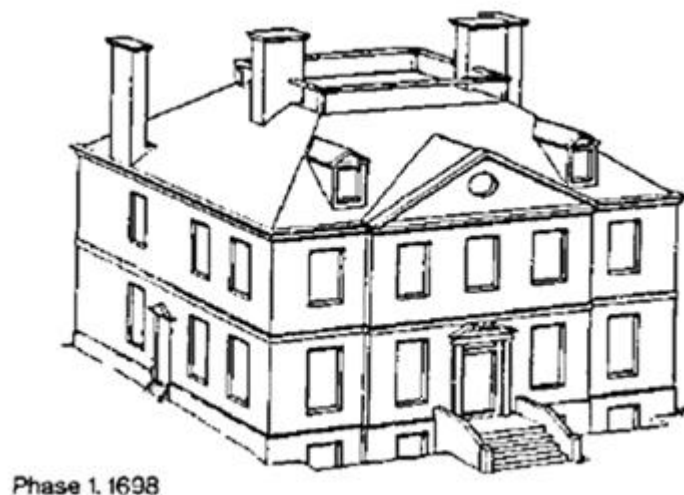


Figure 2: Phase 1 of Northaw House, c.1698

3.6 At the time of construction the building was approached by the main road, running on an east-west axis which lead straight to Northaw village. During the late 18th century the road itself was diverted (and Judge’s Hill created) so that the estate contained a sweep of parkland that designed to give privacy to the estate.

3.7 Historic mapping from the early 19th century (**Figure 3**) shows that there was once development to the east of the stable block. Based on this mapping which shows distinct areas of footprint enclosed within separate boundaries it would suggest that Northaw House was one of several houses on the northern edge of an area of pre-

17th century enclosures bordering an area of what may have been unenclosed parkland. These buildings were demolished during the early 19th century, likely in an attempt to provide a greater area of estate for Northaw House.

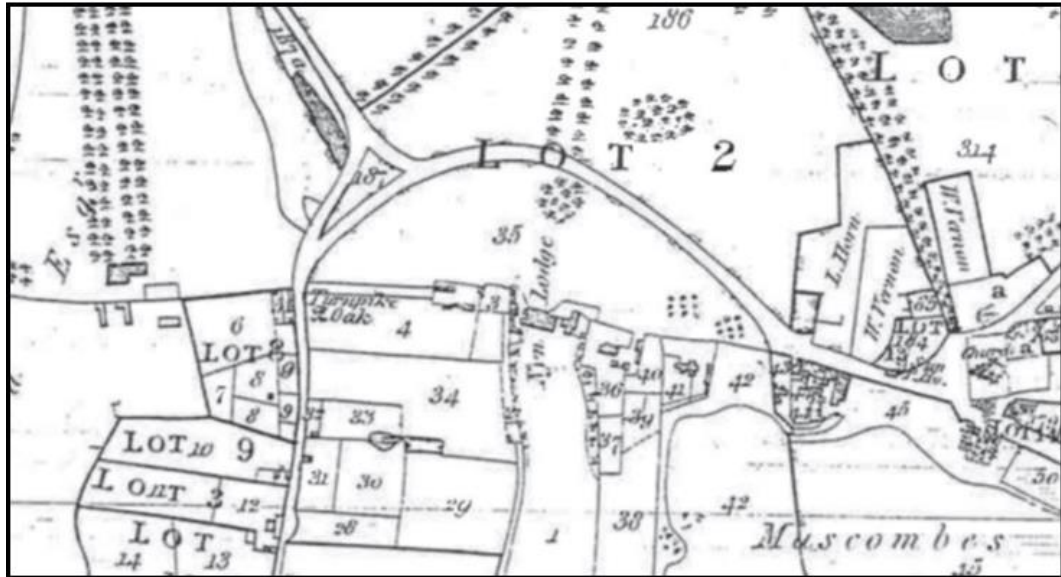


Figure 3: Plan of the Manor of Northaw in the Country of Hertford, 1811 (Edward Driver)

3.8 It is during the late 18th century (certainly pre-1805 as demonstrated by a surviving sketch, **Figure 4**) that the most comprehensive alterations to the structure were undertaken. The most significant of which was the extension of the frontage from five bays to seven and it is likely that at this point the wing to the west was reconstructed and adjoined to the main dwelling.

3.9 The purpose of this large front extension was likely to provide an enlarged dining room in the building's north west corner to correspond with the new kitchen located within the western wing. For balance an eastern extension was also provided which offered a single room with external stack.

3.10 The dining room was formed from the newly created footprint alongside the majority of the former entrance hall. The original late 17th century entrance hall was, at this stage, reduced to a passage as we see today. The dining room retains a decorative rococo style plaster ceiling.



Figure 4: Northaw House, 1805

3.11 By 1805 the frontage’s ground floor windows had also been lengthened cutting into the original plinth which ran across the width of the five bay house. These alterations are shown on a second phasing sketch (**Figure 5**) contained within JT Smith’s ‘Hertfordshire Houses: Selective Inventory’ (1993).

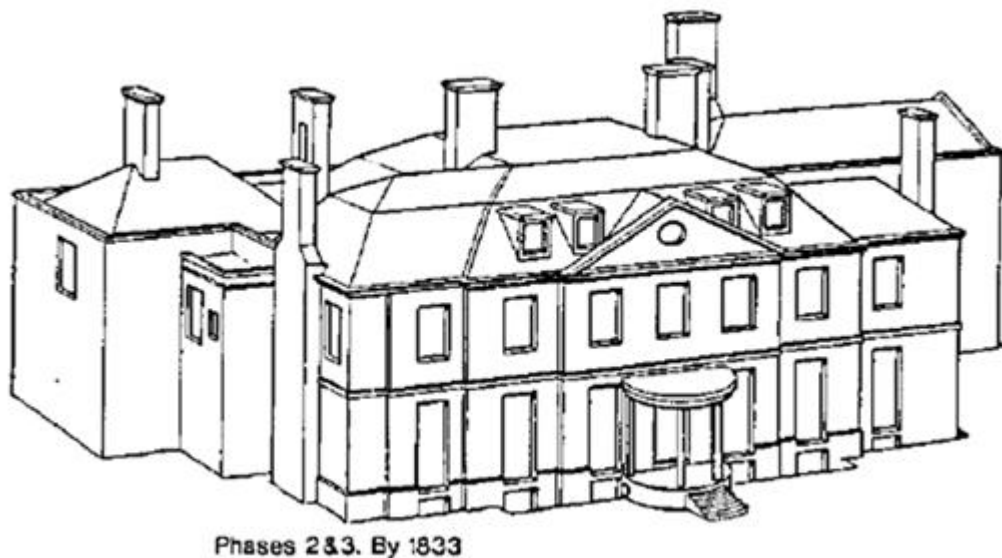


Figure 5: Phase 2 and 3 of Northaw House, c.1833

3.12 Further changes were made during the second half of the 19th century and throughout the 20th century. These can be summarised as:

- A mid to late 19th century decorative timber and ironwork conservatory (now in a very poor state of repair and considered to constitute a dangerous building);
- Early 20th century upgrades to the appearance of the building to provide it with a Queen Anne appearance including provision of a mansard roof to the north elevation's front range and application of quoins added to the east and west wings to provide a consistency with the 17th century core (works undertaken by owner Jack B Joel);
- Construction of a three storey Edwardian wing (also by Jack B Joel);
- Later 20th century alterations including the provision of inappropriate flat roofed additions to the north frontage (including a link to the former service wing, now known as the 'Ballroom').

3.13 Currently, Northaw House can be described as featuring a stuccoed and quoined symmetrical main north elevation of seven bays and two storeys with accommodation in the hipped slate mansard roof and in a lower ground floor or basement with lightwells. There is a central pediment with an oculus in the tympanum, above a semi-circular Doric porch. The tall, slender proportions of the ground floor windows (a late 18th century alteration), which are mullioned, unlike the sashes at first floor, combine with the quoins and roof profile to give Northaw House a slightly more "small French-chateau" appearance than might normally be expected in Hertfordshire. This is predominantly as a result of the amalgamation of alterations which have been undertaken to the building in a piecemeal fashion since the 18th century.

3.14 The south elevation of Northaw House is much less ostentatious than the main north elevation and features a number of later extensions described above. Here it is more apparent that the building has been constructed in different phases, with less emphasis on external appearance.

4. Statement of Significance

Assessment of Significance

- 4.1** This chapter of the report establishes the significance of the relevant heritage assets in the terms set out in the NPPF, and it comments on the contribution of setting to significance. The identification of the heritage assets equates to Step 1 of GPA3, and the assessment of significance equates to Step 2 of GPA3. Steps 2 and 3 of GPA3 are closely connected, so this chapter should be read in conjunction with Chapter 5 (Heritage Impact Assessment) and with the tabular methodology at **Appendix 2**.
- 4.2** This section of the Heritage Appeal Statement is replicated from Section 4 of the submitted Heritage Assessment (Part 1) which also contains additional photographs of Northaw House and, at Appendix 2 of that document, a full set of significance plans.

Northaw House (grade II)

- 4.3** Northaw House is a grade II listed building of considerable architectural and historic interest. This interest primarily derives from the building, despite alteration, being a fine example of a gentleman's residence in the context of a small Hertfordshire Estate.
- 4.4** Historic interest is also derived from associations with Nyn Hall and the remnant physical associations, including the mutual landscaping of the parkland between the buildings and the elements of re-used fabric from Nyn Hall now contained within the estate (specifically within the Stable Block).
- 4.5** With regards to the building's exterior, resulting from its phased development Northaw House features alterations and extensions in various architectural styles, including Baroque, Classical and Queen Anne. It is the combination of these elements of architecture which give Northaw House a unique appearance and architectural interest.



Figure 6: Front elevation of Northaw House



Figures 7 and 8: Rear elevation of Northaw House (left) and view within the Dining Room (right) (photographs taken c.2017)

4.6

The external form and appearance is also of value as a multiphase modestly scaled country house featuring the easily discernible phasing and character of the building with its main core and subservient flanking elements. The flanking elements are typically later in date and have undergone much change both externally and internally. While still of some value in terms of architectural and historic interest

these parts of the building are less sensitive to change and of lower inherent significance than the core 17th and 18th century parts of the building.



Figures 9 and 10: 19th century replica main staircase (left) and 17th century service stair (right) (photographs taken c.2017)

4.7

Architectural and historic interest is also derived from the survival of historic internal elements within the building. It appears that a large portion of the original decorative surface finishes and fittings have been stripped from the building during its various uses and alteration in the 20th century. However, a number of internal fixtures survive which are of architectural and historic value, these can be summarised as:

- The ground floor entrance hall features a groin vaulted ceiling, likely dating to the late 18th century when the earlier entrance hall was reduced;
- The ground floor entrance hall stone floor featuring a pattern of irregular octagons and black geometric square (a design common throughout the 18th century and known as 'carreaux d'octagones');
- The main staircase which is a 19th century replica of a late 17th century staircase with barley twist balusters;
- The service stair, located to the right of the main stair, which dates from the late 17th century and features similarly detailed barley twist balusters;
- Surviving stone slab flooring within the basement and the 18th century extension of the basement which features groin vaulted brick ceilings;

- A number of historic fire surrounds ranging in date from the late 17th to the mid 19th century. Late 17th century fire surrounds of bolection moulded profile are of particular value; and
- Surviving decorative plaster work and joinery dating from between the late 17th and 19th centuries. Of specific interest are a number of elements of joinery presumed to date to the original phase of the house (bolection moulded window surrounds and architraves) and 18th century redevelopment.

4.8 Writing in 1953 Pevsner noted that the building's interior contained a number of high quality paintings including:

- Wall paintings to the staircase in the 'Thornhill manner'⁷;
- An over-mantel with a view of the original house; and
- A late 17th century bedroom panel painting with vignettes in Chinese taste attributed to Robert Robinson.

4.9 While these would likely have been of both architectural and historic interest they no longer remain present within Northaw House having likely been removed in the early to mid 20th century.

4.10 The conservatory to the eastern side of the building likely dates to the mid to late 19th century and is certainly present on the 1880 OS Map. This structure is of some significance in its own right as a good quality surviving timber and cast iron conservatory of the period. However, it is not particularly unusual in its form or appearance and is certainly not one of the more innovative buildings still surviving of its time. Internally, within the conservatory are a number of areas of encaustic tiles which are likely contemporary with the date of construction. There are also several rockery areas which provided the conservatory with an external character popular in conservatories of this sort and period.

4.11 Elements of the building's plan form also contribute to its architectural and historic interest. Within the 17th century elements of the building the layout is, for the most part, unaltered with a four room plan broadly remaining within the 1698 core at all levels. 18th century alterations to the building have resulted in some effect on this original layout, for example the creation of the dining room and truncation of

⁷ Thought to be a reference to Sir James Thornhill (b.1675, d.1734), an English painter known for murals and wall paintings

the entrance hall, however, due to their date and their narrative in the building's history these elements are of value in their own right. Within the 17th and 18th century portions of the building the plans form contributes to the special architectural and historic interest insofar as providing physical illustrative evidence for how the building was originally used.

4.12 While broadly intact, an assessment of the building clearly demonstrates that the plan form has also been altered within some areas of the earlier core of the building. For example the large 18th century space to the right hand side of the building (likely the kitchen) is now a double height space with modern first floor walkway.

4.13 As a multi-phase site with standing material from a wide variety of periods and internal features which have been retained the building possesses an degree of archaeological potential to yield further evidence about the past and the creators of this place which may not be reflected in other documentary sources. This archaeological evidence is retained not only for the oldest periods of the site's use but also for determining the degree of alterations and adaptations carried out in the 19th and 20th centuries.

4.14 The artistic values of Northaw House are moderate and primarily relate to the aesthetic qualities of the building's facades and its interiors, covered in this report as architectural value.

Setting of Northaw House

4.15 The setting of Northaw House contributes to the ability to appreciate the interest of the grade II listed building. Specific features which contribute towards this include:

- The close relationship the front (north) elevation has with the sweep of parkland that was enclosed in the late 18th century by the highway diversion called Judge's Hill (designed to give privacy to the estate). Beyond this are important views down to open countryside which were likely part of the reasoning for citing Northaw House in this elevation position. Historically, (prior to its demolition in 1774) these views were linked with Nyn Hall and would have provided a visual relationship between the two estates.

- The direct relationship the south (rear) elevation has with the parkland and open countryside that was historically associated with the building, and which extended as far as Springfield Farm. There are clear views to and from the listed buildings here.
- The relationship between house and stable block. This is a formal relationship (of interest is that the stables were located nearest to the village of Northaw) but this has been somewhat affected by intervening development since the 18th century.
- The relationship between the main house and its extensions on the west and south west sides. While this relationship is less formal than the stables it appears to have been one of subservient ancillary extensions for at least 200 years.
- The relationship with outbuildings to the west (mostly late 19th century in date and technically considered part of the listed building due to curtilage listing, see later in the report). By their nature, these buildings have been subject to modification and reuse, but they still form part of the grouping around the house and have a relationship with the walled garden.
- The relationship with the Walled Garden, a large example of its type for a residence such as Northaw and relatively intact. The walled garden is curtilage listed (i.e. part of the listed building) and of historic interest in its own right (see later in the report) and the fact that it was at one time such an important part of running the estate means that it has a close and direct relationship with the house.

4.16 The core setting of Northaw House includes the Stable Block, walled garden and outbuildings in between. On the north side, the setting extends at least as far as Judge’s Hill, with important views up to the building from the base and important views out beyond to countryside further north. To the east the setting extends as far as the lodge building, although the sloping land and tree cover near the Stable Block screen much of this view. To the south there are extensive views out over open countryside and the setting of the building extends at least to the field boundary some 120m south of the house.



Figures 11 and 12: View of Northaw House from the semi-circular enclosure of land to its north (left) and view from Northaw House looking south over open countryside (right) (photographs taken c.2017)

Stable Block (grade II)

4.17 East of the main house is the Stable Block (also known as the Coach House) which is separately grade II listed. The structure was first listed in 1972 (UID: 158492) and its List Description reads:

"Stables. Mid-late C18. Red brick. Hipped slate roof with central clock turret. 2 storeys. Bands at sill level and to eaves. 1st floor segmental-headed blocked windows. Plain pilasters each side of central door. N elevation has 2 dummy windows. 7 similar windows on E side. Turret has square base, open arched belfry with moulded cornice. Ogee leaded dome with ball finial and weathervane."

4.18 This building (Plates 20-25) dates to c.1775 and is built of red brick with blind windows at first floor and on the north gable. There is a hipped slate roof and a tall cupola (described as a belfry in the List Description) with an ogee top and a weather vane. Within the eastern side of the building, at first floor level, are a number of window openings (some likely to be original and some later) alongside hay loft doors. To the side (west) is an attached open-fronted shelter-shed of four bays with a hipped slate roof, likely designed to house carriages. To the east is a later single storey red brick addition, likely dating from the late 19th century. The stables are located within a red brick enclosure which to its north eastern corner features a later 19th century red brick and pitched roof structure.



Figures 13 and 14: View of the Stable Block from the north (left) and south (right) (photographs taken c.2017)

4.19 The building is in a poor state of repair and has been identified as a dangerous structure given its partial ruinous condition. Considerable investment will be required in order to repair and provide a new viable use to the building.

4.20 Only part of the interior of the stables can be inspected at present given the poor condition of the structure (ground floor only) however it is clear from the limited inspection that some of the original (or replacement 19th century) fitting survive. Of particular note are the stable divides which feature sinuous moulded rails, timber panelling and iron railings. To the rear of the stable (back wall) is a moulded timber cornice and hay racks. The surviving stable divides and panelling are fairly crude in their character but demonstrate the historic arrangement of the stables and alongside the rear wall features, the original appearance of the late 18th century stables.



Figures 15 and 16: Close up view of the stable's east elevation (left) and interior view (right) (photographs taken c.2017)

- 4.21** Documentary research suggests that the cupola was potentially taken from the demolished Nyn Hall (demolished in 1774) and that the stables themselves may have been built from reclaimed materials from Nyn Hall.
- 4.22** Overall, the stables are a fine example of their type and date, potentially incorporating earlier fabric, and contribute to the quality and appearance of the estate as a whole. They are of architectural and historic interest due to their classical form and appearance, surviving historic fabric and illustrative value as a well surviving and relatively unaltered stables dating from the last quarter of the 18th century.
- 4.23** As with Northaw House the setting of the Stable Block contributes towards an ability to appreciate its significance. Key factors include the close formal relationship with the house and other ancillary structures (including the walled garden) and the direct relationship the Stable Block has with both the main access drive and surrounding parkland/countryside.

Curtilage Listed Buildings

- 4.24** According to Section 1(5)(b) of the Planning (Listed Buildings and Conservation Areas) Act 1990 *"any object or structure within the curtilage of the [listed] building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building."* Such structures are treated as part of the listed building for the purposes of development control and planning decisions.
- 4.25** Curtilage listing is criteria-based (i.e. any structure that satisfies the criteria of date and location is included by default) and does not reflect on any qualitative considerations (i.e. historic interest or character, etc.). Because it is criteria-based this does not necessarily reflect inherent special interest, but it is relevant in terms of how the structures are dealt with procedurally in terms of planning and development control. Essentially, they are assessed as part of the listed building.
- 4.26** There are a number of buildings on the site which would be considered to be listed structures for the purposes of section 1(5)(b) of the Act. Primarily these include the

large Walled Garden and numerous outbuildings (labelled nos.1-8) located between the walled garden and main house. Full information on the significance and value of these structures are provided within Section 4 of the Heritage Assessment (Part 1).

5. Summary of Heritage Consultation Responses

5.1 In advance of the Heritage Impact Assessment contained within the following section, it is relevant to summarise the heritage responses received to date regarding the enabling scheme. These comments were received during the various pre-application stages (from 2016 onwards) and during the main application (LPA refs: 6/2019/0217/MAJ and 6/2019/0218/LB).

5.2 These were predominantly produced by Tim Murphy, first in his role at Hertfordshire Design Review Service and later at Place Services, with the main application the consultation produced by his Place Services colleague, Maria Kitts. With regards to the pre-application advice, in some cases advice from Tim Murphy was copied directly within the Council's formal pre-application response and in other cases the Council produced their own, similar, text. In cases of the latter, both sets of advice are laid out below.

Pre-application 1

5.3 Council's formal advice (dated 28 September 2016):

"The construction of the large villa style dwelling on the eastern drive is considered to be of inappropriate scale and form. Whilst there may have been a building on this site, any new building should be influenced by what was previously on the site in terms of character and layout and, like above, should also reference a regional vernacular.

Subject to further details, the construction of the two new gate lodges is not considered to detract from the heritage value of the site if they are of appropriate scale and design."

5.4 No separate comments from Tim Murphy provided.

Pre-application 2

5.5 Council's formal advice (dated 16 December 2016):

"The proposed dwellings to the east of the main house form part of the setting (although no direct visual relationship) of the designated heritage asset (Northaw House) and this will need to be considered. The proposed buildings are influenced by historic building typology and it is therefore recommended that research be undertaken into estate type houses to identify character defining features which would be appropriate to influence the design here. The scale of the buildings will be a main consideration.

Subject to further details, the construction of the two new gate lodges is not considered to detract from the heritage value of the site if they are of an appropriate scale and design. It was suggested that the gate house on the eastern driveway is moved to be more in line with the existing property at the entrance into the site. The design of that property should be noted and any appropriate architectural features repeated within the proposed gate houses."

5.6 Tim Murphy advice (Hertfordshire Design Review Service, dated 9th December 2016):

"The proposed dwellings to the east of the main house form part of the setting (although no direct visual relationship) of the designated heritage asset (Northaw House) and this will need to be considered. The proposed buildings are influenced by historic building typology and it is therefore recommended that research be undertaken into estate type houses (if this is the approach the applicant wants to adopt), to identify character defining features which would be appropriate to influence the design here. The scale of the buildings will be a main consideration.

Subject to further details, the construction of the two new gate lodges is not considered to detract from the heritage value of the site if they are of appropriate scale, siting and design."

Pre-application 3

5.7 Tim Murphy advice (Hertfordshire Design Review Service, dated 3rd March 2017):

"The proposed dwellings to the east of the main house form part of the setting of the designated heritage asset (Northaw House) and this will need to be considered, particularly views from the north.

Further details of these buildings will be required for feedback. The design of these buildings (in conservation terms) will need to consider materiality, design form, height, siting and boundary treatment to ensure they are in-keeping with the character of the environs and context in which they are located."

5.8 The Council included Tim Murphy's comments verbatim within their formal advice (dated 25 May 2017).

Pre-application 5

5.9 Council's formal advice (dated 12 January 2018):

"Following discussions on site it is noted that the design of the two sets of terraced properties have altered. It is considered that the changes to the design would be more traditional and in character of a more simplistic workers cottage.

Please note that the proposed floor plans and the proposed elevation drawings to not correspond to one another and the fenestration at ground floor level to the front is different. This should be altered so it is 'window, door, window, door etc'.

It is also observed that due to the subdivision of what was two semi-detached houses to terraced properties a new access can be seen in between the two sets of terraces, leading to a parking court and garages. This altered layout is not considered to be acceptable it moves built form and a large area of hardstanding into an area that should be soft landscaped to minimise the amount of built form and the spread of built form within the Green Belt. It is strongly advised that this arrangement is re-assessed. It was suggested on site that a semi-detached pair would be acceptable, however a blind front door would be seen so the building is read as a set of terraced properties.

As with the previous letters, the proposed dwellings to the east of the main house form part of the setting of the designated heritage asset (Northaw House) and this will need to be considered, particularly views from the north. As you are aware the preference is that no built form would be seen in this area, due to the Green Belt designation and the impact that these buildings have on the setting of the listed buildings.

The design of these buildings (in conservation terms) will need to consider materiality, design form, height, siting and boundary treatment to ensure they are in-keeping with the character of the environs and context in which they are located."

- 5.10** Tim Murphy advice (Place Services, dated 22 December 2017) concluded that he had "no further comments" to make on either the gate lodges or the cottages.

2019 Consented Application

- 5.11** As noted in the Introduction, the main application was submitted with the two Gate Lodges proposed and only amended during the application process for these two units to be removed from the scheme.

- 5.12** The Place Services consultation, produced by Maria Kitts, was completed prior to the removal of the two Gate Lodges. Of these two structures, it is important to note that no concern was raised at all with regards to either their siting or domestic curtilages. Regarding these two units, the consultation noted in full:

"The proposed lodges are located to the far west and east of the site in positions alongside the access driveway appropriate to their 'lodge' appearance. They are single storey with slate roofs and rendered elevations and are detailed to reflect Northaw House, although simplified, as is expected of gate lodges. As discussed at pre-application stage, they raise no objections."

6. Heritage Impact Assessment

6.1 This chapter of the Heritage Appeal Statement assesses the impact of the appeal (specifically the additional 6no units that form the focus of the appeal) on the significance of the heritage assets identified in the previous chapter, including effects on the setting of those assets. It equates to Step 3 of GPA3, which has a close connection with Step 2. This chapter should be read in conjunction with the preceding chapter, and the tabular GPA3 assessment in **Appendix 2**.

6.2 This chapter of the Heritage Appeal Statement does not rehearse all of the assessment presented in Part 2 of the Heritage Assessment (submitted as part of the application), the majority of which relates to elements of development which have already been consented under the 2019 enabling scheme. Instead, this chapter provides a focused assessment of the effects of the additional 6no units⁸ and a summary consideration of the scheme as a whole.

6.3 In addition, it should be noted that this chapter does not consider the viability of the scheme or the need for enabling development which is assessed separately within appeal documents prepared by Bailey Venning Associates Ltd. The assessment presented in this chapter is prepared on the basis that the need for enabling development with 31no units is proven (as per the conclusions of Bailey Venning Associates Ltd assessments).

Two Gate Lodges

6.4 As noted in the Introduction, based on the Decision Notices and Delegated Reports, it would seem as though the Council's primary concerns with regards to the proposed two Gate Lodges relate to advice contained within the Place Services Consultation. These concerns can be summarised as:

- The siting of the eastern gate lodge which "*...should be set further east in a less prominent position*"; and

⁸ it does not consider alternative locations for the 6no units, as suggested by Place Services as part of their application consultation.

- The domestic curtilage of the two Gate Lodges, both of which “... *should be provided with smaller domestic boundaries.*”

6.5 Otherwise the Council appear to accept the design, scale and form of the Gate Lodges insofar as they are “*of a modest scale and are designed a manner which attempts to reflect Northaw House, although simplified, as is expected of gate lodges.*” The Delegated Report goes on to conclude that while the principle of the gate lodges could be acceptable at present these proposals would result in less than substantial harm.

6.6 However, it is evident that the concerns raised within the Place Services consultation is clearly in contrast to their earlier consultation responses. As part of the consented 2019 application, the Place Services consultation did not reference any concerns regarding these units, their siting or domestic curtilages, and concluded that:

“The proposed lodges are located to the far west and east of the site in positions alongside the access driveway appropriate to their ‘lodge’ appearance. They are single storey with slate roofs and rendered elevations and are detailed to reflect Northaw House, although simplified, as is expected of gate lodges. As discussed at pre-application stage, they raise no objections.”

6.7 The reason for the deviation of the Place Services advice between the consented application (which is also consistent with the earlier pre-application advice received) and the appeal is unknown.

6.8 The two Gate Lodges are proposed to be located at either end of the main drive (known as the West Drive and East Drive). These two architecturally coherent buildings are both single storey and are constructed from rendered facades with slate roofs. The lodges have a simplistic classical architectural approach which references Northaw House without being detracting or dominating features of the area. They are designed in such a way as to reflect the character and appearance of buildings found on the former estate and, by virtue of their siting, character and appearance, are of a form where it would be reasonable to believe that past developments of this kind might have been built on such an estate.



Figure 17: CGI of one of the proposed gate lodges

6.9

The first area of concern raised by the council is with regards to the siting of the eastern gate lodge which the Council consider “...*should be set further east in a less prominent position*”. It is acknowledged that this alteration was requested during pre-application advice, however, there are practical reasons as to why this gate lodge cannot be relocated further east. These factors are discussed in more detail elsewhere in the submission (and demonstrated by photographs included at **Figures 18 and 19**) but include:

- The works would require the relocation of an existing access track from Stud Farm which would require reaching an agreement with an outside land owner; and
- The works may require physical works to upgrade land in to an access which are not currently part of the proposals and therefore affect the costs and current viability argument.

6.10

Nonetheless, the proposed siting of the east lodge is not found to be harmful to the significance of the site’s heritage assets. The east lodge and its domestic curtilage is located at the far end of the east drive close to the adjacent existing building (East Lodge). The lodge is located in a discreet location, well removed (both spatially and visually) from the site’s heritage assets and in a location characteristic of gate lodges, i.e. close to the site’s eastern access. In addition, the proposed east

Gate Lodge is located in the same broad position as former dwellings (as seen on the 1811 Map, Figure 3).



Figures 18 and 19: Photographs showing the existing East Lodge and existing access track to Stud Farm

6.11 With regards to the domestic curtilages point raised by the Council, how this point affects the heritage significance of Northaw House and the Stable Block is not understood. The curtilages would be demarcated by native hedging and metal estate railings, both of which are an appropriate boundary treatment for the estate. Indeed, the same boundary treatments are proposed (and have been consented as part of the 2019 scheme) alongside much of the East and West Drives meaning that an appreciation from these areas of what is private versus part of the wider estate would be wholly limited. While the domestic curtilages provided for these two dwellings are larger than others within the proposal, this would not dominate the setting of the listed buildings and would not elevate the status or hierarchy of the gate lodges which would remain clearly subservient to the site’s listed buildings by virtue of their carefully considered scale, form and design (all of which are considered acceptable by the Council and Place Services). Despite extensive pre-application advice, the scale of the Gate Lodges’ domestic curtilages has never been raised before.

6.12 With regards to the points of both the east Gate Lodge siting and the scale of domestic curtilages, it is relevant to note that Place Services did not raise any concern with regards to these factors as part of their consultation on the 2019 application. Indeed, they were wholly supportive of the two Gate Lodges, noting:

"The proposed lodges are located to the far west and east of the site in positions alongside the access driveway appropriate to their 'lodge' appearance. They are single storey with slate roofs and rendered elevations and are detailed to reflect Northaw House, although simplified, as is expected of gate lodges. As discussed at pre-application stage, they raise no objections."

6.13 Due to the discreet siting of the two gate lodges at either end of the main drive, no key views of either of the site's listed buildings (i.e. Northaw House and the Stable Block) would be affected and the silhouette and skyline of these assets would remain unaltered.

6.14 In addition, the proposed lodges will not, to any material degree, affect aspects of the listed buildings' setting which most contribute to the significance of the listed buildings. For example, the proposed gate lodges would have no effect on:

- The close relationship Northaw House and the Stable Block has with the sweep of parkland that was enclosed in the late 18th century by the highway diversion called Judge's Hill (designed to give privacy to the estate) and views down to open countryside beyond;
- The direct relationship the rear of both Northaw House and the Stable Block have with the parkland and open countryside to the south;
- The relationship and group value between Northaw House and the Stable Block; and
- The relationship between Northaw House and its extensions on the west and south west sides and its outbuildings to the west including the walled garden.

6.15 In summary, the introduction of these two carefully designed and modestly scaled structures will not detract from or erode the significance of the site's listed buildings in any way. Due to their location at the ends of the main east-west drive, the gate lodges could be considered to slightly enhance the significance of Northaw House by better revealing, through alerting passers-by of, the presence of the historic estate from public vantage points.

Four East Drive Workers' Cottages

- 6.16** In accordance with the text presented in the Introduction, following a review of the Decision Notice and Delegated Report, it would seem as though the Council's primary concerns with regards to the proposed four Workers' Cottages can be summarised as being due to the former buildings on this area being long since demolished and of unknown form and appearance and due to the area now forming open land. The council concluded that these units "*would detract from both the setting of the heritage assets on the site which has existed for over a century, namely Northaw House and the Stables building*". As with the gate lodges, the council concluded that harm caused would be less than substantial.
- 6.17** As noted within Chapter 3 of this report, historic mapping (the 1811 map at **Figure 3**) demonstrates that Northaw House was one of several houses on the northern edge of an area of pre-17th century enclosures bordering an area of what may have been unenclosed parkland. At a later date, likely during the 18th century, the track along the edge of the enclosures was diverted in a loop out to the north to provide greater privacy for the dwelling. Shortly after, by 1838, mapping shows that the other dwellings to the east of the Stable Block were no longer present, likely also being demolished to provide greater privacy to the enlarged Northaw House.
- 6.18** The 1811 map of Northaw shows that there were once three dwellings in this area. The appeal scheme proposals entail the introduction of two pairs of semi-detached units on the southern part of the access drive, adjacent to the proposed eastern Gate Lodge. The four new properties proposed are modestly scaled having been designed in such a way to appear as two matching series of three estate workers cottages.



Figure 20: CGI of the proposed Workers' Cottages on the East Drive

6.19 Prior to providing an assessment of the potential effects of these units on the significance of the assets, it is relevant to revisit the advice provided regarding them at pre-application stage (included in full within Chapter 5).

6.20 As part of pre-application 1, the Council appeared to accept the principle of introducing new built form on the east drive in this location, noting:

"Whilst there may have been a building on this site, any new building should be influenced by what was previously on the site in terms of character and layout and, like above, should also reference a regional vernacular."

6.21 As part of the second pre-application two large detached units were proposed. Again, comments received (both from the Council and Tim Murphy) did not raise any in principle objection to development in this location but instead focused on the appearance of built form. The Council, incorporating Tim Murphy's comments, concluded:

"The proposed dwellings to the east of the main house form part of the setting (although no direct visual relationship) of the designated heritage asset (Northaw House) and this will need to be considered. The proposed buildings are influenced by historic building typology and it is therefore recommended that research be undertaken into estate type houses to identify character defining

features which would be appropriate to influence the design here. The scale of the buildings will be a main consideration.”

6.22 By the time of the fifth pre-application submission, this additional design work had been undertaken and in order to better relate to the local vernacular and character of the site, the two former dwellings had been proposed to be replaced with two pairs (four dwellings) styled as estate workers’ cottages. In response to this submission, Tim Murphy noted that he had “*no further comments*” on the East Drive units and the Council confirmed that:

“Following discussions on site it is noted that the design of the two sets of terraced properties have altered. It is considered that the changes to the design would be more traditional and in character of a more simplistic workers cottage.”

6.23 The Council’s written pre-application advice also entailed minor design suggestions, which were taken forward. While the advice concluded that the preference was for no dwellings here, it was understood that should development be required by the enabling scheme, this would be acceptable, on the basis of the Council accepting the detailing of the individual units.

6.24 As noted above, the form and appearance of these four units have been heavily influenced by a number of factors as recommended by the council as part of the pre-application process, including:

- The existing built form on the appeal site;
- The architecture and local vernacular of the village of Northaw; and
- The character of estate workers’ cottages

6.25 The units have been carefully designed in order to better reflect locally established architecture and the likely character and appearance of properties present to this location at the time of the 1811 map. Additionally, they have also been styled to be reflective of the sort of built form commonly found within estates such as Northaw.

6.26 The palette of materials and detailing has also been carefully considered. The use of a local red brick and tile roof alongside flanking chimneys, front sash windows and rear casement windows, blind windows and single storey outshots can be seen to provide a locally appropriate character. The subservient character of these buildings and their palette of materials contrasts against Northaw House’s scale and

materials (render and slate) thus allowing the grade II listed building to remain the prominent feature on the site.

- 6.27** As identified above, externally the dwellings appear to be two short terraces, each of three units. However, one of the doors on each terrace is false so that each row provides only two units. In conjunction the overall scale and height of the dwellings, this has allowed viably scaled houses to be established on the site without resulting in a dominating change within the setting of listed buildings. As noted above, this approach was supported at pre-application stage.
- 6.28** As identified in the preceding chapter, a key element of the setting of Northaw House is the close the building shares with the sweep of parkland directly north (enclosed by Judge's Hill). This relationship between the house and area of parkland will not, in any way, be affected as a result of the provision of two houses on the East Drive due to the intervening distances and the siting of the dwellings behind Northaw House's building line.
- 6.29** Views from the base of Judge's Hill towards the front elevation of Northaw House are also of importance and contribute to the ability to appreciate the significance of the building by allowing the structure to be experienced in a rural surrounding where the building appears in relative isolation. Any change to these views will be highly limited due to the topography of the area, copse of large and well established trees to the base of Judge's Hill and other dense planting around Northaw House and the Stable Block. Where/when visibility is possible (though this in itself will be highly limited) the proposed dwellings will be appreciated as modestly scale and appropriately detailed worker's cottages. They will not detract undue attention away from Northaw House (or the Stable Block) and will be read as functional, ancillary and appropriate features of the wider estate.
- 6.30** This effect was confirmed as part of the submitted Landscape and Visual Impact Assessment which noted that:
- "With the proposed development in place, the foreground and middle distance elements of field, grass, trees, and built form would remain unaltered. Some discrete elements of the proposed development would be seen amongst the retained vegetation. The key characteristics of the view would remain unaltered. The majority of the proposed development would be screened and filtered from view."*

- 6.31** Views from the parkland in the south towards the rear elevation of Northaw House are also of importance as it shows the main house flanked by its ancillary structures; primarily the walled garden and agricultural buildings/settlement area to the west and Stable Block to the east. Within these views the two new dwellings will be mostly, if not entirely, sheltered from these views due to the band of tree cover which extends east from the Stable Block. Resulting from this, the provision of the two dwellings on this site will not affect the important relationship between Northaw House and the parkland to the south.
- 6.32** Another key feature of the setting of both Northaw House (and its ancillary curtilage listed buildings) and the Stable Block is the important group value the assets share as a late 17th century gentleman's estate. The siting of the two new dwellings away from the listed buildings (i.e. not intervening these structures) will ensure that there is no detrimental effect on the site's group value. Instead, due to the high quality and appropriate form and appearance of the two buildings it is likely that these will be viewed as a complementary addition to the existing group which assists in better revealing the significance of the site as a whole as a late 17th century gentleman's estate.
- 6.33** Overall, the proposed development to provide two dwellings to the east of the Stable Block on the east drive will not result in any harm to either the significance or setting of the grade II listed Northaw House and Stable Block for the reasons identified above. The heritage significance of the site will be preserved.

Summary and Policy Compliance

- 6.34** Following on from the assessment presented above, and contained within **Appendix 2**, it is established that the additional 6no units which are the focus of this appeal would not in their own right result in any effect on the significance or setting of Northaw House or the Stable Block (both grade II). As such, the current appeal scheme is, in my view, no more harmful to the heritage assets on the site than the consented enabling development scheme.
- 6.35** Looking more widely at other aspects of the appeal scheme (which have all previously been consented by the Council as part of the earlier 2019 enabling

scheme), it is accepted that there are elements which would result in harm to the assets' significance. As identified within Part 2 of the submitted Heritage Statement, these harmful elements can be summarised as:

- **Stable Block:** Harm to the significance of the Stable Block would be clearly less than substantial in NPPF terms and as a result of a loss of fabric, changes to plan form and changes to the building's character. However, the heritage benefits of the stable's conversion are considerable and demonstrably outweigh (neutralise) this harm. These benefits include reinstating an active use (the structure's optimum viable use) to the building, the removal of risk, halting the structure's deterioration and reinstating structural stability to the grade II listed building. As confirmed in the submitted Heritage Statement, the setting and significance of the Stable Block will not be affected as a result of the proposals for new build elements of the consented scheme.
- **Northaw House:** Harm to the significance of Northaw House would also be within the less than substantial bracket and would result from the building's subdivision (and the way in which this will affect the structure's character), some limited loss of historic fabric and changes to plan form and circulation as a result of the residential conversion and the changes to views of the building from the north resulting from the provision of underground parking. Part 2 of the submitted Heritage Statement concludes that other consented proposals (including the redevelopment of Settlement Area, refurbishment of Oak Cottage, introduction of development within Walled Garden) would not result in any harm to the setting or significance of Northaw House due to the careful siting, scale, form, massing, palette of materials and detailing of new development.

6.36 As part of the 2019 consented scheme, while there was some disagreement with the Council regarding the way in which the harm would be caused (for example the Council also believed that harm would be caused through a change within the assets' setting), the level of harm (less than substantial in NPPF terms) was agreed upon. The Council went on to conclude, that the harm incurred to Northaw House and the Stable Block was outweighed by the heritage benefits of the enabling case.

6.37 In terms of the current application (which, as noted above, is no more harmful than the earlier consented scheme in my professional opinion) in accordance with the viability assessment, the additional 6no units are essential to secure the future of

the heritage assets, i.e. to effectively meet the conservation deficit and secure the heritage benefits identified as part of the consented earlier scheme.

6.38 On this basis, the current scheme can be seen to achieve the following heritage based public benefits which, in accordance with paragraph 202 of the NPPF, should be weighed against the harm incurred:

- Removal of risk to the currently unoccupied Northaw House and its associated structures (primarily including the Edwardian Wing, Ballroom Wing, Walled Garden and Oak Cottage) all of which are currently lack a viable use;
- Reinstatement of these structures with an active use consistent with the conservation of the assets. With regards to Northaw House the building's residential conversion is demonstrably its optimum viable use;
- Reinstatement of the original residential use to Northaw House, the Edwardian Wing, the Ballroom Wing and Oak Cottage;
- Physical works to the buildings to halt deterioration. With regards to the highly significant Northaw House this includes the refurbishment of the roof and internal repairs to water damaged fabric;
- Removal of inappropriate 20th century extensions and additions to Northaw House; and
- Modest benefits associated with reinstatement of lost decorative features within Northaw House.

6.39 In accordance with the findings of the Appeal Statement of Case (Waller Planning, 2021), in combination with the public benefits, these heritage benefits will demonstrably outweigh the limited harm incurred. As such, the site's development will result in a scheme where the limited harm to the grade II listed Northaw House is neutralised by the benefits. As noted by the PPG (paragraph 015 Ref: 18a-015-20190723) harmful development can sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised. In this case the proposals would secure the optimum viable use of the site and its listed buildings and the effect of the works have been mitigated by careful design, siting, detailing and palette of materials.

- 6.40** On this basis, taking into account the requirement for the works (as detailed within the Financial Viability Statement) and balancing case (contained within the Appeal Statement of Case), the proposed development would when considered holistically preserve the significance of the grade II listed Northaw House and the Stable Block.
- 6.41** Turning to relevant local planning policy it is only Policy R27, dealing with the demolition of listed buildings, which is saved and relevant. The proposed development is entirely in accordance with this policy as only small elements of the listed buildings and low value curtilage listed buildings are proposed for demolition for which clear and convincing evidence has been provided. Indeed, these works have already been consented as part of the earlier scheme and no additional demolition is proposed.
- 6.42** In summary, for the reasons identified above, the proposed development would be in accordance with the requirements of section 16 of the NPPF and relevant local planning policy. There would be preservation for the purposes of the decision makers duty under sections 16 and 66 of the Planning (Listed Building and Conservation Area) Act 1990.
- 6.43** With regards to the P(LBCA) Act it should be noted that the Act does not require the preservation of listed buildings per se, which is confirmed by the South Lakeland DC v Secretary of State for the Environment and another (1992 House of Lords appeal), i.e. legislation “*does not in terms require that a development must perform a preserving or enhancing function.*” Rather, it places a statutory duty on decision makers to ensure that the special interest of listed buildings is properly taken into account as material considerations when determining applications affecting their special interest, or the setting of listed buildings. Case law has established that the preservation of the setting of a listed building requires considerable importance and weight (i.e. the Barnwell Manor judgement) and that, generally, a decision-maker who has worked through the paragraphs of the NPPF in accordance with their terms will have complied with the statutory duty set out in the 1990 Act (i.e. the judgement in Jones v Mordue & Others [2015] EWCA Civ 1243).

7. Conclusions

7.1 This Heritage Appeal Statement relates to heritage reasons for refusal and provides the Inspector with a detailed explanation of the effect of the appeal scheme on the significance of Northaw House (grade II) and the Stable Block (grade II).

7.2 The appeal scheme relates to a scheme for enabling development (LPA refs: 6/2021/0072/MAJ and 6/2021/0071/LB) which provides a series of 31no residential units on the site. In comparison to the 2019 consented enabling development scheme (LPA refs: 6/2019/0217/MAJ and 6/2019/0218/LB) the only differences are:

- 4no. units in the form of two pairs of semi-detached workers' cottages located on the East Drive. These units were previously proposed but were removed from the 2019 scheme in advance of the formal submission following a review of the viability by the Council's advisors, BNP Paribas; and
- 2no. units in the form of east and west gate lodges. These units were previously proposed but were removed during the course of the 2019 application following further review by BNP Paribas.

7.3 Following the consent of the 2019 scheme, the applicant's assessment of the scheme's financial viability confirmed the original findings, i.e. that 31 units (not the consented 25) were required. This appeal is a re-submission of the consented application with the additional 6no units added.

7.4 Following the assessment presented in the preceding section (and supported by the tabular GPA3 assessment in Appendix 2) it is concluded that the additional 6no units would not result in any harm to the significance of either Northaw House or the Stable Block. As such, the appeal scheme is no more harmful than the consented 2019 scheme. As part of the 2019 scheme it was common ground between the Council and applicant that the scheme resulted in less than substantial harm to the significance of the heritage assets but that the benefits of the scheme, which include securing the future of both listed buildings, outweighed the harm incurred.

7.5

Based on this assessment, together with the assessment presented in the Appeal Statement of Case and Viability Assessment, the appeal scheme is compliant with relevant heritage policy contained within the NPPF (found at Section 16) and in accordance with the decision makers duty under Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The appeal scheme is also compliant with relevant local planning policy and relevant national guidance.

Appendix 1

Scale of Harm (HCUK, 2019)

The table below has been developed by HCUK Group (2019) based on current national policy and guidance. It is intended as simple and effect way to better define harm and the implications of that finding on heritage significance. It reflects the need to be clear about the categories of harm, and the extent of harm within those categories, to designated heritage assets (NPPF, paragraphs 201 and 202, and guidance on NPPG).⁹

Scale of Harm	
Total Loss	Total removal of the significance of the designated heritage asset.
Substantial Harm	Serious harm that would drain away or vitiate the significance of the designated heritage asset
Less than Substantial Harm	High level harm that could be serious, but not so serious as to vitiate or drain away the significance of the designated heritage asset.
	Medium level harm, not necessarily serious to the significance of the designated heritage asset, but enough to be described as significant, noticeable, or material.
	Low level harm that does not seriously affect the significance of the designated heritage asset.

HCUK, 2019

⁹ See NPPG 2019: “Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.” Paragraph 018 Reference ID: 18a-018-20190723.

Appendix 2

GPA3 Assessment: Historic England’s guidance on setting

In assessing the effect of the additional 6no. units on the setting and significance of designated heritage assets (namely Northaw House and the Stable Block), it is relevant to consider how the following factors may or may not take effect, with particular reference to the considerations in Steps 2 and 3 of GPA3. The following analysis seeks to highlight the main relevant considerations.

Relevant Considerations	Northaw House (grade II)	Stable Block (grade II)
<i>Proximity of the development to the asset</i>	The central focus of this appeal is the two gate lodges and the four workers’ cottages proposed on the East Drive. These 6no units are all located at a considerable distance from Northaw House and the Stable Block	
<i>Proximity in relation to topography and watercourses</i>	While the topography of the developable areas is fairly consistent the land drops away dramatically to the north towards Judge’s Hill. There are no water courses of relevance to this proposal	
<i>Position of development in relation to key views</i>	<p>Key view of Northaw House are possible from the open area of parkland directly north of the asset and from the south where Northaw House can be seen within a parkland context alongside its ancillary buildings.</p> <p>The proposed gate lodges, being located at either end of the main drive, would have no effect on these views.</p> <p>With regards to the workers’ cottages, in views from the north any change to these views would be highly limited due to the topography and dense</p>	<p>Key views of the Stable Block are primarily available from close quarters with this building, where its architectural and historic interest can be appreciated, and in some longer range views (from the north and south) where the Stable Block can be appreciated in context with other estate buildings, primarily Northaw House.</p> <p>Close range views of this asset would not change as a result of either the gate lodges or the workers’ cottages.</p>

	<p>planting around Northaw House and the Stable Block.</p> <p>Where/when visibility is possible the proposed dwellings would be appreciated as modestly scale and appropriately detailed worker's cottages. Any change to views from the rear would be highly limited as the workers' cottages would be predominantly screened by the belt of trees extending east from the Stable Block</p>	<p>There may be some glimpsed views of the workers' cottages in longer range views (more so from the north than to the south due to the screening properties of the tree belt) but any visibility of these structures would be as glimpses between tree cover only</p>
<p><i>Degree to which development would physically or visually isolate asset</i></p>	<p>Neither the gate lodges nor the workers' cottages would, either physically or visually, isolate Northaw House from its rural setting. The development would also not have any effect on the group value this asset shares with its ancillary buildings</p>	<p>Neither the gate lodges nor the workers' cottages would, either physically or visually, isolate the Stable Block from its rural setting. The development would also not have any effect on the group value this asset shares with either Northaw House or other ancillary estate buildings</p>
<p><i>Prominence, dominance and conspicuousness</i></p>	<p>The gate lodges are located at a considerable distance from Northaw House at either end of the main drive. As a result of this and in conjunction with their appropriate form and limited scale, the gate lodges would not be a prominent or dominant element of the setting of the Northaw House.</p> <p>The workers' cottages are located on the East Drive, some distance (c.45m) away from Northaw House and physically and visually separated from it by the presence of the Stable Block</p>	<p>The gate lodges are located at a considerable distance from the Stable Block. As a result of this and in conjunction with their appropriate form and limited scale, the gate lodges would not be a prominent or dominant element of the setting of the Stable Block.</p> <p>The workers' cottages are located closer to the Stable Block but separated from it both physically (c.25m away) and visually by a dense tree belt. Historically built form was present in this part of the</p>

	<p>and a dense tree belt. Historically built form was present in this part of the setting of Northaw House and the limited scale and height of the cottages, in conjunction with their carefully considered and locally appropriate character, would ensure that they are not appreciated as either a prominent or dominant element of the setting of Northaw House</p>	<p>setting of the Stable Block and the limited scale and height of the cottages, in conjunction with their carefully considered and locally appropriate character, would ensure that they are not appreciated as either a prominent or dominant element of the setting of this structure</p>
<p><i>Competition with or distraction from the asset</i></p>	<p>For the reasons identified above and elsewhere in the table, the proposed gate lodges and workers’ cottages would not compete with or distract attention away from Northaw House</p>	<p>For the reasons identified above and elsewhere in the table, the proposed gate lodges and workers’ cottages would not compete with or distract attention away from the Stable Block</p>
<p><i>Dimensions, scale, massing, proportions</i></p>	<p>The single storey gate lodges has been designed to be demonstrably subservient to all other built form on the site.</p> <p>The workers’ cottages have been designed to appear externally as two short terraces, each of three units. However, one of the doors on each terrace is false so that each row provides only two units. The four dwellings are of a limited overall scale and height and clearly subservient to the large and more decorative Northaw House and Stable Block.</p>	
<p><i>Materials and design</i></p>	<p>The two Gate Lodges are architecturally coherent single storey detached buildings which are constructed from rendered facades with slate roofs. They have been provided with a simplistic classical architectural approach which, in a more simplistic and subtle way, reference the design and quality of Northaw House. They have also been designed to reflect the character and appearance of buildings found on the former estate.</p> <p>The workers’ cottage have been informed by extensive pre-application advice alongside the existing built form on the appeal site, the architecture and local vernacular of the village of Northaw</p>	

	<p>and the character of estate workers’ cottage. The palette of materials and detailing proposed has been carefully considered. The use of a local red brick and tile roof alongside flanking chimneys, front sash windows and rear casement windows, blind windows and single storey outshots can be seen to provide a locally appropriate character. The subservient character of these buildings and their palette of materials contrasts against Northaw House’s scale and materials</p>
<i>Introduction of movement</i>	<p>The appeal scheme as a whole (including the 6no units focused on here) would introduce additional activity into the setting of the listed buildings and this has been factored into the wider assessment</p>
<i>Diurnal or seasonal change</i>	<p>Matters of diurnal and seasonal change have been taken into account as part of the wider assessment</p>
<i>Change to built surroundings and spaces</i>	<p>There would be a minor change to the built surroundings of both Northaw House and the Stable Block as a result of the introduction of the gate lodges and workers’ cottages through the introduction of dwellings on currently open land</p>
<i>Change to skyline, silhouette</i>	<p>Neither the gate lodges or the workers’ cottages would result in any change to the silhouette or skyline of either Northaw House or the Stable Block as a result of the siting of the proposed development, its form and appearance and limited upwards scale</p>
<i>Change to general character</i>	<p>The introduction of two gate lodges at either end of the main drive would have no bearing on the general character of the setting of either Northaw House or the Stable Block due to the carefully considered form and discreet siting of these units</p> <p>The introduction of the estate workers’ cottages would result in a minor change to the general character of the surroundings of Northaw House and the Stable Block due to the introduction of built form along the East Drive. However, the effect of this has been carefully managed by careful siting (on the location of former dwellings) and appropriate design</p>

Standard Sources

<https://maps.nls.uk>

<https://historicengland.org.uk/listing/the-list>

www.heritagegateway.org.uk

<http://magic.defra.gov.uk>

www.history.ac.uk/victoria-county-history

The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition). Historic England (2017 edition)

Planning (Listed Buildings and Conservation Areas) Act, 1990

National Planning Policy Framework, 2021

National Planning Practice Guidance, 2019

Conservation Principles, Policies and Guidance, Historic England (2008)

A2 Financial Viability Statement

Viability Appeal Statement

Northaw House, Judge's Hill, Cuffley

By George Venning

Director

Bailey Venning Associates Limited on behalf of

LW Developments

LPA refs: 6/2021/0072/MAJ & 6/2021/0071/LB

November 2021

Content

1.0	Statement of Truth.....	3
2.0	Introduction and Summary.....	4
3.0	Policy Context.....	9
4.0	History.....	19
5.0	The Case for the Appellant.....	25
6.0	Reconciling the Appraisals.....	29
7.0	Conclusion.....	36
	Appendix 1 – Assessment of Conservation Deficit.....	39
	Appendix 2 – 25 Unit Appraisal with Revised Assumptions in “Viability” Format (Land as Residual).....	43
	Appendix 3 - 25 Unit Appraisal with Revised Assumptions in “Enabling Development” Format (Profit as Residual).....	47
	Appendix 4 - 31 Unit Appraisal with Revised Assumptions in “Enabling Development” Format (Profit as Residual).....	51

Report prepared by Bailey Venning Associates Limited

Tayfield House

38 Poole Road

Bournemouth

BH4 9DW

01202 639 444

www.bailey-venning.com

1.0 Statement of Truth

- 1.1 My name is George Venning and I am a Director of Bailey Venning Associates Limited (“BVA”), a specialist consultancy focussing on the economics of development and affordable housing, which I founded in May 2016. Prior to that, I was employed by Level Ltd, an organisation of similar scope, where I had been employed since 2004. I hold a degree of Master of Arts (with Honours) in Architecture awarded by the University of Cambridge.
- 1.2 Since founding BVA I have been retained by a number of developers, house builders, land owners and local planning authorities in providing advice on development viability matters across a wide geographic area. This advice has extended to schemes of tens of houses to thousands. I am currently retained by the promoters of two Garden Villages. I have led on the production of Whole Plan Viability Assessments for several Local Authorities including Stafford, Bolsover (twice), Colchester, North East Derbyshire and Chesterfield. I have also recently been appointed by the Department of Levelling-Up, Housing and Communities to act in a technical support role for Qualifying Bodies taking forward community led development through Neighbourhood plans.
- 1.3 I have given evidence in a large number of public inquiries focussing on viability and housing matters across the UK over a period of more than 14 years.
- 1.4 For the avoidance of doubt, I am not a member of the Royal Institution of Chartered Surveyors although I have almost 20 years of experience working in the field of development viability for both public and private sectors. I recognise that institution’s Professional Guidance in this area – which has changed significantly as the field has grown in prominence. I abide by the current version of that guidance and by the code of professional practice it has established.
- 1.5 I confirm that insofar as the facts stated in my report are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion. I confirm that my report includes all facts which I regard as being relevant to the opinions which I have expressed, and that attention has been drawn to any matter which would affect the validity of those opinions. I confirm that in preparing a report, no performance related or contingent fees have been agreed.

2.0 Introduction and Summary

- 2.1 This Appeal Statement relates to the decision of Welwyn Hatfield Borough Council (WHBC hereafter) to refuse an application for enabling development at Northaw House (LPA refs: 6/2021/0072/MAJ and 6/2021/0071/LB).
- 2.2 The statement relates to the second reason for refusal and, in particular, to the question of financial viability.
- 2.3 The applicant contends that the minimum level of enabling development necessary to secure the restoration of Northaw House is 16 new build homes. The Council, through its advisors, Aspinall Verdi, considers that the 10 new build homes secured by the extant consent are sufficient and that the additional six homes for which consent is now sought are therefore unjustified.
- 2.4 Whilst I was not the appellant's viability advisor on either of the applications, I understand that Mr Brown of James R Brown & Company is not available for this appeal. I have reviewed the evidence he has submitted and, with some very minor adjustments (which have been discussed with Aspinall Verdi) I generally agree his figures. Of greater consequence, the majority of them are not disputed by the Council's advisor. These matters will be addressed through the Statement of Common Ground in due course.
- 2.5 Moreover, and, for the purposes of this statement, more importantly, I agree with Mr Brown's overall interpretation of the policy context – although not, perhaps, all of the details thereof. I therefore agree that the minimum level of enabling development necessary to secure the restoration and conversion of Northaw House to the Optimum Viable Use is 16 homes.

Background

- 2.6 According to the guidance published by Historic England:
- “Enabling development is development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except for the fact that it would secure the future conservation of a heritage asset.”¹
- 2.7 The Guidance goes on to state, among its Core Principles section that:

¹ Enabling Development & Heritage Assets – Historic England, 2020 para 5

“The amount of enabling development that can be justified will be the minimum amount necessary in order to address the conservation deficit and to secure the long-term future of the assets.”²

- 2.8 The means of determining that the quantity of enabling development is kept to a minimum is an assessment of the economics of development – a viability appraisal.
- 2.9 It is not in dispute that the restoration of Northaw House in isolation, would generate a substantial conservation deficit – i.e. that the “cost of repair (and conversion to optimum viable use if appropriate)... exceeds its market value on completion of repair or conversion, allowing for appropriate development costs.”³
- 2.10 Consequently, it is agreed that some element of enabling development is therefore justified. What has been in dispute is the extent of that enabling development.
- 2.11 The major issue between the parties relates to the question of whether it is proper to include any allowance for the acquisition of Northaw House itself within the viability appraisals undertaken to determine the extent of the enabling development. In my view, the inclusion of such an allowance, is a normal, necessary and logical element of the appraisal. The Council’s view is that it is not warranted in this case.
- 2.12 I shall argue that a proper reading of the available sources does not support the Council’s view, as set out by Aspinall Verdi.
- 2.13 I shall argue that, the interpretation placed on the guidance by Aspinall Verdi would be illogical – erecting barriers to the conservation of heritage assets in general. I shall also argue that, because of the Council’s departures from good practice in the determination of this case, those barriers create a disincentive to act in the interests of Northaw House itself. Self-evidently, this is not what the guidance intends.

Issues for the Appeal

- 2.14 James R Brown, acting for the applicant had submitted a Financial Viability Appraisal (FVA) as part of the planning application for the appeal scheme. In it, he argued that neither the 25 unit development already consented, nor the 31 unit scheme for which permission was now sought generated enough revenue to fully offset the Conservation Deficit. However, he argued that the shortfall was smaller in respect of the 31 unit scheme and that there were grounds for confidence that the shortfall could be overcome.

² Enabling Development & Heritage Assets – Historic England, 2020 para 14

³ Enabling Development & Heritage Assets – Historic England, 2020 p

It was, he argues, the minimum level of development necessary to overcome the Conservation deficit and secure the future of Northaw House by converting it to the Optimum Viable Use.

- 2.15 Aspinall Verdi's FVA did not make its own assessment of the Conservation Deficit, nor did it assess the 31 unit scheme at all. The report concluded that that the Residual Land Value arising from the extant, 25 unit consent is £578,000. That sum is far lower than the Site Value (or Benchmark Land Value) – the minimum price that the applicant might reasonably have had to pay in order to bring the site forward based on its previous (and *current*) lawful planning) use. In conventional viability terms then, the site would be unviable. In the distinct language of enabling development, the Conservation Deficit would *not* have been offset and it would be appropriate to consider additional enabling development.
- 2.16 However, Aspinall Verdi's view is that they do not need to consider a site value based on the former use at all. Since the 25 unit consent exists, the Site Value should be based on the value arising from that consent and that consent alone. In their view, if that value is positive, the Conservation Deficit has been overcome and no further enabling development is required.
- 2.17 There are two problems with that position, one technical and one fundamental.
- 2.18 The technical consideration is that Aspinall Verdi's assessment of the Residual Land Value is wrong. It is agreed that the S106 costs associated with the scheme are too low and there are unresolved disputes about some of the construction costs. These should have been resolved within the application period but, for whatever reason, they were not. I have undertaken an appraisal⁴ which addresses the areas of dispute. It generates a residual Land Value of £252,000 – significantly less than £578,000 but more than zero. I am hopeful that we will be able to resolve these changes as part of the SoCG.
- 2.19 The fundamental point is that Aspinall Verdi have seriously misinterpreted the guidance by excluding any allowance for the Site Value from their assessment of legitimate development costs.
- 2.20 A proper reading of all relevant sources of guidance makes it clear that a Site Value should be included as a cost term in any assessment of the Conservation Deficit. I have undertaken such an Assessment, (included as my Appendix 1) which confirms the long-

⁴ Appendix 2

held agreement that a substantial Conservation Deficit exists in respect of Northaw House. My appraisal quantifies the extent of that Deficit - £2.273,000.

- 2.21 I have then undertaken a further assessment of the 25 unit scheme (Appendix 3) in the format prescribed by the Historic England Guidance. This confirms that the consented level of Enabling Development is insufficient to offset the Conservation Deficit and, hence to secure the future of Northaw House. It follows that a viability case can be made for additional enabling development.
- 2.22 Finally, I have undertaken an assessment of the 31 units for which permission is now sought [Appendix 4]. In my view, that level of development *is the minimum required* to eliminate all of the conservation deficit and secure the conversion of the Heritage Assets to the Optimum Viable Use.

Guidance

- 2.23 There are three major sources of guidance that are relevant to this matter:
- Enabling Development & Heritage Assets – Historic England, 2020 [CD2.4];
 - Planning Practice Guidance [Viability and Historic Environment] [CD5.5];
 - Assessing Viability in Planning under the NPPF 2019 for England – RICS, March 2021 [CD2.16]
- 2.24 The first of these documents describes what enabling development is and how it should be considered. It also describes some unique features of the appraisals undertaken for the purposes of enabling development – including a slightly different structure - but it refers extensively to the PPG on viability and the historic environment. It is clear that the two documents are intended to be read together.
- 2.25 The Planning Practice Guidance sets out the broad principles which underpin all consideration of viability in the planning system. The most important of those scenarios are policy formation and the determination of affordable housing delivery. It is notable that concepts critical to the consideration of enabling development such as the Conservation Deficit, are not mentioned at all.
- 2.26 Finally, the RICS guidance provides professional guidance for the benefit of those undertaking appraisals, fleshing out the concepts where appropriate.
- 2.27 Whilst all three documents have a common approach, they serve distinct purposes and there are differences of emphasis, methodology and terminology between them. This has the potential to be confusing. The potential is increased in the present case because not

all of the documents were actually published in their present form at the time the application was made.

- 2.28 This circumstance explains some of the discrepancies in the methodological approaches of James R Brown and Aspinall Verdi. My own assessments are based on the format set out in the Historic England Guidance and I have used the terminology of that document where it differs from the other two.

Conclusion

- 2.29 In making its application for consent to deliver 16 units of enabling development as part of the redevelopment of Northaw House, the appellant submitted a viability assessment which demonstrated that the level of enabling development was the minimum necessary to secure the future of Northaw House itself. This scheme was, the appellant argued, the Optimum Viable Use.
- 2.30 The assumptions underpinning that assessment were then scrutinised by a third-party consultant, Aspinall Verdi who made a number of comments on those assumptions. That is normal practice.
- 2.31 I accept that some of those criticisms were warranted and I have amended my own appraisals accordingly. These matters would normally have been resolved within the determination period, but they remain outstanding. That is, in itself, a departure from good practice. I believe that the best route to the resolution of those matters is through the Statement of Common Ground.
- 2.32 However, the most consequential of Aspinall Verdi's amendments was their move to exclude Site Value (or Benchmark Land Value) from consideration as a legitimate cost. That single act, artificially removes at least £1.6m in legitimate costs from and creates the impression that the Conservation Deficit has been overcome when it has not.
- 2.33 I will show, through a detailed examination of the guidance, that the Site Value should be included in the assessment of scheme costs. I shall also show that, when that cost is applied, it becomes clear that application scheme is the minimum level of development necessary to overcome the acknowledged conservation deficit and safeguard the full restoration of the asset. It is clear that this is the Optimum Viable Use

3.0 Policy Context

- 3.1 The policy context for enabling development is set out in para 208 of the NPPF.
- “Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”*
- 3.2 In this case, the existence of a conservation deficit in respect of Northaw House and the principle of enabling development were agreed during pre-application discussions in relation to the first application. Whilst the Council appears to have amended its position on this matter, the balance of heritage outcomes are beyond my competence and therefore outside the scope of my evidence.
- 3.3 My concern is with the extent of the enabling development required to address the conservation deficit.
- 3.4 The relevant policy context here consists of three documents:
- Enabling Development & Heritage Assets – Historic England, June 2020 [CD2.4];
 - Planning Practice Guidance (Viability and Historic Environment); [CD5.5]
 - Assessing Viability in Planning under the NPPF 2019 for England – RICS, March 2021 [CD2.16]
- 3.5 The latter two documents cover the assessment of viability in all of the circumstances in which it is covered by the planning system. The RICS guidance is intended as advice to practitioners upon how they should interpret the precepts established by the PPG.
- 3.6 By contrast, the Historic England Guidance is distinctive. It does not contradict the PPG or the RICS guidance but it deals with a particular case in which the principles are applied. Moreover, it handles those principles in a unique manner and using slightly different terminology.
- 3.7 Notably, the Historic England Guidance makes use of a concept (Conservation Deficit) which does not appear in either of the other two documents, whilst the central concern of the PPG and the RICS Guidance (Benchmark Land Value) does not appear in the Historic England Guidance.
- 3.8 This distinctive character of the Historic England Guidance gives rise to a slightly different structure of appraisal. The following tables demonstrate the point. In the first,

we see the structure of a conventional (PPG) viability appraisal of the sort which might be used to determine the affordable housing liability.

Value	-	Costs	=	Residual
Value of Open Market Homes		Construction Costs		Residual Land Value
Value of Affordable Homes		Professional Fees		
Other Revenue	Minus	Marketing and Legal Costs	Equals	
		S106 and S278 Costs		
		Profit Allowance		

- 3.9 The estimated value arising from the development is established, and the development costs necessary to deliver that development, including an allowance for developer profit are then subtracted from that value in order arrive at a Residual Land Value (RLV).
- 3.10 The RLV is then compared to a Benchmark Land Value (BLV), which represents the minimum value at which the owner of a development site might reasonably be expected to release it for development.
- 3.11 If the RLV is less than the BLV, then the site is deemed unviable. At that point a case may be presented to make the scheme viable – typically by reducing the level of affordable housing and thus increasing overall value until RLV reaches the agreed BLV.
- 3.12 Viability assessments for enabling development operate differently. The predicate of that process is the existence of a Conservation Deficit in respect of the Heritage Asset itself. The table below illustrates the process:

Value	-	Costs	=	Residual
Value of Converted/ Restored Heritage Asset		Cost of Restoration/Conversion Works		Conservation Deficit
	Minus	Professional Fees Marketing and Legal Costs S106 and S278 Costs Profit Allowance Site Value	Equals	

- 3.13 In this case, the Site Value is treated as a development cost. What the appraisal is therefore seeking to determine is, whether the value arising from the conversion of the Heritage Asset itself is sufficient to offset the cost of the works necessary to secure its future. If it is not, the residual of the appraisal will be a negative number – which is referred to as the Conservation deficit.
- 3.14 If a Conservation Deficit is found to exist, then enabling development (profit making uses) may be contemplated in order to offset the Conservation Deficit.
- 3.15 The point I am seeking to draw out here is that, where enabling development is concerned, the term Benchmark Land Value, which is so central to conventional viability assessments, is replaced by the term Site Value. Moreover, the Site Value should be an *input* to the appraisal, rather than a comparator.
- 3.16 This does not mean that the two concepts are unrelated. On the contrary, whilst the Historic England Guidance deals only briefly with Site Value, it does so by direct cross reference to the Section of the PPG which refers to the establishment of Benchmark Land Value.
- 3.17 Seen in this way, it is clear that Aspinnall Verdi’s assessment does not follow the format of the Historic England Guidance because its output is a Residual Land Value. More fundamentally, they have excluded any consideration of Site Value or Benchmark Land Value from their assessment. Once again, that is, quite simply, wrong.

- 3.18 In the passages that follow, I shall walk through the Historic England Guidance and show the linkages between the various documents. This will support my characterisation of the structure above.
- 3.19 I shall then show that Aspinall Verdi's assessment elides these concepts in a manner which is clearly contrary to the guidance. It is unreasonable, and detrimental not only to the interests of the applicant but also to those of the asset itself.

Core Principles

- 3.20 The guidance which deals most directly with the circumstances of the application is "Enabling Development & Heritage Assets"⁵. That document is built on top of the foundations established by the NPPF and the PPG. Whilst it has distinctive features, I do not argue that it departs from those documents in any way.
- 3.21 The Definition of enabling development is set out in paragraph 5:
"As defined in paragraph 202⁶ of the NPPF, enabling development is development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except for the fact that it would secure the future conservation of a heritage asset."
- Paragraph 8 then gives an example:
"A typical example of enabling development may be a proposal for houses near a listed building that would not normally be given planning permission (for example because it would be in breach of countryside policies), but where the listed building's long-term future can only be secured by using the uplift in value of the land resulting from that development."
- 3.22 It then sets out the principle of keeping enabling development to a minimum in very clear terms.
"The amount of enabling development that can be justified will be the minimum amount necessary in order to address the conservation deficit and to secure the long-term future of the assets"

⁵ Historic England, June 2020

⁶ Following revisions to the NPPF, actually para 208

⁷ Enabling Development & Heritage Assets Historic England 2020 Para 14

- 3.23 Thus, the critical concept we must understand in order to ensure that the scale of enabling development is kept to a minimum is the “Conservation Deficit” which is defined in a text box between paras 9 and 10 of the guidance.

*“The amount by which the cost of repair (and conversion to optimum viable use*⁸ if appropriate) of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs.”*

- 3.24 As I shall show, “all appropriate development costs” include the Site Value. This means that the assessment of a scheme deficit is structured differently from a viability assessment.

- 3.25 The Optimum Viable Use of Northaw House is agreed to be its original one - residential. Once in that use, it is reasonable to assume that its future will be safeguarded by the self-interest of the owners.

- 3.26 The question then, is whether a Conservation Deficit arises. This matter is to be determined by means of an appraisal

*“In order to calculate the amount of enabling development that might be needed, it is good practice for two development appraisals to be carried out one after another.*⁹ They will be produced by the applicant and it is advisable these be audited by an independent firm of chartered surveyors. The first appraisal is to establish whether there is a conservation*

⁸ It may be helpful to eliminate a potential misunderstanding arising from the phrase Optimum Viable Use and specifically, the meaning of the word “viable” in that context. The asterisk in the text links us to paragraph 15 of the PPG on the Historic Environment. An extract of that text is reproduced below:

“What is the optimum viable use for a heritage asset and how is it taken into account in planning decisions?”

...

If there is only one viable use, that use is the optimum viable use. If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one. Nor need it be the original use. However, if from a conservation point of view there is no real difference between alternative economically viable uses, then the choice of use is a decision for the owner, subject of course to obtaining any necessary consents.”

It is important to note that the meaning of the word “viable” in this context is distinct from the meaning it has elsewhere in the planning system. In this context, a “viable” use is, in effect, a self-sustaining one. Once an asset has been converted to such a use, it has sufficient value that it would be in the interest of the owner to maintain it in that use without further harm.

In the wider planning context a “viable” development is one which generates more value than it costs to develop. The two usages may cause serious confusion because a “viable” use in the planning sense would *never* generate conservation deficit.

deficit and if so, how much. The second is to demonstrate the minimum amount of enabling development needed to meet the identified deficit.”¹⁰

- 3.27 In this case, the first appraisal was undertaken at the pre-application stage and there was agreement between the Council and the applicant that the conversion of Northaw House and its associated outbuildings back to residential use generated a Conservation Deficit. That remains an agreed matter but I have undertaken my own appraisal to confirm that it remains the case.
- 3.28 Once again, the asterisk in the text refers back to the PPG on Viability – in its entirety. It is clear that the general principles established by the PPG should apply to the Viability Assessments undertaken for the purposes of evaluating enabling development.
- 3.29 It is equally clear that the definition of Conservation Deficit and its status as the output of the appraisals means that it is necessary to treat the acquisition value of the site as an input to the appraisal. That affects the structure of the appraisal and leads to the differences discussed at the start of this section.
- 3.30 The Guidance then discusses at paragraphs 46-66, the inputs to those appraisals – the cost of the work entailed, the value of the resulting units etc. Most of these are agreed matters – or amenable to agreement through the SoCG. Only one of these inputs is at issue here.

Site Value

- 3.31 Section 4 of the Historic England is entitled “Making the Case for Enabling Development”
- 3.32 Paragraph 49 bears a sub-heading: “Site Value: has too much been paid?” The paragraph itself runs as follows:

“Enabling development is tested against the needs of the place, not the owner. It is not in the public interest to permit enabling development simply on the basis of too high a purchase price having been paid for the heritage asset. It is important, for this reason, that the purchase price is disclosed. The price may have been based on the hope or anticipation of consent for enabling development, rather than on any realistic valuation of the property in its current condition. Allowing this hope value to form part of the assessment encourages speculative acquisitions and increases the scale of enabling development required beyond the needs of the heritage asset itself. The additional profit simply goes to the selling landowner.”*

¹⁰ Enabling Development & Heritage Assets Historic England 2020 Para 54

- 3.33 Once again, the asterisk refers to the PPG – a subject to which I shall return in a moment.
- 3.34 The first point to make from this paragraph is that an allowance for the acquisition of the site is so fundamental, so deeply implicit in assessments of this type that the question at the top of paragraph 49 is not *whether* a Site Value is a legitimate consideration but whether it is has been correctly assessed.
- 3.35 The concern of the guidance itself is that the “purchase price” should be shorn of any “hope” value. In this sense, it is entirely consistent with the principles which govern the establishment of Benchmark Land Value as set out in the PPG.

“What is meant by existing use value in viability assessment?”

Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield (excluding any hope value for development).

Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams’ locally held evidence.”

- 3.36 It is worth noting that the term “Existing Use Value” which is used in Para 15 of the PPG appears nowhere in the Historic England Guidance.
- 3.37 I would also draw attention to the use of the past tense in the Heritage England Guidance. The question asked in the title is not “is too much *being* paid?” but “has too much *been* paid?” and the explanation uses the past tense throughout. The significance is unmistakable. What the guidance requires us to ask is whether the price was appropriate at the time the price was agreed. The link to the discussion of Benchmark Land Value and of Existing Use Value must therefore refer to the value that arose from the use that existed at the time the decision to transact occurred. That decision may have been prior to the grant of consent for the enabling works. It may, as in this case, be the point at which permission for the first consent was granted.
- 3.38 Under normal circumstances the distinction would be semantic. As we shall see in the following sub-section, no consent for enabling development should be granted unless the decision-making authority is confident that it overcomes the Conservation Deficit. In

theory then, the Site Value (based on the existing use) and the Residual Land Value arising from the new consent *should* be the same. However, in *the current* circumstances, the distinction is crucial because the Council granted a consent, which did *not* offset the Conservation Deficit, and which therefore generated a Residual Land Value *lower* than the use which had existed at the time consent was granted.

- 3.39 In such circumstances, the Site Value must look backwards to the previous use at the time the time the decision was made to proceed. Otherwise, an important element of legitimate development costs disappears from consideration. That is what happened here, and it is the crux of this case.

Other Relevant Aspects of Guidance – financial incentives

- 3.40 The Historic England Guidance contains a number of links to the PPG. Most of the linkages and cross-references which I have highlighted thus far refer to the PPG on Viability but, understandably, it is also necessary to consider the context created by another relevant section of the PPG – the one dealing with the Historic Environment.

- 3.41 For example, the definition of Optimum Viable Use in the Historic England Guidance is similar to the one in the PPG and contains a link to para 15 of the PPG. The longer discussion of the concept set out in the PPG sets out critical context:

“The vast majority of heritage assets are in private hands. Thus, sustaining heritage assets in the long term often requires an incentive for their active conservation. Putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation.”

- 3.42 What this passage establishes is that it is important to consider the incentives acting on the owners of heritage assets. The goal of the planning system is to incentivise the conservation of the historic environment. If the planning system acts in such a way as to disincentive conservation, it follows that the assets will be places at risk – because they can be preserved only by an owner choosing to act against their financial interest.

- 3.43 As I shall show, that is the situation that Aspinall Verdi risks creating in this case.

Other Relevant Aspects of Guidance – revisiting consents

- 3.44 Paragraph 25 of the Historic England Guidance deals with the desirability of reaching complete agreement between the parties that the level of enabling development consented does actually secure the future of the asset.

“If the local planning authority decides that a scheme of enabling development is justified in principle, it will need to ensure that long-term conservation of the heritage asset is secured

(see also paragraphs 72-77), thereby avoiding the need to revisit consents with a view to approving further development. This may involve the following, in a manner that is proportionate to the proposed enabling development and its likely impact:

- a) Precise definition of the scheme and thereby control of its impact, normally through the consideration of a full planning application;*
- b) Using conditions and planning obligations as appropriate to ensure the repair and maintenance of the asset can be secured and enforced. This will usually necessitate setting a standard for the conservation works, and making the funds to do so available as early as possible in the course of the scheme. This would ideally be at the outset and almost certainly before completion or occupation of the enabling development. Planning obligations should only be used where it is not possible to ensure the repair and maintenance of the asset via planning conditions.*
- c) The planning authority closely monitoring implementation and enforcing where necessary.*
- d) In some cases, depending on circumstances, a performance bond may offer a method of providing funds to complete the repairs to the heritage asset should the developer fail to do so. This may have a cost implication that itself would increase the need for enabling development but in some cases this avenue may be prudent in order to guarantee the works being undertaken and completed."*

- 3.45 This is a long passage, but its meaning is clear enough. It is undesirable, (but not impermissible) for a developer who is making an application for enabling development to make a further application for *additional* enabling development if the first consent does not provide sufficient value to fully eliminate the Conservation deficit.
- 3.46 To avoid that possibility, the Council should first ensure that the viability assessment upon which the initial application was predicated, is agreed by all parties. As I shall show in the next section, this was not the case in this instance. That failure to agree on all points made it all but inevitable that a second application would be submitted.
- 3.47 Second, Mr Waller will show that the S106 agreement imposed by the Council as part and parcel of the consented scheme does not, in fact, secure the long-term conservation of the heritage asset in the manner envisaged by sub-paragraph B, because *all* of the consented enabling development may be undertaken without triggering the requirement to undertake the critical works to Northaw House itself. It is therefore very much in the interest of Northaw House that a new planning permission is secured which includes a more robust mechanism for securing the conservation works and conversion. However,

it is also clear that the applicant could not reasonably be expected to enter into an agreement which extended his financial obligations unless that agreement also provided him with additional incentives to offset the cost of those obligations.

- 3.48 Finally, since the Guidance does clearly envisage at least the possibility of repeat applications whose purpose is specifically to secure additional funds for conservation, it would be nonsensical for an important element of the allowable costs in the first application to be excluded from consideration in any subsequent one. And yet, as I shall show in the following section, this is precisely what Aspinall Verdi is seeking to do in this case.

Summary

- 3.49 Read together, it is clear that the Historic England Guidance sets out a clear but distinctive process for establishing, first, that a Conservation deficit exists and, second, the level of enabling development necessary to eliminate it.
- 3.50 That process was followed by the applicant's advisor, James R Brown. As I shall show in the next section, it has not been followed by Aspinall Verdi. Moreover, Aspinall Verdi's departure from that structure artificially eliminates a significant element of real costs. The effect of that departure is to block any route to safeguarding the future of Northaw House.

4.0 History

- 4.1 The history of this site is documented comprehensively elsewhere, and it is not my intention to recapitulate all of the history. What follows here is a history which focussed on the matters relevant to viability and the context established by guidance.
- 4.2 The appellant has been in contact with the Council about the restoration of Northaw House for a very long time. He first approached the Council on 30th June 2016. It was agreed at that time that interest of the asset would be best served by restoration and conversion back to residential use. It was further agreed that the restoration of the Northaw house and its outbuildings in isolation was unviable and that, consequently, a Conservation Deficit would arise. It was further agreed that an element of enabling development was acceptable in principle. This satisfies the process established by guidance, which requires that the viability of the heritage asset should first be established in order to identify the existence of a Conservation Deficit. The continued existence of a Conservation Deficit is not in dispute.

The First Application

- 4.3 The appellant's original position, as expressed through pre-application negotiations and accompanying Viability Assessment was that 16 units of enabling development (31 units total) were required in order to off-set the established Conservation Deficit.
- 4.4 The Council appointed a suitably qualified advisor – BNP Paribas – to review the pre-application Financial Viability Assessment. BNP made known their opposition to that level of enabling development and suggested that four units of enabling development be removed. After 3 years of pre-application discussions, an application was subsequently submitted for 12 units of enabling development (27 units total). Again, in accordance with the guidance set out above, this application was accompanied by a Financial Viability Assessment demonstrating that the level of enabling development applied for was the minimum necessary to off-set the deficit and thus to secure conversion to the Optimum Viable Use and secure the future of the asset.
- 4.5 The Council's advisor – BNP Paribas – then reviewed the planning application.
- 4.6 As in any discussion of viability, where professional views are sought, the two advisors were not in complete agreement about all of the inputs to the appraisal. Both cost allowances and the Site Value were vigorously disputed. That is normal.

- 4.7 What was not in dispute was the existence of a Conservation Deficit. In assessing the scale of the Conservation Deficit in their report of 20 May 2019 [CD2.17], BNP Paribas accepted that it was legitimate to include an allowance for the acquisition of the site based upon its current use (which they estimated at £1.6m). On that basis, they concluded that the Conservation Deficit associated with the restoration and conversion of the Heritage asset, *in the absence of Enabling Development*, was £1,854,064.
- 4.8 As a result, and consistent with their pre-application advice to the Council, BNP Paribas maintained that 12 units was the minimum enabling development necessary. The conclusion of their May 2019 report was that:
- “As a result of the reduction in the value of the Site [from £4,218,000 to £1,600,000], the amount of enabling development required has reduced from 16 units to 12 units, enabling all 4 units in the East Drive to be removed. It is our understanding from recent submissions from GCL that this position is accepted.”¹¹
- 4.9 It is important to note that this conclusion does not appear to be fully supported by the remainder of the evidence in that report. The body of the text, for example, refers to a cost report by Bond Davidson but the relevant appendix actually contains a report by WT Partnership, which contains rather different figures.
- 4.10 However, shortly after the issuance of BNP Paribas’ May Report, they issued another, revised report in July [CD2.18] which reached a different conclusion.
- 4.11 This report seems to have been based upon the same cost report, undertaken by WT and originally included in the May Report.
- 4.12 The new report concluded that:
- “As a result of the reduction in the value of the Site [from £4,218,000 to £1,600,000], the amount of enabling development required has reduced from 16 units to 10 units, enabling all 4 units in the East Drive to be removed and 2 gate house units to be removed.”¹²
- 4.13 It is worth noting that BNP Paribas does not conclude that this position is or will be accepted by the applicant.
- 4.14 This is not an accidental omission. BNP Paribas were perfectly aware that the costs remained in dispute.

¹¹ BNP Paribas Viability Report May 2019 p.17

¹² BNP Paribas Viability Report July 2019 p.18

“Madlins have subsequently reduced their build costs allowances to £13,878,062, excluding repairs to the Walled Garden (a Grade II listed structure). *Given that there is not an agreed position on costs*, we have applied WTP’s costs in our appraisals. However, given that the original costs are dated February 2018, we have applied indexation to the WTP costs by reference to the BICS All-In Tender Price Index, which has increased by 4.32% between Qtr 2 of 2018 and Qtr 3 of 2019.”¹³ [my emphasis]

- 4.15 However, Madlins’ report referred to a scheme of 31 units whereas BNP Paribas’ July Report contains no appraisal of a 31 unit scheme nor of a 27 unit scheme. Only the 25 unit scheme which they now considered to be the minimum necessary to offset the Conservation Deficit they had previously identified.
- 4.16 It seems that BNP Paribas undertook a pro-rating exercise to discount the costs associated with the 31 unit scheme but there is no comprehensive explanation of how that was undertaken.
- 4.17 It is clear that the parties were some way apart. It is also clear that BNP had made no serious attempt to reconcile the differences of opinion and to arrive at an agreed position.
- 4.18 Despite this, the Council appears to have presented the applicant with what amounted to an ultimatum. Revise the application to 25 units, in the manner suggested by BNP Paribas or accept a refusal and settle the matter at appeal.
- 4.19 The Council was aware that the matter of viability was not resolved. Not only did they have BNP Paribas’ Report, but they were also in receipt of Thrings’ Second Advice Note – dated 1 August 2019¹⁴, which made precisely this point at 3.2 and 3.2.1.
- 4.20 Since the Council was aware of an on-going dispute as to the build costs, it cannot have been confident that the level of enabling development proposed did, in fact, secure the “long-term conservation of the heritage asset” as required by paragraph 25 of the Historic England Guidance.
- 4.21 I acknowledge that the Guidance itself did not exist in that form at the time of the Council’s decision. But I would point out that the Council’s decision to hold out the choice of amendment of the application to a position which was not agreed to be viable has led to precisely the situation that the Guidance seeks to avoid – a “need to revisit consents with a view to approving further development.”

¹³ BNP Paribas Viability Report July 2019 p.13

¹⁴ CD2.21

- 4.22 Following the grant of the initial consent, the applicant acquired the site, and commenced works to stabilise Northaw House as well as the construction of the consented enabling development. However, because the consented scheme was insufficient to fully offset the Conservation Deficit, it also made an application for a scheme that did address the full deficit.

The Second Application

- 4.23 The new application for 31 homes was duly submitted in October 2020. It was accompanied by a Financial Viability Appraisal undertaken by the applicant's new viability advisor, James R Brown.
- 4.24 In that report [CD1.22], James R Brown sought to avoid the difficulties that had arisen from the problem of pro-rating the costs to reflect different proposals. His report included updated cost appraisals (once again undertaken by Madlins) which set out the costs associated with the 25, 27 and 31 unit schemes.
- 4.25 In response, the Council also appointed a new viability advisor – Aspinall Verdi – to review the FVA.
- 4.26 In their turn, Aspinall Verdi appointed another cost consultant, Concert, to review Madlins' new information.
- 4.27 Concert made a number of adjustments, which we will discuss further in the following section. However, the main focus of the disagreement was about Aspinall Verdi's approach to the appraisals.
- 4.28 Instead of comparing the value of the development to the costs associated with it, and thereby identifying the existence, or otherwise of the Conservation Deficit, what Aspinall Verdi did was to calculate the Residual Land Value arising from the extant consent.
- 4.29 The conclusion of the report [CD2.19] does not address the economics of the 31 units applied for at all. Instead, it is based entirely on their assessment of the consented 25 unit scheme:

“Our assessment has demonstrated that the Applicant's approach does not comply with the Historic England guidance on enabling development (June 2020) as their appraisals demonstrate that a conservation deficit does not exist. This approach is based on the refurbishment of Northaw House and continued use as offices.

However, the Applicant is clear in that the continued use as offices is not considered the optimum viable use. This point is supported in the corresponding Planning Statement

and also appears to have been agreed to by the Council. Instead, it is evident that the optimum viable use of the building is residential.

Accordingly, we sought to determine whether a conservation deficit exists based on the optimum viable use. This was informed by the extant consent for 25no. residential units which was implemented by the Applicant in October 2020. Based on our cost and value assumptions, our appraisals show that the extant consent generates a positive residual value of c. £578,000. On this basis, a conservation deficit does not exist and therefore, enabling development is not required.”¹⁵

- 4.30 This conclusion is wrong as a matter of fact, and it displays a confused understanding of the guidance.
- 4.31 First, it asserts that the applicant’s own appraisals had demonstrated the absence of a conservation deficit which they did not. Aspinall Verdi may dispute that conclusion but they should not misrepresent it.
- 4.32 Second, it recognises that the applicant’s FVA has included the site’s value in its previous use as an office as the basis of Site Value. But it then suggests that this is the wrong basis of calculation because it is not based on the Optimum Viable Use. This is quite wrong, The Optimum Viable Use is the end use of the site following restoration and/or conservation. If Optimum Viable Use were the basis of Site Value (or Benchmark Land Value) then the Site Value would always be the same as the Residual Land Value.
- 4.33 That being the case, Aspinall Verdi seems to conclude that the scheme is viable because, leaving the Site Value entirely to one side, the extant consent generates a positive land value.
- 4.34 Finally, Aspinall Verdi concludes that no Conservation Deficit exists at all. Once again, this is a serious misunderstanding of the guidance. The Conservation Deficit is based upon the conversion of the Heritage Asset alone – without any enabling development. But the consent they were appraising actually contains 10 units of enabling development. What they appear to mean is that the 10 units of enabling development already consented are sufficient to offset the Conservation Deficit. That conclusion would be wrong, but it would at least be consistent with the terminology of the guidance.
- 4.35 As I understand it, there was a good faith effort to close the gap between the parties. In May 2021. James R Brown provided a letter setting out his objections to Aspinall Verdi’s report. In it, he mentioned that the exclusion of any allowance for the acquisition of the

¹⁵ Aspinall Verdi FVA April 2021 p.46

site, departed from guidance. He also raised a number of concerns about Concert's review of Madlins' costs and criticised Aspinall Verdi's failure even to undertake an appraisal of the scheme for which consent was sought.

- 4.36 Following that letter, a meeting was convened electronically. No minutes appear to have been kept. Nonetheless, I understand that the whole meeting was taken up with discussion of the Site Value/Benchmark Land Value question but that no progress was made. The topic of the discrepancies in the assessed construction costs was not even discussed.
- 4.37 With no agreement, the Council moved to refuse and it is that decision that the applicant is seeking to appeal.

Post Decision

- 4.38 When it became clear, that James R Brown would not have the capacity to represent the applicant at appeal I was appointed on 20th October.
- 4.39 I immediately moved to review the history of the site and I also sought an explanation of Aspinall Verdi's position from Parminder Dosanjh.
- 4.40 We agreed that the main issue between the parties was whether it was appropriate to include a Land Value term among the development costs, but we also agreed that it would be necessary to reach common ground on the disputed construction costs.
- 4.41 An approach to resolving the Construction Costs is set out in Section 5 of this report. We anticipate that it will be possible to resolve the matter by means of a Statement of Common Ground.
- 4.42 However, Mr Dosanjh also clarified his position in respect of Land Value. In essence, my understanding of his argument is as follows:
- 4.43 If this were the first application and the site were presently in use as an office, then it would be appropriate to take account of the value arising from that use, either as a Site Value in an appraisal undertaken in the manner prescribed by the HE Guidance or as a Benchmark Land Value, in an appraisal in the conventional Viability Appraisal format.
- 4.44 The reason he has not done so in this instance is that the office use has ceased and, now that the original consent has been implemented, he does not think it could be revived. Thus, in his view, office use does not reflect the Existing Use Value of the site and cannot therefore be used as a Benchmark Land Value.
- 4.45 This view is quite distinct from the conclusion of the Aspinall Verdi Report. It remains wrong, as I explain in the next section.

5.0 The Case for the Appellant

- 5.1 The reason that Mr Dosnajt's expressed view is wrong is because, as I have shown in Section 3, Site Value and Benchmark Land Value are not identical in either their use or their definition.
- 5.2 Site Value is the amount that the applicant might reasonably pay to acquire the site and bring it forward from its current or existing use. It is subject to the same constraints as Benchmark Land Value in that it must *start* from consideration of the Existing Use Value.
- 5.3 The difference is that, in assessing what the applicant might reasonably have paid (although not necessarily what he *did* pay), Site Value contains at least the potential for its consideration to be assessed based on the time of acquisition rather than at the point of assessment. This is clear from the use of the past tense in the guidance.
- 5.4 Under normal circumstances, this distinction would matter little. The site would be in one use (though not its Optimum Viable Use) and that use would generate a value. The value arising from that use would then be used to assess Site Value and that would be fed into an assessment of the Conservation Deficit.
- 5.5 This was the procedure that was followed in the first application (which was structured along the lines set out in the Historic England Guidance). That assessment would correctly determine the extent of enabling development necessary to overcome the Conservation Deficit.
- 5.6 A permission would then be issued reflecting that level of enabling development and the applicant could then go and acquire the asset for a value that exceeded the value arising from the Existing Use but which the consented level of development would be sufficient to repay.
- 5.7 That is not what happened here. For the reasons set out above, the applicant was placed in a position where he had to accept a permission which included a level of enabling development which was not sufficient to overcome the Conservation Deficit. This is the significance of the Council's decision to compel the applicant to reduce the level of enabling development and its failure to reach agreement on all the inputs to the appraisal.
- 5.8 As a result, the applicant had a permission which reflected a Residual Land Value well below the value of the building in the preceding use.
- 5.9 This much should not be in dispute. The value of the site as offices was calculated by BNP Paribas to be £1.6m at the time the initial consent was granted. Aspinall Verdi's own

report estimates the Residual Land Value arising from that consent at £578,000 – more than £1m less.

- 5.10 In that sense, they agree that the extant 25 unit consent was not viable when the Council issued it.
- 5.11 In their interpretation, the decision of the applicant to acquire the site and get on with the areas of development which are not in dispute, was a fateful one because, once part of the site was no longer in the use which had generated the Existing Use Value, it would no longer be possible to include that value as the Site Value component of the appraisals. At least £1.6m in allowable development costs would simply disappear from consideration.
- 5.12 Read properly, there is no support for this view in the guidance.
- 5.13 As I have shown, the correct way to assess the level of enabling development is to include Site Value as an input to the appraisal in order to make an assessment of the Conservation Deficit.
- 5.14 Multiple applications seeking additional development are clearly not a desirable outcome, but they are not *precluded* by guidance. Normally, they would only arise when the cost of conservation had turned out to be higher than anticipated – potentially necessitating additional enabling development. In those circumstances, the Residual Land Value would fall (because costs had increased) but, if the Site Value which had informed the original appraisal was omitted in the second then there is no way to determine whether the new application is sufficient to offset the Conservation Deficit. In order to do that, it would be necessary to retain the original assessment of Site Value as a cost item in the new appraisal.
- 5.15 That is not, of course, the situation here. In this case, the basis of the viability assessment in the original application was simply flawed. That has necessitated a further application, but it remains appropriate to include the previously agreed Site Value as a cost item. To assume that the Site Value agreed for a first assessment should fall away in any subsequent application is to create a viability “trap”. That is not in the interest of the Heritage Assets under consideration and it is not what the guidance intends.
- 5.16 Paragraph 15 of the PPG on the Historic Environment states that “*sustaining heritage assets in the long term often requires an incentive for their active conservation*”. The situation described would be an enormous disincentive for developers to undertake conservation. Moreover, the history in this case is far worse.
- 5.17 In compelling the applicant to accept a permission which did not overcome the Conservation Deficit, the Council put him in a situation where he was compelled to

acquire the site at a value higher than the consent could justify or walk away. Walking away would have left the asset at immense risk because of the passage of time since the negotiations had begun.

- 5.18 By going forward with the development and resolving to come back with a new application for the level of enabling development required, the developer was serving the interests of the Heritage Asset itself but at considerable risk to his own financial interests. In refusing to accept the relevance of any acquisition value at all, the Council's advisors have effectively punished him for taking timely action.
- 5.19 Worse, the decision to refuse the consent (once again without reaching any agreement between the parties) places the site at still greater risk.
- 5.20 This is because, contrary for Aspinall Verdi's view, the lawful use of the Heritage Asset remains as an office.
- 5.21 As Mr Waller will, in fact, show, the extant consent does not have the effect of preserving the Heritage Asset for future generations because the obligation to undertake the conservation work itself is not triggered until after the occupation of the 10th unit. In effect, the applicant can build all of the enabling development but is not under any obligation to undertake the works thus enabled.
- 5.22 As a minimum then, there is an Existing Use Value arising from the potential to revert to that use. That Value has not been taken into account by Aspinall Verdi.
- 5.23 More significantly, if the enabling development is insufficient to offset the cost of the required conservation work then the developer is not only *able* to cease work at that point, he has a strong financial incentive to do so.
- 5.24 The PPG recognises is that, where the financial interest of the owner and the interests of the heritage asset diverge, assets are at risk. In this case, Aspinall Verdi's approach to Site Value has engineered precisely that situation through their misapplication of guidance.
- 5.25 In the next section I shall attempt to reconcile the minor outstanding issues in relation to costs. I shall then show that the effect of reaching an agreed position on these costs would have the effect of depressing the Residual Land Value identified by AV still further. However, this appraisal is for information only and is for the sole purpose of reaching an agreed basis for consideration of the Site Value.
- 5.26 Then, by undertaking a series of appraisals in the format described in the HE Guidance, I shall show that.
- A Conservation Deficit still exists in respect of the identified Heritage Asset;

- That the 25 unit application for which an extant permission exists is insufficient to offset that Conservation Deficit;
- That the 31 units for which permission is sought via this appeal is the minimum level of Enabling Development necessary to offset the Conservation Deficit;
- That the 31 unit appeal scheme is therefore viable in the sense understood by both the PPG and the HE Guidance and therefore provides a credible basis to assume that this will secure the long term future of Northaw House and its associated outbuildings;
- On this basis, the appeal scheme represents the Optimum Viable Use.

6.0 Reconciling the Appraisals

- 6.1 As I have noted throughout this Statement, there were two outstanding areas of disagreement at the point that the application was determined. The first point was vastly more important – and related to the exclusion of any consideration of Site Value. The second was a more routine disagreement about the basis of some cost allowances.
- 6.2 In order to provide the Hearing with a clear basis for determination of the former point, I have attempted to reconcile the dispute over cost allowances. I am hopeful that this will form the basis for an agreed position through the Statement of Common Ground, at which point, this portion of my evidence would fall away but, of course, that does not lie entirely within my control.
- 6.3 Since the professional views of any two specific professionals may diverge somewhat, it would not be uncommon simply to split the difference. In this case, I have attempted a slightly more nuanced approach.
- 6.4 It is important to recognise that the robustness of any appraisal is determined not by the accuracy of any specific allowance but by the consistency of all of the assumptions taken in the round. I am satisfied that the appraisals undertaken here are robust and they represent my professional opinion.

Matters of Disagreement - Format

- 6.5 As noted at paragraph 5.1, and elsewhere, I have been clear that the format of the appraisal undertaken by Aspinall Verdi does not match the format specified in guidance because its output is a Residual Land Value rather than a Conservation Deficit (or surplus).

Matters of Disagreement - Profit

- 6.6 James R Brown had argued in his FVA that, whilst the normal range of profit allowances set out in guidance runs from 15-20% of GDV, this specific development was riskier than most and it was taking place against a background of considerable market uncertainty. In the circumstances, he argued that it was reasonable for a developer to target 22%.
- 6.7 Against that, The Council's Whole Plan Viability Assessment, BNP Paribas and Aspinall Verdi all suggest a profit target of 20%.
- 6.8 Whilst I recognise the case James R Brown was making, I note that his target was not achieved in any of his appraisals, nor have I reached that target in any of my own. I am

therefore content to accept that 20% of GDV should be the appropriate profit allowance for these purposes.

Matters of Disagreement – S106 Costs

- 6.9 James R Brown's FVA on behalf of the applicant set out the agreed cost of the S106 contributions sought by the Council from the 25 unit extant consent. He also made projections, on the same basis, in respect of the 27 unit and 31 unit schemes he included for completeness.
- 6.10 Aspinall Verdi's FVA for the Council did not include the same allowances and, consequently, did not match the Council's expectations of the site. I think that this is the only matter which the parties did manage to resolve – although no revised appraisals were ever undertaken by Aspinall Verdi setting out the correct allowances.
- 6.11 I have therefore included what I understand to be the correct allowances – they are consistent with those applied by James R Brown.

Matters of Disagreement – Construction Costs

- 6.12 James R Brown's FVA on behalf of the applicant was accompanied by a full cost plan compiled by Madlins. It set out the costs in respect of:
- The restoration of Northaw House and its associated outbuildings
 - Works to the walled garden
 - A package of highways works; and
 - The new build element of each of the three options (10, 12 or 16 units)
- 6.13 The cost plan was then reviewed by Concert who made three types of adjustments.
- First, they identified two areas of double-counting;
 - Second, they disputed the rates applied to a number of line items;
 - Finally, they suggested lower rates for both prelims and OH&P.
- 6.14 In respect of the double-counting, there were two areas of dispute. The first was an element of the cost of works to the walled garden which appeared both under the appropriate heading and again among the costs associated with restoration of Northaw House and its outbuildings. I have looked into that, it appears to be an error and I am willing to exclude the cost – amounting to £203,500.

- 6.15 The second area was in respect of Strip Out costs, which appears twice – once for £42,000 and once for £20,000. Concert excluded the former. I have not been able to identify what was covered by the two headings. I am not therefore able to confirm that the two entries cover different allowances. In view of the confusion, and in the interest of reaching an agreement, I am prepared to concede the removal of the larger sum – in accordance with Concert’s report. In the event of a dispute, I may seek to resolve this matter more conclusively.
- 6.16 As to the disputed line items, there are discrepancies relating to the cost of fire doors, soil stacks, fit out and a number of other items. Each individual discrepancy is small and well within the range of professional disagreement, but they add up to several hundred thousand pounds. Again, in the interest of reaching an agreement, I am willing to accept all of Concert’s proposed rates with a single exception.
- 6.17 The exception is the cost of bricks for the garden wall. I accept that the cost of bricks is high. And if the intention was to purchase the nearest modern equivalent from a small kiln specialising in hand made bricks Concert’s price would be reasonable. However, I understand that the specification here is “to match existing”. What we are talking about is reclaimed bricks which must be individually cleaned and sourced from reclamation yards in small batches. The only alternative would be to commission a manufacturer to make something to special order. This would be even more expensive. The value of the disputed allowance is £89,000 but, following my discussions with Madlins, I am unable to accept the rate proposed by Concert – who had proposed halving the per brick allowances.
- 6.18 The final area of dispute was in respect of Prelims and OH&P. Again, my view is informed by discussions with Madlins themselves.
- 6.19 Prelims cover costs such as a site manager, temporary hoardings etc. Madlins had allowed 16%, Concert had suggested 14%. Following my discussions with Madlins, I understand that their estimate was based on an itemised schedule of the items required over the duration of the build process. In fact, the schedule had totalled a slightly higher figure. I also note that, in the negotiations in respect of the first application, BNP and their Quantity Surveyors WT Partnership, had actually proposed using an allowance of 16% to cover prelims.
- 6.20 Nonetheless, and in the interest of achieving an agreed position, I am prepared split the difference between the parties and apply a rate of 15%.
- 6.21 As to contractor Overheads and Profit, the dispute is between the 7.5% allowed by Madlins and the 5% suggested by Concert. In my experience, 5% would be typical on a new build scheme but not on a scheme involving heritage standard conservation work.

Madlins' view was that the tenders they see on a day-to-day basis typically include allowances of between 5% and 9.5% profit. However, in their experience, tenders which include OH&P at 5% are typically "padding" the cost allowances by using somewhat more generous allowances for line items elsewhere in the proposal. They had therefore proposed using the middle of the range – 7.5%. I am also conscious of some relevant context here, which is that Concert have specified a contingency of 5% across the entire scheme, whereas a contingency of 7.5% would often be applied in respect of restoration work. With that in mind, I have proposed setting the OH&P allowance to 6% - still near the bottom of the range that Madlins identified but not at the absolute bottom.

6.22 The effect of these changes on the cost of the restoration of Northaw House in isolation, the 25 unit scheme currently consented and the 31 units applied for are as follows:

Restoration Only (15 units)	Madlins	Concert	Reconciliation
Restoration	£7,087,911	£6,548,224	£6,668,576
Garden	£511,309	£393,707	£524,820
Highways	£68,226	£63,113	£64,273
Total	£7,667,446	£7,005,044	£7,257,668

25 units	Madlins	Concert	Reconciliation
Restoration	£7,087,911	£6,548,224	£6,668,576
10 Units New Build	£5,920,230	£5,753,205	£5,858,945
Garden	£511,309	£393,707	£524,820
Highways	£68,226	£63,113	£64,273
Total	£13,587,675	£12,758,249	£13,116,613

31 units	Madlins	Concert	Reconciliation
Restoration	£7,087,911	£6,548,224	£6,668,576
16 Units New Build	£7,388,438	£7,209,126	£7,341,625
Garden	£511,309	£393,707	£524,820
Highways	£68,226	£63,113	£64,273
Total	£15,055,884	£14,214,170	£14,599,293

Matters of Agreement

- 6.23** All of the other inputs to the appraisals are agreed.
- 6.24** For the avoidance of doubt, these matters include the measured areas, the values, the finance cost and timescales.
- 6.25** Whilst I recognise that there is a case to be made for the indexation of the costs to the present day, rather than Q3 2020, which was the base date of the appraisals, it would then be necessary to adjust values. I have a verbal agreement from Aspinall Verdi that this would introduce still more potential matters for disagreement and, since the effects would off-set one another, I believe that we are both content to operate on a “point in time” basis.

Results of Revised Appraisals

Conservation Deficit

- 6.26** The Conservation Deficit is, as the guidance makes clear, the starting point for any consideration of Enabling Development. We cannot consider the case for any enabling development or any additional enabling development without establishing that such a Deficit exists. It is, of course, defined as the amount by which the value of the restored/converted heritage asset is exceeded by the cost of the work necessary to achieve the conversion, including the Site Value.
- 6.27** To identify the Conservation Deficit then, we need to include the reasonable site value as an input to the appraisal.

- 6.28 As we have seen, BNP Paribas, acting for the Council, ascribed a figure, of £1.6m based upon the site’s continued use as offices. Although the use as offices is not the optimum viable use, it is still a viable use, for which Northaw House has lawful planning use.
- 6.29 James R Brown, acting for the applicant, vigorously disputed BNP’s figure, pointing out that the value arising from several elements of the site had been ignored. He ascribed a value of £2.64m and pointed out real issues with the basis of BNP Paribas’s assessment of Site Value. However, this argument was never resolved prior to the Council determining the application.
- 6.30 For the purposes of this assessment, I am minded to accept BNP Paribas’ figure as it is the lowest (and therefore the least controversial) figure available. It is also the Site Value that the council relied upon in determining the initial 25 unit scheme.
- 6.31 Before moving to the calculation of the Conservation Deficit itself, it is worth noting that even this assessment of the site value places the Council in an unenviable position.
- 6.32 Aspinall Verdi has calculated that the Residual Land Value arising from the extant consent was just £572,000. The implication is that, if the confusion surrounding BNP Paribas’ view of costs had been resolved at the time of the first application, it would have been abundantly clear that the 25 unit application was nowhere near viable. That level of Enabling Development was clearly insufficient to offset the Conservation Deficit and so, could not be said to secure the long term future of Northaw House.
- 6.33 As part and parcel of this application, we are again required to demonstrate the existence of a Conservation Deficit and we are doing so on the basis of the Site Value suggested by BNP Paribas - £1.6m. The full calculation can be found at my Appendix 1.

	Fixed Land Input	Residual Profit (%)	Target (20%)	Conservation Deficit
Asset Only	£1,600,000	(-£167,008) (-1.56%)	£2,106,000	£2,273,008

- 6.34
- 6.35 As the table shows, the restoration of Northaw House and its outbuildings without any enabling development, generates a *negative* profit of £167,008. This needs to be compared to the profit allowance of 20% GDV (£2,106,000) The difference between these two figures, is the Conservation Deficit: £2,273,008.

25 units vs 31 Units

- 6.36 Having established that a Conservation deficit exists on the basis of the Reconciled costs, it is then possible to undertake further appraisals in order to see whether the 25 unit development already consented is sufficient to offset that deficit and, if not, whether the 31 unit application would do so.
- 6.37 The results are set out in the table below. Again, appraisal summaries are included as my Appendices 3 & 4.

	Fixed Land Input	Residual Profit (%)	Target (20%)	Remaining Deficit
25 Units	£1,600,000	£2,416,960 (11.66%)	£4,145,000	£1,728,040
31 Units	£1,600,000	£4,827,337 (19.3%)	£5,003,000	£175,663

- 6.38 What arises from this analysis is clear. The 25 unit scheme actually offsets only a quarter of the total Conservation Deficit. The 31 unit scheme addresses almost all of it – reducing the level of the deficit to just £175,000. I am content that this gap is sufficiently small to consider the deficit fully offset.
- 6.39 Thus, not only am I in a position to say that, in my professional opinion, the 25 unit scheme is insufficient to secure the long term future of Northaw House, I can also say that the 31 unit scheme *does* offset the deficit. Thus the 16 units of enabling development in the application proposals represent the minimum amount of enabling development required to secure the future of the asset.

7.0 Conclusion

- 7.1 The appellant has been negotiating how to go about restoring and preserving Northaw House since 2016.
- 7.2 It was common ground from the start that the restoration of Northaw House and its associate outbuildings in isolation would generate a significant conservation deficit and I have shown that remains the case today.
- 7.3 It seems also to have been accepted relatively early on that an element of enabling development was required – the dispute being about the extent of that enabling development.
- 7.4 Through the pre-application process to the first application, the appellant maintained that 16 new build homes were necessary, but he was persuaded to reduce that to 12 as part of the first application.
- 7.5 The economics of that proposal were scrutinised by the Council’s advisors BNP Paribas, and, initially it seemed that there might be agreement on this subject - albeit that the report which set out BNP Paribas’s view was internally inconsistent. Subsequently, BNP Paribas, issued a new report relying on new cost advice and then pro-rating that advice in a way which they did not fully explain, in order to arrive at the conclusion that no more than 10 units of Enabling Development were warranted. Without waiting to resolve the very significant discrepancies in between the parties on the question of costs, the Council seems to have presented the applicant with a choice; amend the application to 25 units or face refusal.
- 7.6 This approach is, itself contrary to guidance – the Council can have no certainty that the future of the Heritage Asset is assured whilst there are outstanding uncertainties about the cost of the work. The Council was aware, both from BNP Paribas’ second report and Thring’s advice note on behalf of the applicant, that the appraised costs were disputed.
- 7.7 When a second application was submitted for 31 units, (the subject of this appeal) the Council appointed Aspinall Verdi, to review the viability of that proposal. Instead of reviewing the application scheme, Aspinall Verdi undertook an appraisal of the 25 unit scheme already consented and concluded that, since this scheme produced a positive land value, no Conservation Deficit existed and there was no case to be made for additional enabling development.
- 7.8 This conclusion was flawed, not least because it misstates the critical concept of the Conservation Deficit. More consequentially, it is flawed because it omits a critical cost – the cost associated with the acquisition of Northaw House. The basis of this error is that

they seem to have treated Site Value as synonymous, and therefore interchangeable, with Benchmark Land Value. It is not. Whilst the two terms are subject to the same considerations, they are treated differently.

- 7.9 Benchmark Land Value is always to be appraised based on an Existing, or Alternative Use Value. Aspinall Verdi argues that, because they believe that the use (as offices) which gave rise to the Site Value in the first application has ceased, it cannot be considered in any subsequent applications for additional enabling development. It is worth noting, in passing, that Aspinall Verdi are wrong on the facts here – the lawful use of Northaw House remains as an office.
- 7.10 But, more importantly, their argument is simply wrong because it relates to Benchmark Land Value rather than Site Value. Site Value is a distinct concept from Benchmark Land Value. It relates to the *reasonable* cost of acquiring a Heritage Asset in order to save it. The linkage to the guidance on Benchmark Land Value is intended to ensure that overpayments based on hope value do not lead to more Enabling Development than would otherwise have been required. But that does not make the two concepts interchangeable. The crucial difference relates to the use of the past tense in the Guidance on site value (“*has too much been paid?*”). From this it is clear that the relevant date for the determination of whether the Site Value was reasonable may be in the past.
- 7.11 Where a subsequent application by the same owner to save the same asset is necessary, because the first is found to be unviable, the Residual Land Value of the consented works will have fallen below the Site Value. That is what makes it unviable. It makes no sense to remove the agreed Site Value from consideration as a cost. Doing so creates an economic limbo in which there is nothing that can be used to determine viability. In such circumstances, important assets would be placed at grave risk.
- 7.12 Aspinall Verdi have completely failed to engage on the question of Site Value and their report completely mischaracterises the guidance by suggesting that Benchmark Land Value (the wrong concept in the context) should only be based upon the Optimum Viable Use. Since the entire point of enabling development is to acquire sites which are *not* in their Optimum Viable Use and convert/restore them *into* their Optimum viable use, it would make no sense at all to base either Benchmark Land Value or Site Value on a Land Value arising from the Optimum Viable Use.
- 7.13 In my own appraisals, I have used the Site Value proposed by BNP Paribas and which was relied upon by the Council. That Site Value relates to the lawful use and condition of the asset at the time the first consent was granted. The grant of that consent triggered the acquisition and it is, therefore the relevant date.

- 7.14 On that basis, it is clear that a Conservation Deficit exists, and that the Conservation Deficit is not overcome by the consented level of development.
- 7.15 I have then run a further appraisal of the appeal scheme which shows that the 31 unit development which is the subject of this appeal does overcome all but a fraction of that deficit. It is therefore the minimum level of Enabling Development necessary to overcome the Conservation Deficit and secure the future of the asset.

Appendix 1 – Assessment of Conservation Deficit

Northaw House and Outbuildings
No enabling development
Fixed Site Value
Heritage England Report Structure

Development Appraisal
Bailey Venning Associates
24 November 2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES**

Northaw House and Outbuildings
 No enabling development
 Fixed Site Value

Appraisal Summary for Phase 1

Currency in £

REVENUE

Sales Valuation	Units	ft ²	Sales Rate ft ²	Unit Price	Gross Sales
15 Units within NH etc	1	22,614	465.64	10,530,000	10,530,000

NET REALISATION**10,530,000****OUTLAY****ACQUISITION COSTS**

Fixed Price		1,600,000			
Fixed Price			1,600,000		
				1,600,000	
Stamp Duty		4.00%	64,000		
Agent Fee		1.00%	16,000		
Legal Fees		0.80%	12,800		
				92,800	

CONSTRUCTION COSTS

Construction	ft ²	Build Rate ft ²	Cost	
15 Units within NH etc	22,614	320.94	7,257,668	
				7,257,668

PROFESSIONAL FEES

Professional fees		10.00%	725,767	
				725,767

MARKETING & LETTING

Marketing		1.00%	105,300	
				105,300

Project: U:\BVA MAIN\East\Welwyn Hatfield\Projects\Northaw House Appeal\Our appraisals\Northaw House Asset only.wcfx
 ARGUS Developer Version: 8.20.003

Date: 24/11/2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES****Northaw House and Outbuildings****No enabling development****Fixed Site Value****DISPOSAL FEES**

Sales Agent Fee	1.50%	157,950	
Sales Legal Fee	0.50%	52,650	
			210,600

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)			
Land		218,706	
Construction		383,515	
Other		102,653	
Total Finance Cost			704,873

TOTAL COSTS**10,697,008****PROFIT****(167,008)****Performance Measures**

Profit on Cost%	-1.56%
Profit on GDV%	-1.59%
Profit on NDV%	-1.59%
IRR% (without Interest)	5.08%
Profit Erosion (finance rate 7.000)	N/A

**Appendix 2 – 25 Unit Appraisal with Revised Assumptions in “Viability”
Format (Land as Residual)**

Northaw House
25 Units
Fixed Profit, Residual Land Value
Aspinall Verdi Report Structure

Development Appraisal
Bailey Venning Associates
22 November 2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES**

Northaw House
 25 Units
 Fixed Profit, Residual Land Value

Appraisal Summary for Phase 1

Currency in £

REVENUE

Sales Valuation	Units	ft ²	Sales Rate ft ²	Unit Price	Gross Sales
25 residential units and related	1	44,181	469.09	20,725,000	20,725,000

NET REALISATION **20,725,000**

OUTLAY**ACQUISITION COSTS**

Residualised Price			252,359	252,359	
Stamp Duty		4.00%	10,094		
Agent Fee		1.00%	2,524		
Legal Fees		0.80%	2,019		
				14,637	

CONSTRUCTION COSTS

Construction	ft ²	Build Rate ft ²	Cost
25 residential units and related	44,181	296.88	13,116,613
			13,116,613

Section 106 Costs

Section 106 Costs			173,539	173,539
-------------------	--	--	---------	---------

PROFESSIONAL FEES

Professional fees		10.00%	1,311,661	1,311,661
-------------------	--	--------	-----------	-----------

MARKETING & LETTING

Project: U:\BVA MAIN\East\Welwyn Hatfield\Projects\Northaw House Appeal\Our appraisals\Northaw House 25 Units(Residual Land).wcfx
 ARGUS Developer Version: 8.20.003

Date: 22/11/2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES****Northaw House****25 Units****Fixed Profit, Residual Land Value**

Marketing	1.00%	207,250	
			207,250

DISPOSAL FEES

Sales Agent Fee	1.50%	310,875	
Sales Legal Fee	0.50%	103,625	
			414,500

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)			
Land		45,140	
Construction		959,436	
Other		84,864	
Total Finance Cost			1,089,440

TOTAL COSTS**16,580,000****PROFIT****4,145,000****Performance Measures**

Profit on Cost%	25.00%
Profit on GDV%	20.00%
Profit on NDV%	20.00%
IRR% (without Interest)	27.76%
Profit Erosion (finance rate 7.000)	3 yrs 3 mths

Appendix 3 - 25 Unit Appraisal with Revised Assumptions in “Enabling Development” Format (Profit as Residual)

Northaw House
25 Units
Fixed Acquisition Price, Residual Profit
Historic England Report Structure

Development Appraisal
Bailey Venning Associates
22 November 2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES**

Northhaw House

25 Units

Fixed Acquisition Price, Residual Profit

Appraisal Summary for Phase 1

Currency in £

REVENUE

Sales Valuation	Units	ft ²	Sales Rate ft ²	Unit Price	Gross Sales
25 residential units and related	1	44,181	469.09	20,725,000	20,725,000

NET REALISATION**20,725,000****OUTLAY****ACQUISITION COSTS**

Fixed Price	1,600,000				
Fixed Price			1,600,000		
				1,600,000	
Stamp Duty		4.00%	64,000		
Agent Fee		1.00%	16,000		
Legal Fees		0.80%	12,800		
				92,800	

CONSTRUCTION COSTS

Construction	ft ²	Build Rate ft ²	Cost
25 residential units and related	44,181	296.88	13,116,613
			13,116,613

Section 106 Costs

Section 106 Costs			173,539
			173,539

PROFESSIONAL FEES

Professional fees		10.00%	1,311,661
			1,311,661

Project: U:\BVA MAIN\East\Welwyn Hatfield\Projects\Northhaw House Appeal\Our appraisals\Northhaw House (Residual Profit).wcfx
 ARGUS Developer Version: 8.20.003

Date: 22/11/2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES****Northaw House****25 Units****Fixed Acquisition Price, Residual Profit****MARKETING & LETTING**

Marketing	1.00%	207,250	
			207,250

DISPOSAL FEES

Sales Agent Fee	1.50%	310,875	
Sales Legal Fee	0.50%	103,625	
			414,500

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)			
Land		286,194	
Construction		959,436	
Other		146,046	
Total Finance Cost			1,391,676

TOTAL COSTS**18,308,040****PROFIT****2,416,960****Performance Measures**

Profit on Cost%	13.20%
Profit on GDV%	11.66%
Profit on NDV%	11.66%
IRR% (without Interest)	16.87%
Profit Erosion (finance rate 7.000)	1 yr 9 mths

Appendix 4 - 31 Unit Appraisal with Revised Assumptions in “Enabling Development” Format (Profit as Residual)

Northaw House
31 Units
Fixed Acquisition Price, Residual Profit
Historic England Report Structure

Development Appraisal
Bailey Venning Associates
22 November 2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES**

Northaw House

31 Units

Fixed Acquisition Price, Residual Profit

Appraisal Summary for Phase 1

Currency in £

REVENUE

Sales Valuation	Units	ft ²	Sales Rate ft ²	Unit Price	Gross Sales
31 residential units and related	1	52,879	473.06	25,015,000	25,015,000

NET REALISATION**25,015,000****OUTLAY****ACQUISITION COSTS**

Fixed Price	1,600,000				
Fixed Price			1,600,000		
				1,600,000	
Stamp Duty		4.00%	64,000		
Agent Fee		1.00%	16,000		
Legal Fees		0.80%	12,800		
				92,800	

CONSTRUCTION COSTS

Construction	ft ²	Build Rate ft ²	Cost
31 residential units and related	52,879	276.09	14,599,293
			14,599,293

Section 106 Costs

Section 106 Costs			221,796
			221,796

PROFESSIONAL FEES

Professional fees		10.00%	1,459,929
			1,459,929

Project: U:\BVA MAIN\East\Welwyn Hatfield\Projects\Northaw House Appeal\Our appraisals\Northaw House 31 Units (Residual Profit).wcfx
 ARGUS Developer Version: 8.20.003

Date: 22/11/2021

APPRAISAL SUMMARY**BAILEY VENNING ASSOCIATES****Northaw House****31 Units****Fixed Acquisition Price, Residual Profit****MARKETING & LETTING**

Marketing	1.00%	250,150	250,150
-----------	-------	---------	---------

DISPOSAL FEES

Sales Agent Fee	1.50%	375,225	
Sales Legal Fee	0.50%	125,075	
			500,300

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)			
Land		286,194	
Construction		1,069,771	
Other		107,430	
Total Finance Cost			1,463,395

TOTAL COSTS**20,187,663****PROFIT****4,827,337****Performance Measures**

Profit on Cost%	23.91%
Profit on GDV%	19.30%
Profit on NDV%	19.30%
IRR% (without Interest)	25.03%
Profit Erosion (finance rate 7.000)	3 yrs 1 mth

A3 Appeal Core Documents

CD Ref	Name	Drawing No. (or) Reference	Date
CD1 - Application Documents			
CD1.1	Application forms and certificates		20/01/2021
CD1.2	Covering letter		20/01/2021
CD1.3	Planning, Design and Access Statement		20/01/2021
CD1.4	Transport Statement		20/01/2021
CD1.5	Transport Technical Note		20/01/2021
CD1.6	Archaeological Desk-Based Assessment		20/01/2021
CD1.7	Bat Roost and Breeding Bird Survey		20/01/2021
CD1.8	Building Condition Survey		20/01/2021
CD1.9	Ecological Impact Assessment		20/01/2021
CD1.10	Ecological Statement		20/01/2021
CD1.11	Flood Risk Assessment		20/01/2021
CD1.12	Ground Contamination Letter		20/01/2021
CD1.13	Ground Contamination Risk Assessment		20/01/2021
CD1.14	Heritage Statement Part 1		20/01/2021
CD1.15	Heritage Statement Part 2		20/01/2021
CD1.16	Landscape and Visual Impact Assessment		20/01/2021
CD1.17	Landscape Masterplan Part 1		20/01/2021
CD1.18	Landscape Masterplan Parts 2 & 3		20/01/2021
CD1.19	Landscape and Visual Impact Letter		20/01/2021
CD1.20	Reptile Survey Population Assessment		20/01/2021
CD1.21	Tree Survey		20/01/2021
CD1.22	Financial Viability Report		20/01/2021
CD1.23	Notice Served on Hertfordshire County Highway e-mail		20/01/2021
CD1.24	Notice		20/01/2021
CD1.25	Western Site Access Visibility	KMC-001-01 (Sheet 1 of 2) rev 02	20/01/2021
CD1.26	Eastern Site Access Visibility	KMC-001-01 (Sheet 2 of 2) rev 02	20/01/2021
CD1.27	Proposed Highway Improvements	KMC001-001 Rev 3	20/01/2021
CD1.28	Site Location Plan	16_254_PL01	20/01/2021
CD1.29	Site Block Plan	16_254_PL02	20/01/2021
CD1.30	Proposed Site Plan	16_254_PL03C	20/01/2021
CD1.31	Existing Basement Floor Plan NH & EW	16_254_PL04	20/01/2021
CD1.32	Existing Ground Floor Plan NH & EW	16_254_PL05	20/01/2021
CD1.33	Existing First Floor Plan NH & EW	16_254_PL06	20/01/2021
CD1.34	Existing Second Floor Plan NH & EW	16_254_PL07	20/01/2021

CD1.35	Existing Roof Plan NH & EW	16_254_PL08	20/01/2021
CD1.36	Existing Elevations 1 NH & EW	16_254_PL09	20/01/2021
CD1.37	Existing Elevations 2 NH & EW	16_254_PL10	20/01/2021
CD1.38	Existing Sections NH & EW	16_254_PL11	20/01/2021
CD1.39	Existing Floor Plan BW	16_254_PL12	20/01/2021
CD1.40	Existing Roof Plan BW	16_254_PL13	20/01/2021
CD1.41	Existing Elevations BW	16_254_PL14	20/01/2021
CD1.42	Existing Ground Floor Plan SB	16_254_PL15	20/01/2021
CD1.43	Existing First Floor Plan SB	16_254_PL16	20/01/2021
CD1.44	Existing Roof Plan SB	16_254_PL17	20/01/2021
CD1.45	Existing Elevations SB	16_254_PL18	20/01/2021
CD1.46	Existing Sections SB	16_254_PL19	20/01/2021
CD1.47	Existing Floor Plans OC	16_254_PL20	20/01/2021
CD1.48	Existing Roof Plan OC	16_254_PL21	20/01/2021
CD1.49	Existing Elevations and Sections OC	16_254_PL22	20/01/2021
CD1.50	Basement Floor Demolition Plan NH & EW	16_254_PL23	20/01/2021
CD1.51	Ground Floor Demolition Plan NH & EW	16_254_PL24A	20/01/2021
CD1.52	First Floor Demolition Plan NH & EW	16_254_PL25A	20/01/2021
CD1.53	Second Floor Demolition Plan NH & EW	16_254_PL26A	20/01/2021
CD1.54	Demolition Elevations 1 NH & EW	16_254_PL27A	20/01/2021
CD1.55	Demolition Elevations 2 NH & EW	16_254_PL28A	20/01/2021
CD1.56	Floor Plans Demolition BW	16_254_PL29	20/01/2021
CD1.57	Demolition Elevations BW	16_254_PL30	20/01/2021
CD1.58	Ground Floor Demolition Plan SB	16_254_PL31A	20/01/2021
CD1.59	First Floor Demolition Plan SB	16_254_PL32	20/01/2021
CD1.60	Demolition Elevations SB	16_254_PL33A	20/01/2021
CD1.61	Proposed Ground Floor Plans NH & EW	16_254_PL37A	20/01/2021
CD1.62	Proposed First Floor Plan NH & EW	16_254_PL38A	20/01/2021
CD1.63	Proposed Second Floor Plan NH & EW	16_254_PL39A	20/01/2021
CD1.64	Proposed Roof Plan NH & EW	16_254_PL40A	20/01/2021
CD1.65	Proposed Elevations 1 NH & EW	16_254_PL41A	20/01/2021
CD1.66	Proposed Elevations 2 NH & EW	16_254_PL42A	20/01/2021
CD1.67	Proposed Floor Plans BW	16_254_PL43	20/01/2021
CD1.68	Proposed Roof Plan BW	16_254_PL44	20/01/2021
CD1.69	Proposed Elevations BW	16_254_PL45	20/01/2021
CD1.70	Proposed Ground Floor SB	16_254_PL46A	20/01/2021
CD1.71	Proposed First Floor SB	16_254_PL47	20/01/2021
CD1.72	Proposed Roof Plan SB	16_254_PL48A	20/01/2021
CD1.73	Proposed Elevations SB	16_254_PL49A	20/01/2021
CD1.74	Proposed Floor Plans OC	16_254_PL50	20/01/2021
CD1.75	Proposed Roof Plan OC	16_254_PL51	20/01/2021
CD1.76	Proposed Elevations OC	16_254_PL52	20/01/2021
CD1.77	Proposed Floor Plans FH	16_254_PL53	20/01/2021
CD1.78	Proposed Roof Plan FH	16_254_PL54	20/01/2021

CD1.79	Proposed Elevations FH	16_254_PL55	20/01/2021
CD1.80	Gate Lodge Floor Plan	16_254_PL56	20/01/2021
CD1.81	Gate Lodge Roof Plan	16_254_PL57	20/01/2021
CD1.82	Gate Lodge Elevations	16_254_PL58	20/01/2021
CD1.83	Settlement Unit 1 Floor Plans	16_254_PL59B	20/01/2021
CD1.84	Settlement Unit 1 Roof Plan	16_254_PL60B	20/01/2021
CD1.85	Settlement Unit 1 Elevations	16_254_PL61D	20/01/2021
CD1.86	Settlement Unit 2 Floor Plans	16_254_PL62B	20/01/2021
CD1.87	Settlement Unit 2 Roof Plan	16_254_PL63B	20/01/2021
CD1.88	Settlement Unit 2 Elevations	16_254_PL64D	20/01/2021
CD1.89	Proposed Ground Floor Plan WG	16_254_PL65	20/01/2021
CD1.90	Proposed Basement Plan WG	16_254_PL66	20/01/2021
CD1.91	Proposed Roof Plan WG	16_254_PL67	20/01/2021
CD1.92	Proposed Elevations 1 WG	16_254_PL68	20/01/2021
CD1.93	Proposed Elevations 2 WG	16_254_PL69	20/01/2021
CD1.94	Proposed Floor Plans D	16_254_PL70	20/01/2021
CD1.95	Proposed Roof Plan D	16_254_PL71	20/01/2021
CD1.96	Proposed Elevations D	16_254_PL72	20/01/2021
CD1.97	3D Aerial of Site	16_254_PL73C	20/01/2021
CD1.98	Proposed 3D Views NH & EW	16_254_PL74A	20/01/2021
CD1.99	Proposed 3D Views SB	16_254_PL75A	20/01/2021
CD1.100	Proposed 3D Views BW	16_254_PL76A	20/01/2021
CD1.101	Proposed 3D Views OC	16_254_PL77A	20/01/2021
CD1.102	Proposed 3D Views FH	16_254_PL78	20/01/2021
CD1.103	Settlement Unit 1 3D Views	16_254_PL79C	20/01/2021
CD1.104	Settlement Unit 2 3D Views	16_254_PL80C	20/01/2021
CD1.105	Gate Lodge 3D Views	16_254_PL81	20/01/2021
CD1.106	Proposed 3D Views WG	16_254_PL82	20/01/2021
CD1.107	Proposed 3D Views WG	16_254_PL83A	20/01/2021
CD1.108	Proposed 3D Views D	16_254_PL84	20/01/2021
CD1.109	Development Access	16_254_PL85	20/01/2021
CD1.110	East Drive Cottage Floor Plans	16_254_PL86	20/01/2021
CD1.111	East Drive Cottage Roof Plan	16_254_PL87	20/01/2021
CD1.112	East Drive Cottage Elevations	16_254_PL88	20/01/2021
CD1.113	East Drive Cottage 3D Views	16_254_PL89	20/01/2021
CD1.114	East Drive Cottage Garage Floor Plans	16_254_PL90	20/01/2021
CD1.115	East Drive Cottage Garage Elevations	16_254_PL91	20/01/2021
CD1.116	Waller Planning Covering Letter dated 24th February 2021		24/02/2021
CD1.117	Proposed Drainage General Arrangement Part 1 of 3	1-046-CCE-XX-XX-DR-C-001-P3	24/02/2021
CD1.118	Proposed Drainage General Arrangement Part 2 of 3	1-046-CCE-XX-XX-DR-C-002-P3	24/02/2021
CD1.119	Proposed Drainage General Arrangement Part 3 of 3	1-046-CCE-XX-XX-DR-C-003-P3	24/02/2021
CD1.120	Proposed Drainage Details	1-046-CCE-XX-XX-DR-C-004-P3	24/02/2021

CD1.121	Proposed Pond Sections	1-046-CCE-XX-XX-DR-C-005-P3	24/02/2021
CD1.122	Letter RE: Attenuation Pond Half Drain Down Time, dated 18th Dec 2020		24/02/2021
CD1.123	Covering Note prepared by Civilistix, 26th May 2020		24/02/2021
CD1.124	Greenfield Runoff rate estimation for sites reference 1748293818		24/02/2021
CD1.125	Spillway H3C Headwall Drawing		24/02/2021
CD1.126	H6CA Headwall Close Coupled Grating Part 1 of 2		24/02/2021
CD1.127	H6CA Headwall Lifting Diagram Part 2 of 2		24/02/2021
CD1.128	H10C, H6C and H3C Headwall Grating Drawings		24/02/2021
CD1.129	Response Letter prepared by Civilistix dated 3 rd February 2021		24/02/2021
CD1.130	Hydraulic Network Model 3 rd February 2021		24/02/2021
CD1.131	SUDS Drainage System Maintenance Plan 15 th January 2020		24/02/2021
CD1.132	Phase II Environmental Report Rev A		24/02/2021
CD1.133	Written Scheme of Investigation for Historic Building Recording		24/02/2021
CD1.134	Written Scheme of Investigation for an Archaeological Evaluation		24/02/2021
CD1.135	Historic Building Recording Part 1		24/02/2021
CD1.136	Historic Building Recording Part 2A		24/02/2021
CD1.137	Historic Building Recording Part 2B		24/02/2021
CD1.138	Historic Building Recording Part 3A		24/02/2021
CD1.139	Historic Building Recording Part 3B		24/02/2021
CD1.140	Construction Ecological Plan		24/02/2021
CD1.141	Bat Roost Survey April		24/02/2021
CD1.142	Bat Survey		24/02/2021
CD1.143	Tree Survey, AIA & Arboricultural Method Statement Part 1		24/02/2021
CD1.144	Tree Survey, AIA & Arboricultural Method Statement Part 2		24/02/2021
CD1.145	Tree Survey, AIA & Arboricultural Method Statement Part 3		24/02/2021
CD1.146	Tree Retention, Removal and Protection Plan	LC/00195 04	24/02/2021
CD1.147	Phase III Remediation Report Revision B		24/02/2021
CD1.148	Phase IV Validation Report Revision A		24/02/2021
CD1.149	BH2 Geotechnical Report		24/02/2021
CD1.150	Northaw House Demolition Elevations 1	16_254_PL27A	24/02/2021
CD1.151	Ballroom Wing Demolition Elevations	16_254_PL30	24/02/2021
CD1.152	Stable Block Demolition Elevations	16_254_PL33A	24/02/2021
CD1.153	Oak Cottage Demolition Elevations	16_254_PL35	24/02/2021
CD1.154	Ballroom Wing Proposed Elevations	16_254_PL45	24/02/2021
CD1.155	Above Ground Materials – Oak Cottage		24/02/2021
CD1.156	Above Ground Materials – Stable Block		24/02/2021
CD1.157	Above Ground Materials – Main House		24/02/2021
CD1.158	Bi-fold Door Details		24/02/2021
CD1.159	Casement Window Detail		24/02/2021
CD1.160	Details of Exterior Lighting and Alarm Boxes		24/02/2021

CD1.161	External Door Technical Detail		24/02/2021
CD1.162	French Door Detail		24/02/2021
CD1.163	Sliding Sash Detail Elevation	MJ-001 - 004	24/02/2021
CD1.164	Proposed External Materials Ballroom Wing		24/02/2021
CD1.165	Typical Garage Door Photograph		24/02/2021
CD1.166	Front Door Detail		24/02/2021
CD1.167	Lighting Scheme	20-15483-1A	24/02/2021
CD1.168	Landscape & Ecological Management Plan		24/02/2021
CD1.169	Detailed Planting Plan (Wider Site)	2618-01 Rev A	24/02/2021
CD1.170	Walled Garden Planting Plan	2618-02	24/02/2021
CD1.171	Energy Strategy Statement		24/02/2021
CD2 - Appellant Documents			
CD2.1	Housing Delivery Test Results 2018		28/11/2018
CD2.2	Housing Delivery Test Results 2019		13/02/2019
CD2.3	Housing Delivery Test Results 2020		20/01/2021
CD2.4	Enabling Development and Heritage Assets (Historic England)		30/06/2020
CD2.5	The Setting of Heritage Assets (Historic England)		22/12/2017
CD2.6	WHBC 1st Pre-Application Advice Letter		28/09/2016
CD2.7	Tim Murphy 1st Advice Letter to WHBC		09/12/2016
CD2.8	WHBC 2nd Pre-Application Advice Letter		16/12/2016
CD2.9	Tim Murphy 2nd Advice Letter to WHBC		31/03/2017
CD2.10	WHBC 3rd Pre-Application Advice Letter		25/05/2017
CD2.11	Tim Murphy 3rd Advice Letter to WHBC		22/12/2017
CD2.12	WHBC 4th Pre-Application Advice Letter		12/01/2018
CD2.13	WHBC 5th Pre-Application Advice Letter		06/04/2018
CD2.14	WHBC 6th Pre-Application Advice Letter		09/11/2018
CD2.15	WHBC E-mail following pre-app advice		14/11/2018
CD2.16	Assessment Viability in Planning Under the National Planning Policy Framework (RICS)		March 2021
CD2.17	BNP Paribas 1st Response on Viability		23/05/2018
CD2.18	BNP Paribas 2nd Response on Viability		26/07/2019
CD2.19	Aspinall Verdi Financial Viability Appraisal		23/04/2021
CD2.20	James Brown Letter re Viability on Behalf of LW Developments		14/05/2021
CD2.21	Thrings Advice Note re. BNP Paribas 2nd Response on Viability		01/08/2019
CD3 - Council Documents			
CD3.1	Planning Committee Report for applications 6/2019/0217/MAJ and 6/2019/0218/LB		10/10/2019
CD3.2	Minutes of Planning Committee meeting for applications 6/2019/0217/MAJ and 6/2019/0218/LB		10/10/2019
CD3.3	Decision Notice for application 6/2019/0217/MAJ		07/01/2020
CD3.4	Decision Notice for application 6/2019/0218/LB		07/01/2020

CD3.5	Delegated Report for applications 6/2021/0072/MAJ and 6/2021/0071/LB		26/05/2021
CD3.6	Decision Notice for application 6/2021/0072/MAJ		26/05/2021
CD3.7	Decision Notice for application 6/2021/0071/LB		26/05/2021
CD3.8	Decision Notice for application S6/2004/0573/FP		06/04/2004
CD4 - Local Policy			
CD4.1	District Plan 2005		2005
CD4.2	Welwyn Hatfield Local Plan Submission		August 2016
CD4.3	Proposed Main Modifications to the Emerging Welwyn Hatfield Local Plan	-	2020
CD4.4	WHBC Letter to Local Plan Inspector, Mervyn Middleton	-	15/10/2021
CD5 - Local Policy			
CD5.1	National Planning Policy Framework March 2012		March 2012
CD5.2	National Planning Policy Framework July 2018		July 2018
CD5.3	National Planning Policy Framework February 2019		February 2019
CD5.4	National Planning Policy Framework July 2021	-	July 2021
CD 5.5	National Planning Practice Guidance	Link to PPG website	
CD6 - Appeal Decisions			
CD6.1	APP/B1930/W/20/3265925, Roundhouse Farm, Colney Heath		14/06/2021
CD6.2			
CD7 - Case Law			
CD7.1			
CD7.2			

