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Resolute Estates Ltd

Re: Longstanton, Mills Lane/Clive Hall Drive

Amended for "Proposal C" February 2021

Longstanton Conservation Area Re-appraisal

Andrew R Taylor
September 2020

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Other than in headings, bold text indicates emphasis by the author

Reference documents:

- 1 The National Planning Policy Framework -download**
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
Referred to as the "NPPF".
- 2 Added Land, proposed in the CAA**
<https://www.scambs.gov.uk/planning/natural-historic-and-built-environment/historic-environment/conservation-area-appraisal-longstanton/>
- 3 The Planning (Listed Buildings and Conservation Areas) Act 1990, Part II**
<http://www.legislation.gov.uk/ukpga/1990/9/part/II>
Referred to as the "CA Act"
- 4 Heritage Statement (Dr Peter Wardle & Colin Lacy)**
- 5 Northstowe planning permission dated 09/01/2017**
- 6 Cabinet agenda 08 Sept 2005 - discuss responses to consultees, Page 51**
REPORT TO: Leader and Cabinet 8 September 2005
AUTHOR: Development Services Director
LONGSTANTON CONSERVATION AREA APPRAISAL
- 7 Qube document of seventh of January 2005, entitled: "Longstanton: Qube comments on proposed changes to conservation area boundary and 'green separation'".**

Definitions

"Added Land"	means the land which was added to the CA in 2005. A plan can be found by clicking on "Part 2B" at: https://www.scambs.gov.uk/planning/natural-historic-and-built-environment/historic-environment/conservation-area-appraisal-longstanton
"The Application"	means application for planning permission reference S/2482/16/OL, refused by the Council by notice dated fifth of May 2017.
"CA Act"	means Part II of the Planning (Listed Buildings and Conservation Areas) Act 1990 (commencing at S69).
"CAA"	means the draft Conservation Area Appraisal of November 2005, which supported the inclusion of the Added Land in the pre-existing two small Longstanton conservation areas. It can be found by clicking on "Part 1" at: https://www.scambs.gov.uk/planning/natural-historic-and-built-environment/historic-environment/conservation-area-appraisal-longstanton
"Council"	means South Cambridgeshire District Council.
"Ridge & Furrow"	means topographical remains of ancient cultivation producing a ridge and furrow pattern visible today.
"the Site"	means the paddock of 0.8 ha at the junction of Mills Lane and Clive Hall Road, to which this paper relates.
"village"	unless the context requires otherwise, means Longstanton.
"We"	means Resolute Estates Ltd

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Preface

This preface has been provided at the start of each of the three reports mentioned below.

- 1 This amended application is for a grant to develop 0.3ha of land (“the reduced site”) at the junction of Mills Lane and Clive Hall Drive, Longstanton CB24 3DT with 6 houses. We applied for a grant of permission to develop the whole 0.8 ha site (“the whole site”) with nine self-build plots under reference **S/2482/16/OL, dated 10 January 2016 (the “First Application”)**. That application was refused by notice dated 5 May 2017. It was also refused on appeal under reference: APP/W0530/W/17/3187357, on 4th May 2018.
- 2 The applicant believes that the application was refused as a result of unlawful activity by the Council, first around 2004 to 2007, and again from 2006 to 2018. The applicant’s evidence is set out fully in three reports attached as documents relating directly to this application. They are:
 - Longstanton Conservation Area – Full Reappraisal
 - Commentary on Inspectors Report of Northstowe AAP June 2007 (this report)
 - Northstowe and the Green Gap
- 3 Council members are broadly aware of the content of the reports. The Council has given no indication of acceptance or denial. Accordingly, the applicant has no evidence that the grounds for refusal would substantially change today on account of the facts of the detailed history uncovered by the applicant in the 30 months of research undertaken since May 2018 and set out in these reports. Consequently the applicant has no alternative than to set out the true position in sufficient detail to make clear that reasons for refusal given in 2017 and 2018 cannot apply today.
- 4 For the sake of good order, the applicant wishes to emphasise that it does not seek any comment or endorsement or approval or judgement of the facts set out in these three papers but puts them forward simply to provide irrefutable proof that there is no lawful reason why the Council should refuse this second application on account of matters pertaining to:
 - the historic environment
 - the landscape
 - the green gap between the village and Northstowe.
- 5 We respectfully ask every decision maker who may assess this present application to take into account the facts stated in these three reports, not to be concerned with the illegality of the Council’s past activity but purely to satisfy her/himself that the allegations of the Council with regard to the three items mentioned in paragraph 2, above, are a continuation of the misrepresentation and fraud set up 17 years ago and continue today, largely because the Council fears the public impact of an admission and possibly other legal consequences in third party claims.

Summary of the Applicant's case

Definition note:

The importance of “Significance”.

In this paper, I use the word “significance” on many occasions. That is because it is important in terms of the assessment of our historic environment. The importance arises because special meaning is given to it in the National Planning Policy Framework. I can do no better than to repeat what is said there.

“Why is ‘significance’ important in decision-making?”

*Heritage assets may be affected by direct physical change or by change in their setting. **Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals.***

*Paragraph: 007 Reference ID: 18a-007-20190723
Revision date: 23 07 2019*

How can proposals avoid or minimise harm to the significance of a heritage asset?

Understanding the significance of a heritage asset and its setting from an early stage in the design process can help to inform the development of proposals which avoid or minimise harm. Analysis of relevant information can generate a clear understanding of the affected asset, the heritage interests represented in it, and their relative importance.

*Paragraph: 008 Reference ID: 18a-008-20190723
Revision date: 23 07 2019*

What assessment of the impact of proposals on the significance of affected heritage assets should be included in an application?

Applicants are expected to describe in their application the significance of any heritage assets affected, including any contribution made by their setting (National Planning Policy Framework paragraph 189). In doing so, applicants should include analysis of the significance of the asset and its setting, and, where relevant, how this has informed the development of the proposals. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on its significance.

*Paragraph: 009 Reference ID: 18a-009-20190723
Revision date: 23 07 2019*

Where can local planning authorities get help to assess the significance of heritage assets?

In most cases the assessment of the significance of the heritage asset by the local planning authority is likely to need expert advice in addition to the information provided by the applicant, historic environment record, similar sources of information and inspection of the asset itself. Advice may be sought from appropriately qualified staff and experienced in-house experts or professional consultants, complemented as appropriate by consultation with National Amenity Societies and other statutory consultees and other national and local organisations with relevant expertise.

Paragraph: 010 Reference ID: 18a-010-20190723

Revision date: 23 07 2019"

-
- 1 There is no bar in law, nor even a presumption, that land within a conservation area should be “sterilised” from development, for example in the way that protects a Site of Special Scientific Interest.
 - 2 The Planning (Listed Buildings and Conservation Areas) Act 1990, Part II <http://www.legislation.gov.uk/ukpga/1990/9/part/II> - referred to as the "CA Act" provides precise requirements for the declaration of a conservation area:

“The Secretary of State may from time to time determine that any part of a local planning authority’s area which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.”
 - 3 Back in 1985, two small conservation areas were designated, one for each of the central area of Longstanton, around All Saints Church and including what is known as “Manor Field”; the other centred around Saint Michaels Church. Because Longstanton has expanded largely in the last 100 years, and not earlier, the number of historic buildings and artefacts considered in 1985 to be sufficiently “significant” to be included in either Conservation Area, is very small. Indeed, if it were not for Manor Field, which provides the only open views into and out of the precinct of All Saints Church, the two conservation areas together would constitute no more than 5 ha.
 - 4 The 1987 original St Michael’s Conservation Area covered less than two hectares of land containing St Michael’s Church and three listed cottages. I refer to the plan at:

<https://www.scambs.gov.uk/planning/natural-historic-and-built-environment/historic-environment/conservation-area-appraisal-longstanton>.

(For information, see the second of the two maps, showing the Added Land in maroon. The Site is at the extreme West point of the Added Land.)
 - 5 In November 2005, following a largely unrecorded, irregular and unlawful procedure, councillors and officers added approximately 46 ha of what was then open land, to join together the two tiny, pre-existing conservation areas in order to present a bulwark of space between the village and whatever horrific development might take

place on the land which constituted the former Ministry of Defence airfield.

- 6 The open land contained no significant historic asset. The Council set up the Conservation Advisory Group. This was not a committee or subcommittee of the Council but an informal group, the activities of which are not recorded. Even the membership is unrecorded. Through that group the Council instructed a small company to provide a report to support their proposed Conservation Area expansion.
- 7 The report which constitutes the basis of the justification for including the added land is the Longstanton Conservation Area Appraisal ("CAA"). That document is an unsigned draft prepared by a person or persons unknown, approved by an unrecognised group of people whose names and meetings are unrecorded and which specifies no historic asset on the land added, but which was nevertheless adopted by the Council. It has been retained to this day not merely as a supplementary planning document but as the principal pillar which the Council relies on in support of the Longstanton Conservation Area.
- 8 There are no heritage assets on the Added Land exempt the village pump. Unfortunately it has fallen out of use to such an extent that it has no immediate setting, no moving part and has been maintained merely by multiple coats of paint over many years. It is difficult to believe that it has any historic significance. The CAA mentions nothing on the Added Land of historic significance.
- 9 None of the Added Land has been designated in any way which would protect it from development, apart from the fraudulent designation as part of the enlarged CAA.
- 10 The Local Development Plans of 2007 and 2018 specify that the Added Land could be available, subject to compliance with other relevant development plans, for development as "playing fields, allotments and cemeteries".
- 11 The Council has refused to explain the extent of loss of historic significance of the land now included in the Conservation Area in the context of possible development for the three above-mentioned uses, all requiring levelling, grading, hedge removal, vehicular access and parking.
- 12 When the Council refused the First Application on fifth of May 2017, permission had already been granted to Homes England to bring heavy equipment onto The Paddocks land for the purpose of creating a substantial cycle and pedestrian track. Accordingly, whatever historic value could earlier have been attributable to the open land within the Conservation Area, it must inevitably have been reduced yet further, by that permission. The Council failed to acknowledge that fact.
- 13 In consequence of there being no historic asset embodied in the Conservation Area which could be damaged by development on the site which is the subject of this application, the fact that the site is within the Conservation Area is not a reason for refusal of this application.

Summary of the Council's case

- 14 As I have set out above, the Council has appeared to rely heavily on the CAA and consequent incorporation of parts of it in policies NH/1 and NS/4. Nevertheless, during 18 months of correspondence with the case officer, I became aware of various propositions which the Council put forward in opposition to our proposal. Some of these were included in the delegation report and the refusal notice. The Council's case was based on sand.
- 15 My understanding of the Councils position on the issues discussed in this paper is taken from the following sources:
- 15.1 the 2011 local plan, approved by the Minister in September 2018;
 - 15.2 the CAA;
 - 15.3 the refusal notice;
 - 15.4 policy NH/1;
 - 15.5 policy NS/4;
 - 15.6 correspondence with the Council through the case officer;
 - 15.7 various other documents published by the Council, some of which I'm still trying to obtain, 18 months after submitting requests under the Freedom of Information Act.
- 16 18 months after submitting my application, the Council produced only three reasons for refusing my proposal for nine self-build plots. They alleged:
- 16.1 that the proposal did not provide for a contribution for affordable housing – notwithstanding that the Minister had issued a written ministerial statement to the effect that such a contribution was not to be sought for development of 10 units or fewer. The Council abandoned this position on appeal when the Minister became more insistent.
 - 16.2 that my land was required in order to provide a green gap between Northstowe and Longstanton. That was also muddled with landscape issues, confusing landscape with the Conservation Area. On appeal, the Inspector **supported my contention** and not the Council..
 - 16.3 that my proposal would harm the Conservation Area - in ways I shall explain;
- (Landscape issues are also interwoven in a muddled way. I guess this arose because the case officer had resigned his post and the refusal notice was put together in some haste by someone who was not fully acquainted with the details of the Application.)
- 17 The Council has consistently relied on the proposition that development on the Site is inappropriate because the Site is within the enlarged Longstanton Conservation Area. We do not challenge the fact that, as a matter of law, the Site is now within the Conservation Area. However, also as a matter of law, the fact of land being within the Conservation Area is not, of itself, a bar to development.
- 18 My understanding is that the Council's case rested on the following propositions:

- 18.1 that there is evidence of ridge and furrow cultivation on the Site (subterranean, not topographical) and that such evidence would be destroyed by development;
 - 18.2 that the development would have an “adverse affect on the Conservation Area”. Both the adverse effect and that part of the Conservation Area allegedly affected are unspecified;
 - 18.3 that the development would harm the setting of All Saints Church, approximately 450 m away to the north and invisible from the Site. They later abandon this proposition when I pointed out that it was simply untrue.
 - 18.4 that the development would harm views from Long Lane towards the village. Technically, this should be a landscape issue but it is treated in a muddled way in the CAA and taken forward by the Council in the delegation report and refusal notice of 2017, as if it was related to the historic environment.;
 - 18.5 that the development would harm the historic landscape consisting in a “patchwork of ancient paddocks”;
 - 18.6 that the Site itself has historic value as part of the “patchwork of ancient paddocks”;
 - 18.7 that the development would harm the setting of the iron casting which once contained the moving parts of the old village pump and which now stands in the grass verge just opposite the Site. As we point out, this proposition is as amusing as it is preposterous.
 - 18.8 that the development would harm the setting of the non-designated group of three dwellings constituted by the house at 50 Mills Lane and two nearby cottages (of different age and style, the house being within the Conservation Area but the cottages outside of it). None of these buildings are listed by Historic England, nor locally listed
 - 18.9 that the Site is itself a significant historic place. No reason for this has ever been given by the Council.
- 19 The Council has refused to respond to our freedom of information request as to the extent that it continues to support the proposition that development would cause damage as set out above.

The CAA 2005 - the bulwark against Northstowe

The importance of the CAA

- 20 The CAA is important because the Council treat it as their continuing authority and justification for creating the Longstanton Conservation Area in 2005, and for preserving it ever since.
- 21 The CAA was never written as a District policy document. It is not a formal report. It is an unsigned, undated draft with no clear provenance. It was written to support a proposal by Longstanton Parish Council to include the Added Land in the Conservation Area. That, in turn, was done to create a buffer against whatever development might replace the old airfield and barracks.
- 22 However, it was treated as a professional report and adopted by the Council as an SPD. Since November 2005 this draft document has been the only authority the Council has, in support of the historic value of anything relating to Longstanton – apart from the proper national listings of eight buildings and four other items.
- 23 Just as importantly, extracts live on in the Northstowe Development Framework and many subsequent Northstowe documents, right up to the Northstowe Phase 2 planning application.
- 24 Two separate conservation areas were originally designated in 1987. These are shown on the CAA map 2b, at <https://www.scambs.gov.uk/planning/natural-historic-and-built-environment/historic-environment/conservation-area-appraisal-longstanton/>

The Council's cunning plan

- 25 Members and officers realised that the reference in the CA Act to reviewing and adding to a conservation area should be construed only on the assumption that any added land should also "qualify" in the same way. **The problem was that in Longstanton, there were no heritage assets on the Added Land.** Consequently, as far as the Site is concerned, new development could not be detrimental to any building or construction of significant historic value.
- 26 Their first problem was how they would overcome the requirements of the CA Act. They must have known at an early stage that what they proposed was unlawful. If it were not so, they would not have started by putting together their informal "Conservation Advisory Group" ("CAG"), **outside of any formal Council structure.** This meant that there would be no record of who was part of the Group nor of the meetings or decisions. In response to a Freedom of Information request, the Council has told me:
- 26.1 that the group existed, named as above;

- 26.2 that the group was autonomous, in that it brought in members as and when required. The response did not indicate whether or not its members included councillors, officers or third parties. However, I do now have that information and confirm that it included both members and officers.
- 27 Once the CAG was put together, its members had to consider a strategy. They had to find heritage assets on the Added Land and present the enlargement to the Minister and to the World as a proper, usual and compliant proposal. Here they had a problem. Longstanton is a "new" village. It's comparatively recent development has left it somewhat short of ancient listed buildings.
- 28 According to texts referred to in the expert report of Doctor Peter Wardle, by 1563 there were 34 families in the All Saints parish and eight in St Michael's. By 1911 the two parishes had a combined population of around 400 people. Today the combined population is around 3500, excluding Northstowe.
- 29 As a result of this late development there are only eight listed buildings in Longstanton. All are contained towards the centre of the oldest parts of the two communities. They are surrounded by later development. **There is no listed building, the setting of which ever could have been improved by taking the Added Land into the enlarged LCA. In consequence, the Council could not lawfully add a chunk of agricultural land to either of the tiny conservation areas.**
- 30 They then put together their cunning plan. They decided to join the two pre-existing conservation areas together by incorporating all of the green space between the boundary of the Gallagher ownership (soon to be Northstowe) on the one hand and the built-up edge of the village on the other hand, so as to create a greatly enlarged single conservation area.
- 31 They would then "lose" the fact that there was no significant historic value in the Added Land within the glowing prose of the CAA which cleverly covers an area of the village many times larger than the conservation areas.
- 32 The CAG then realised that some sort of report would be required by the Minister in order to authorise the extension they planned. They had no employed expert on the subject of the historic environment who was prepared to put his/her name to a fraudulent document. One way or another, they had to look externally to find a suitably qualified expert who would provide an authoritative report which would satisfy the Minister and the World at large.

Qube: what Burgess really said

- 33 When I made enquiries of my case officer as to the provenance of the CAA, I was ignored. I persevered. Eventually he told me that the CAA was written by "The Council's Conservation Advisory Group and Portfolio Holder". Upon further enquiry, we were told: "In terms of the *Conservation Area Appraisal*, a company called Qube were involved **alongside the Council** in the production of the report."
- 34 One of the very last documents to be released by the Council in response to my 15 month long fight for answers and the 12 month long involvement of the Information

Commissioners Office, is a document entitled “Longstanton: Qube comments on proposed changes to conservation area boundary and ‘green separation’”. The document is signed by one Jon Burgess, without any indication that Qube was in fact a limited company.

- 35 Here is the full text of the “comments” with my observations interleaved. I do not yet know whether Burgess produced a full report at a later date. Our next “omnibus” freedom of information request will cover more points around the authorship and development of the CAA document.

“LONGSTANTON: QuBE COMMENTS ON PROPOSED CHANGES TO CONSERVATION AREA BOUNDARY AND ‘GREEN SEPARATION’

I note that the document is entitled “comments”. One can only guess that the reason for that is likely to be the writer’s intention that **the document should not be used as an expert report or to support a particular opinion, but rather as a commentary on a document produced by the CAG or the Council.**

I have provided comments where relevant to this present application. I have also left intact and uncommented, substantial sections of the text. Because this document is the basis upon which the 2005 CAA was drawn, it is useful to illustrate the confusion of instructions, purpose and strategy which are about the only points which come across clearly. It is really hardly surprising that the CAA is such an incomprehensible model when it is based on this document – which the author never for one moment intended should be treated as an SPD.

1 Introduction

- 1.1 QuBE were appointed to appraise the Longstanton Conservation Area for South Cambridgeshire District Council in summer 2004. The appraisal of Longstanton and other nearby villages was felt to be timely given the proposed major developments in the area - in particular the proposed new settlement of Northstowe.

1.1.1 The instruction was “to appraise the Longstanton Conservation Area”. At that time Longstanton contained two very tiny conservation areas. **Neither of them are mentioned in any part of this report.** I suggest that had they been mentioned, doing so would have drawn attention to the fact that there was no historic asset on the Added Land.

1.1.2 There is no suggestion by Qube that they were specifically instructed in relation to landscape assessment. Despite that, their report is all about landscape with no mention of any historic asset.

1.1.3 Those words make clear the connection between instruction by the Council and the proposed development of Northstowe. I note that there is no indication of what the writer was instructed to do and specifically no indication as to whether he had been instructed to assess issues relating to conservation or landscape or simply to suggest reasons for incorporating the land into the two tiny pre-existing conservation areas.

- 1.2 *As part of the appraisal process, QuBE suggested that the conservation area boundaries of Longstanton be revised to include some additional areas of land*

which were felt to be important to the character of the village.

Mr Burgess apparently believed that additional land could be taken into the Conservation Area simply because it was “important to the character of the village”. If we assume he was instructed as an expert – in anything – it is also fair to assume that he was aware of the required characteristics for justification of a conservation area. We note that he does not commit himself to any reason why the land should be included except that it was “felt to be important”. Specifically there is no mention of historic value or landscape value.

1.3 *In October 2004, South Cambridgeshire District Council produced the Northstowe Area Action Plan Preferred Options Report. This proposes landscape buffer zones and green separation zones of 50m and 200m around the existing Conservation Area and the village envelope.*

1.3.1 I look forward to receiving a copy of the above-mentioned document in response to my request dated 14th of January 2021.

1.3.2 I note that Mr Burgess proposes **landscape buffer zones** and **Green separation** zones around the existing Conservation Area. This makes absolutely clear that the instructions to Mr Burgess related primarily to green separation, without reference to historic interest.

1.3.3 That indicates that Mr Burgess was not qualified as an expert. It also questions the reason why the unlawfully constituted Conservation Advisory Group should have sought advice from someone without proper professional status and qualifications.

1.4 *On 20 December 2004, David Grech from the SCDC Conservation Team wrote to ask QuBE to:*

“Advise on your preferred boundary treatment / treatments for the revisions to the Conservation Area where it falls within, or is abutted by, the green separation. This could include, for example, additional buffer areas adjoining the Conservation Area or suitable landscape treatment within it.”

Burgess states that David Grech did not suggest that the Conservation Area should be extended, but merely asks for help with regard to the “preferred boundary treatment”. He explicitly refers to areas “adjoining the Conservation Area”. Grech did not suggest bringing additional land into the Conservation Area.

1.5 *This report attempts to provide this information by looking at the suggested extensions to the conservation area, their justification and how best to ensure that the essential aspects of the village character can be best maintained.*

At this point, the text above makes absolutely clear that it is the Conservation Advisory Group within the Council who had suggested “extensions to the Conservation Area”.

2 **Airfield Road**

2.1 *QuBE suggested that the conservation area boundary should be extended to the south-east to include areas of tree planting and hedgerows either side of the road.*

These features were felt to give a strong definition to the road which contrasts sharply with the more barren openness of the long straight road across the airfield. In this way, these features provide an attractive gateway to the village.

Burgess suggests that the long straight road across the airfield consists in “barren openness”. This is in strong contrast with the document which resulted from this exercise, namely the Longstanton Conservation Area Appraisal of November 2005. That document speaks repeatedly in terms of glorification of “open views”. Meanwhile, the Council adopted that document and subsequently used preservation of these “open views” as a reason to refuse our first application.

- 2.2 *Although not Listed, St Michael's Mount is a fine C19 house which together with its setting of mature trees is a very positive feature to the character of the Conservation Area. The original conservation area boundary was tightly drawn and the proposed changes were to ensure that all the mature trees which contribute to its setting are included and to include the large clump of trees at the end of the airfield which give the house a backcloth of trees from some directions. The house, which is outside the village framework sits within the 200m green separation within the options report. Once again, given that the proposed changes to the Conservation Area boundary were to protect the trees which are important to the setting of the village and St Michael's Mount, what is proposed in the Preferred Options Report seems to have the same aim. However care will be needed as the precise detailing of the separation zone is developed. The grounds of the house contain some very fine, presumably late C19 evergreen trees and these should be protected, replaced where diseased / overmature and their effect not diminished by planting of inappropriate species around them.*

Of course, it is true that St Michael’s Mount is not listed but nonetheless is accorded this generous paragraph and generous treatment to protect it as far as possible from the Northstowe development. It should not be surprising that it sits within the 200 m green separation within the options report even though it is outside the village framework. After all, the owner and occupier is councillor Riley who led to the Council in all discussions with the Minister and others in relation to the planning of Northstowe. It seems likely, though I do not yet have firm evidence, that Mr Riley was also the leading figure in the unlawful Conservation Advisory Group.

Sub paragraphs 2.3 to 2.5 cover the area of land far further south than is relevant to this document. We have therefore omitted them.

3 Paddock to the south east of St Michaels Lane

- 3.1 *This is an area of open paddock land with hedgerow boundaries. Panoramas can be gained across it, particularly from the Long Lane / Mills Lane / St Michael's Lane junction. These views across open fields (including those on the north side of St Michael's Lane) are felt to be a very important characteristic of the village and one which emphasises the rural nature of the place. This is particularly so given the importance of the Long Lane as a bridleway within the village.*

- 3.1.1 Let us first assess the geography here. St Michael’s Lane runs from the main road named St Michael’s, westwards. After around 200 m, Mills Lane comes in from the north-west that St Michael’s continues over rough ground for a further 80 m or so when it turns 90° to the north-west and becomes Long

Lane. Not all of these changes are apparent or marked on the ground so it is unsurprising that visitors have not always made the same assumptions with regard to the road names.

- 3.1.2 The above paragraph is effectively the “birth” of a very great deal of confusion with regard to what can be seen from Long Lane.
 - 3.1.3 First, these words by Burgess were taken into the 2005 CAA virtually verbatim. However, in Burgess’ commentary they are under the heading “Paddock to the south-east of St Michael’s Lane”. In contrast, in the 2005 document there is no such restriction. Long Lane suddenly provides “open views” from or towards whatever the Council decides. That is how it came to be that the refusal notice and the delegation report allege that my site on Mills Lane can somehow interrupt views from Long Lane or indeed “long views” from anywhere. All of this is just another example of the chaotic haste and ill-conceived and unlawful process engaged in by the Council and fear whatever might be built at Northstowe.
 - 3.1.4 Long Lane is not a bridleway. It is a byway open to all traffic. Views from Long Lane towards the village can only be in a westerly direction – because that is the direction in which the village lies.
 - 3.1.5 There is no way Long Lane can be described as a “bridleway within the village”. The start point here has to be that a bridleway would always be longer than 150 m and would be a route between two places. Furthermore Long Lane cannot be described as “ within the village”. That is nonsense.
 - 3.1.6 The paddock to the south-east of St Michael’s Lane does indeed show extensive views but only in a South easterly direction behind The Mount. There are absolutely no views from St Michael’s Lane northwards. Views are entirely shut off by hedges and trees. This entire paragraph 3.1 suggests that it has been taken almost verbatim from Burgess’ instructions.
- 3.2 *The paddock to the south east of St Michael's Lane effectively comprises the 200m Green Separation Zone in the Preferred Options Report. The zone then sweeps in an arc to the south around St Michael's Mount (described in 2.6 - 2.7).*

Paragraph 3.2 perfectly describes all of the green space around his home at The Mount. How fortunate for Mr Riley.

- 3.3 *It is very important that the feeling of space around the village which this paddock allows is not compromised. If development is readily visible across this paddock, as the setting of Longstanton would be considerably diminished. The zone therefore appears to need to be extended to allow for sufficient planting around the perimeter to hide any future development. Although this will have the effect of enclosing the paddock, it is better that this is achieved by planting rather than the development beyond.*

This land is now part of Northstowe Phase 3

- 3.4 *The north east side of the paddock is particularly vulnerable and would need to be quite intensively planted to prevent views of new development from the junction with the Long Lane footpath.*

This land is now part of Northstowe Phase 3

4 Long Lane

- 4.1 *Long Lane is an important and attractive bridleway at the edge of the village. Its character is enhanced by the presence of trees and shrubs along both sides of the lane. The conservation area was proposed for extension to include the trees on the north east side which were omitted from the original area. Good views across open land are available from the lane. The best ones are actually southwards back towards the built up part of the village. The views north are across the more manicured sports field of the Detention Centre.*
- 4.2 *The Preferred Option Report shows a 50m Green Separation Zone north east of Long Lane. Around halfway along the rugby field, the boundary arcs to ensure a 200m separation from the houses on Magdalene Close.*
- 4.3 *Whilst views north east from Long Lane would have originally been across open farmland, in more recent years these have been more restricted due to the presence of the tree planting and the growth of hedgerows.*
- 4.4 *In terms of the wider character of the area, arbitrary sweeps of planting which do not follow field boundaries will undermine the landscape pattern. The transition between the 50m and 200m Separation Zones which occurs halfway along the rugby field should therefore be avoided. Retaining all of the sports field area and enhancing the tree planting along the north east side of Long Lane would enhance the current character of the lane. Adequate planting along the far edge of the sports field would need to be returned to form a boundary along its south eastern edge to run into the 50m deep separation zone adjacent to the Detention Centre buildings closest to Long Lane. Such right angled boundaries are more characteristic of field boundaries in the area.*

[I have commented very extensively on the “virtues” of Long Lane, elsewhere in this document. I will not repeat here.](#)

5 Conclusions

- 5.1 *Several of the areas proposed for inclusion within the Conservation Area are proposed to form part of the Green Separation Zones within the Preferred Options Report. This is perhaps not surprising as the intention of both documents is to protect the setting of the village.*
- 5.2 *For most of the areas, enhancing the existing belts of trees would appear to be sufficient to maintain the character of the Conservation Area and to provide adequate protection to the amenity of villagers.*
- 5.3 *The areas which require more care are around St Michael's Mount and adequately defining the paddock to the north. Both may require a deepening of the Separation Zone to allow adequate and appropriate tree planting. It would be sensible for the detail of these areas (if not all of the landscaping proposals) to be drawn up in consultation with the Council's Landscape Officers.*
- 5.4 *The landscape is characterised by right-angled field boundaries defined by hedgerows and trees. Curving belts of trees or other features should be avoided as*

they will introduce an alien feature. Given the need to adequately protect the amenity of residents on Magdalene Close, the separation zone should be extended to cover the whole of the sports field site, with tree planting along its far boundaries together with enhanced planting along the north-east side of Long Lane.

As it happens, most of Burgess' comments have been invalidated by the lands he talks about having been largely bought by Gallagher Developments plc and subsequently sold to what is now Homes England.

*Jon Burgess
Director: QuBE
7 January 2005*

- 36 My hypothesis as to Burgess' involvement in the fraudulent document is that he would not have produced such a document or been involved with it had he not known precisely what was its purpose. Nonetheless, it is clear from the comments above that he intended to distance himself from any suggestion of historic value. That may well be the basis upon which I was told by the case officer in 2017 that the document was drawn by the Council, "with the assistance of Qube".
- 37 I have discovered that Qube ceased to trade and was subsequently bought out by a large professional services firm. Meanwhile the prime mover in Qube, one Jon Burgess, is now "Director, Planning & Heritage, Head of Cambridge" at "Turley.co.uk". You can meet Jon Burgess at:
<file:///J:/A%20R%20T/2%20RESOLUTE%20-%20LUVLI/B%20APP1%20-%20inc%20FRAUD%20claim/APP1%20%20FRAUD%20INVESTIGATION/E%20DATA,%20INFORMATION%20&%20RESEARCH/Data%20management/Jon%20Burgess,%20Qube,%20now%20Turley.html>
- 38 I intend shortly to enquire of the Council as to the instructions provided to Mr Burgess, the fee paid to him and the reason why he has not prepared the usual authoritative report of an expert adviser.

The law relating to the Conservation Advisory Group

- 39 The discharge of local authorities' non-executive functions is governed by the applicable provisions of the Local Government Act 1972 (the "1972 Act"). Sub-section 101(1) of the 1972 Act [CB/93] states that:
- "Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions —*
- (a) by a committee, a sub-committee or an officer of the authority; or*
(b) by any other local authority".
- 40 In *R. v Tower Hamlets LBC ex p. Khalique* (1994) 26 H.L.R. 517 (1994), decisions that were properly those of the Tower Hamlets London Borough Council were unlawfully taken instead by a "notice board", which was not a lawfully constituted committee or sub-committee of the council. In his judgment in the case, Sedley J, as he then was, stated at 519 [CB/149] that:

*“Because a group of councillors and officers which does not amount to a committee or sub-committee of the council is under no obligation under Part VI [now Part VA] of the Local Government Act 1972 to give public access to its meetings, agenda material and minutes, **the taking of decisions on policy or practice by such a body is in my view a grave abuse of power. It is government by stealth, the antithesis of the democracy and openness** which both constitutionally and prescriptively under the Local Government Act 1972 are the right of every citizen and the obligation of every local authority”.*

Committing the abuse of power

- 41 Back in 2005, the Council had a problem. They thought, wrongly, that they could use conservation area status to make certain that all of the open land around Longstanton, Oakington, Westwick and Rampton could never be included within the Northstowe development – whatever that turned out to be.
- 42 At this stage I do not know who instigated the assembly of the Conservation Advisory Group, but I assume that was the first step in dealing with the perceived problem.
- 43 As far as I’m aware, there is no record of the establishment of the group, its membership, its precise purpose, or any record of its activity. I note however, that the case officer explicitly said the Council was involved. In setting up and operating that group, **the Council was committing precisely the “grave abuse of power” described by Sir Steven Sedley.**
- 44 Because there is no record, I am not yet certain of all the matters undertaken by members, officers or third parties joining them for advice and/or decision-making. Nonetheless, I suggest that obvious examples of activity undertaken unlawfully are:
- 44.1 the preparation of some document or correspondence with Jon Burgess, then representing his company Qube and instructing him to prepare an assessment for each of the four villages surrounding the future Northstowe development.
 - 44.2 explaining to members their duty to satisfy the criteria set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, Part II.
 - 44.3 conspiring with Jon Burgess in the production of a document containing a multitude of untrue or misleading statements.
 - 44.4 paying Jon Burgess and making all other payments consequent upon the decision to expand the Conservation Area.
 - 44.5 presenting the CAA to all of the members and presumably a number of officers, present at a meeting of the full Council with a recommendation that the document be adopted as policy.
 - 44.6 adopting that draft document, knowing it contained untrue and misleading statements and submitting it to the Minister as a true report.

- 44.7 ever after that time, representing that's the added land contains historic value, to any person, for any purpose.

Committing forgery

- 45 The offence of forgery is described in the Forgery and Counterfeiting Act 1981 as:

“1 **The offence of forgery.**

A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

2 **The offence of copying a false instrument.**

It is an offence for a person to make a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

3 **The offence of using a false instrument.**

It is an offence for a person to use an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

4 **The offence of using a copy of a false instrument.**

It is an offence for a person to use a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention of inducing somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.”

Note that the descriptions above extend beyond the usual dramatic images of someone simply creating imitation £20 notes. My suggestion is that the CAA is itself a false instrument. It was and is a false instrument because it was drawn with the intention that the Council should use it to induce the Minister and the World at large to accept it as a genuine assessment of the historic value of the Added Land and/or that the Added Land qualified for inclusion in the expanded Longstanton Conservation Area on account of its historic value. All such action was done in the clear and certain knowledge first that there was no historic value in the Added Land and second that the purpose in drawing the document was not in fact to support the preservation of historic assets but to hold Northstowe at bay.

- 46 What did members, officers and third parties do which constituted the offence of forgery? Here are my questions and suggestions.

- 46.1 If you choose to believe that creating and using the Conservation Area Appraisal was not of itself forgery, then whatever document was submitted to the Minister to seek legal consent to the expansion of the Longstanton Conservation Area would almost certainly have been the forgery because

the document itself was prepared in order to deceive the Minister.

- 46.2 The act of putting the Conservation Area Appraisal out to consultation was itself an act of forgery in that it sought a specific approval from organisations who had the power to approve it as true, even though it was submitted for their opinion in respect of a purpose which was not the true purpose, thereby conspiring to obtain false information. (A further question – how many of the experts and consultees were part of the conspiracy?)
- 46.3 Insofar as any person was **innocently** involved in the decision-making process leading to the refusal of my application in 2018, the CAA certainly constituted forgery in so far as it was misrepresented to that person or those people.
- 46.4 The position of the case officer in our First Application, is tenuous. If he can show that he was acting on specific instructions through a very senior officer or member then it is unlikely that he would be regarded as part of the conspiracy. The contrary applies if his involvement was largely voluntary.
- 46.5 Use of the Conservation Area Appraisal as a document submitted to the Minister for the attention of the Inspector in handling my appeal against the Council's refusal constituted forgery in so far as it was intended to persuade the Inspector that the Added Land contained features of historic value, when there were none.
- 46.6 Following the further refusal on appeal, I complained to the Minister, primarily on the ground that the Inspector had missed multiple errors I had pointed out in the Council's case. My complaint was not accepted. The Planning Inspectorate pointed out that an Inspector was entitled to rely on the truth of the documents put before him. He had no obligation to question what a local authority had put forward.
- 47 All of the actions mentioned above with regard to forgery, were also in clear breach of the 1972 Act, sub-section 101(1) constituting unlawful activity . In the event that my analysis of the acts of forgery were to prove misguided, each of the items I have mentioned still constitutes unlawful activity.
- 48 In summary, every action by the unauthorised "group" was unlawful. Furthermore, whilst local authorities must frequently commit unlawful acts unknowingly, and particularly unknown to all of the members, in this case the unlawful activity was not merely well-known, it arose from a specific conspiracy, planned over some time and executed as a matter of urgency, and involving a large number of both members and senior officers.
- 49 Furthermore, every person who has known about the fraudulent misrepresentation and who has perpetuated it, whether or not for personal benefit, is also guilty of that offence.

Duty of officers to give reasons for every decision

- 50 Regulation 7 **[CB/137]** of the Openness of Local Government Bodies Regulations 2014, entitled "Recording of decisions", states, in part, that:

“(1) The decision-making officer must produce a written record of any decision which falls within paragraph (2).

(2) A decision falls within this paragraph if it would otherwise have been taken by the relevant local government body, or a committee, subcommittee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either:

*(a) under a specific express authorisation; or
(b) under a general authorisation to officers to take such decisions and, the effect of the decision is to -*

*(i) grant a permission or licence;
(ii) affect the rights of an individual; or
(iii) award a contract or incur expenditure which, in either case, materially affects that relevant local government body’s financial position.*

(3) The written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information:

*(a) the date the decision was taken;
(b) a record of the decision taken along with reasons for the decision”..*

51 The next section merely endorses the proposition that the entire range of activity in connection with the Conservation Area was unlawful. Furthermore, in the management of my application, the Council told lie after lie, repeatedly failing, among other things, to comply with the regulations set out above.

The mystery of the draft document

52 There are four very strange properties of the CAA document:

52.1 it is marked as a draft;

52.2 its status as a draft is reinforced by the fact that paragraph 1.2 of the CAA reads as follows:

“(Paragraph about public consultation and adoption as Supplementary Planning Guidance/Supplementary Planning Document)”

These words do not appear to be part of the text of the document but rather a note placed by the most recent draftsman to instruct his/her co-authors that the document was incomplete.

52.3 it is unsigned and undated;

52.4 there is no record of its authorship or provenance;

52.5 on the matter of provenance, this important document not only bears no indication as to its authorship or his/her qualifications, but makes no

pretension to academic or professional authority. The author moves happily between historic observations, landscape issues, style of architecture and even refers to the grass verges and the bus stop. The combination of this ruse, taken with the excessively large area of the village described, leaves the reader with no memory of the proposition that a large green space is being added to the conservation areas.

52.6 It was “agreed by the Portfolio Holder on 20th July 2005” according to Celia Wignall, but not adopted until 8th September nor ratified until 22nd September.

53 This document was presented to Cabinet as an **unsigned and undated draft**. That unsigned draft was nonetheless adopted by the Council **as its principal policy document relating the Conservation Area – and it remains so, to this day**.

54 Intriguingly, I hope my continuing investigation will reveal which copy was sent to the Minister for approval. It seems highly unlikely that the receiving office would fail to notice that the document was neither signed nor dated.

55 The Portfolio Holder agreed it, then nearly 8 weeks elapsed before it was adopted - time for all sorts of activity, including the simple edits needed to produce a proper final version instead of a draft.

56 The subterfuge involved in obtaining the CAA document indicates the likelihood that many members were well aware that what they were voting on was unlawful. I find it impossible to believe that the existence of the CAG would not have been known by most councillors and most of the officers working in the planning department.

57 The introduction at paragraph 1 refers to the two original conservation areas designated in 1987. The author states that the document:

“aims to fulfil South Cambridgeshire District Council’s duty to draw up and publish proposals for the preservation and enhancement of these areas as required”

That was not true. The **sole purpose of the review was correctly indicated in the minutes of the Council’s planning committee in 2005. It is also interesting to note that the document contains no specific reference as to why the Added Land was then added.**

58 So why should the Council, today, rely on a policy embedded in a supplementary planning document marked “draft”? Possibilities that come to my mind are:

58.1 for some reason not yet known to me, it was essential the document was adopted by a particular time line for a particular reason. If that was the case, then the minutes of the meeting at which it was adopted should show a statement by an officer explaining this strange consideration. There is no such statement. In any event, an office containing many hundreds of people would surely have been able to obtain a new engrossment which was clearly a top copy.

58.2 could it be that the Council did approve the document and did vote for its adoption but the version adopted by the Council was different from the version recorded as adopted, as we now see it today? That would raise the

obvious question of why that should have happened, who made the substitution and for what reason?

- 58.3 why would a document clearly marked as a draft have been submitted to the Minister? Could it be that the Minister did not approve the original version, leaving the Council to go on a wing and a prayer to adopt the draft they still had in their possession despite the Minister not having approved it? After all, they could hardly risk the possibility of a clerk in the office realising something was astray if he/she was asked to type up a new original version of a document which he/she knew well was expected to be returned by the Minister's office in the next post?
- 58.4 a proper engrossment copy had been prepared and may have been approved by the Minister but it contained text which incriminated some person or people or which some person or people decided they would prefer to be omitted. Accordingly the draft was substituted in the records of the Council. I guess the most likely text requiring deletion or omission would be the signature which must have been on the version sent to the Minister.
- 58.5 some officer received a large sum of money to "nurse" the entire procedure in any way he thought suitable, provided that the draft version was adopted.
- 59 A further interesting question arises concerning the status of the document as a "draft". It boils down to whether or not the document is "enforceable" in law as a policy document – or in any other way. My analysis suggests:
- 59.1 under pressure from both Gallagher and the Minister for the Northstowe proposals to move forward, every member of the Council would have been encouraged to approve the document as a matter of urgency.
- 59.2 it is unlikely that members would have failed to note the marking which indicated that the document was a draft.
- 59.3 members would have been reassured if the chairman or possibly the Leader had given them an assurance that a proper final version would be prepared and that it was the content that they were now being asked to approve the content in the round, rather than the specific words – still subject to refinement.
- 59.4 the way would have been left open for certain members to be able to transpose versions of the document with text differences. In other words, members could have agreed and adopted a different version of the document, leaving the principal instigators of the fraud to mark and process the fraudulent version which exists today. That still begs the question as to which version was sent to the Minister.
- 59.5 some members may well have been unhappy with elements of the entire procedure but could have been brought "onside" either by assurances or by version of the document which was not the version adopted.
- 59.6 if some members were coerced or misinformed into voting to adopt the document, then their vote would be invalid. In that event the adoption of the document would be void and would have been void over the intervening years.

- 59.7 in the absence of contrary information from the Council, a third party (like you or me) is entitled, but not compelled, to rely on the truth of a document presented by them.
- 59.8 the Court judgement would depend heavily on the evidence of those present at the time.
- 60 The proposition above is supported by the general legal assumption that, in case of a dispute as to the meaning of the document, it will always be construed against the person who puts it forward. That is often used in planning law where a Council has contradictory policies.
- 61 I move now to overlapping concepts of public law: fraudulent misuse of powers, predetermination and the unlawful fettering of discretion.

Consultation charade

62 In accordance with statutory requirements, it was necessary for the Council to put out to public consultation the proposition that the two tiny conservation areas should be expanded by the addition of the Added Land. From a great deal of documentation, I have extracted for discussion just one document which demonstrates:

- 62.1 the cavalier attitude of the Council in dealing with the very reasonable comments of a ratepayer;
- 62.2 the desperation of the Council to act urgently to bring all the green space between the village and the Ministry Defence land into the Conservation Area so is to protect it from development (as they thought).
- 62.3 the failure of the Council to mention any historic building or artefact which could have justified their action.

63 The results of the consultation were presented to Cabinet at this meeting:

"Cabinet meeting agenda: 8 September 2005

Agenda item 7: Report: to "Leader and Cabinet" from "Development Services Director" - and its appendix - "Responses to consultations on Conservation Area Appraisal"
(Now referred to by me as "2005 Report to Cabinet").

64 I note the text of the report tells us that the proposal had been considered by the "Conservation Advisory Group". I take that as firm confirmation that the CAG was a child of the Council and not a renegade group. There is no other mention of the business of that group except that "*The local member (Cllr A Riley) attended the meeting and expressed his strong support for both the appraisal and the proposed boundary changes*".

65 We assume that Cllr Riley was specifically named because he led that group and that his mere presence was so important as to require a mention because Development Services Director David Hussell believed that members would require that reassurance.

66 Cabinet was presented with the appendix document showing the responses of the public to the CAA, before adoption. In the context of the reason to add the additional land to the Conservation Area, I refer only to one response. Dr Kelly lived at no 50 Mills Lane - situated at the north-east end of the Site - the white house on the corner, adjacent to the Site .

67 **Consultee Dr Kelly states:**

"The extension to the Conservation Area is being promoted by Cllr Riley and the Parish Council as a way of preventing the encroachment of Northstowe. Cllr Riley has circulated information stating:

"The fields in question, as well as all the fields in the current

Conservation Area, have, I understand, been optioned off by Northstowe developers. As such they must be seen as being under active threat of being incorporated into Northstowe. Placing them in a Conservation Area will give them significant additional protection".

The comment by the Council continues: "*Dr Kelly states that this is not the case and does not include his own field or the two fields behind.*"

68 Accordingly I note that Doctor Kelly, an intelligent and respected local resident, is recorded in the Council's archives as quite specifically pointing out that:

68.1 Councillor Riley and the Parish Council are promoting the addition to the Conservation Area as a way to prevent encroachment by Northstowe.

68.2 Councillor Riley has been "circulating information".

68.3 Councillor Riley fears that the fields in question as well as the fields already in the original Conservation Area are "under threat of being Incorporated into Northstowe". (Councillor Riley was correct)

68.4 Councillor Riley believes that "placing them in a conservation area will give them significant additional protection". (Councillor Riley was wrong)

69 I want to make clear that I have no connection whatever with Doctor Kelly. I refer to his response because he writes what he thinks and is prepared to "speak truth to power". The Council's response to his comment was:

"1. The enlarged conservation area would include land which clearly exhibits 'ridge and furrow' patterning, land that as the County Archaeologist has noted include significant below ground remains relating to the Iron Age, Roman, Saxon and Saxo-Norman settlement in the area, plus other land which contributes to the setting of the historically important elements of Conservation Area (such as Long Lane)."

70 I note:

70.1 The mention of ridge and furrow is a red herring. See report of Doctor Peter Wardle which provides clear and simple explanations of how archaeologists treat evidence of ridge and furrow cultivation. For anyone new to the concept, I make the point that subterranean evidence of ridge and furrow does not include or reveal any historic artefact. The evidence reposes simply in silt deposits along the bottom of each furrow which has been the subject of repeated ploughing. Furthermore, there must be many thousands of hectares of non-topographical Ridge and furrow like this throughout major agricultural areas of England. Were it to be included in conservation areas, and most of the country would be "conserved".

70.2 Doctor Wardle also explains how the possibility of the presence of subterranean archaeological artefacts is handled in the face of possible development. Specifically, they are not regarded as a reason to include open land in a Conservation Area. In this case the Council has dug itself deeper into its subterfuge by suggesting that the subterranean archaeology is not even under the subject land but merely "in the area". This is just silly.

- 70.3 The Council refers to “the setting of the historically important elements of the Conservation Area”. Several points arise.
- 70.3.1 in order for land to contribute to a “setting”, it must be the setting of some building or item of historic value. Open land cannot provide a setting to unspecified “elements”. The Council confuses historic value with landscape value.
- 70.3.2 Long Lane is not a protected element. It is controlled by highways law in the round and specifically by Cambridgeshire County Council.
- 70.3.3 I note that the reasons given in this paragraph are broadly the same as those given in the delegation report relating to the First Application, 12 years later.
- 70.4 Both the tone and falsehood of this response indicate the patronising contempt in which the Council holds Doctor Kelly. However, the Council’s bad manners in 2005 do not concern me. My interest is that it proves:
- 70.4.1 unequivocally, that the enlargement of the Conservation Area in 2005 was undertaken specifically in order to keep Northstowe at bay and not on account of any historic value which could have justified lawful enlargement.
- 70.4.2 the confusion between historic value and landscape value in every one of the Council’s documents relating to the Longstanton Conservation Area;
- 70.4.3 the Council’s willingness to set blatant untruths in writing and the precedent this provides for the Council’s continuing support of these untruths right through to today.

71 The Council continues:

“2. The hedgeline is regarded as visually positive in relationship to the setting of the Conservation Area. The fieldwork was undertaken in the winter when it is less easy to determine what is dead.”

- 71.1 Which hedgeline does the Council refer to?
- 71.2 What does the Council mean by “visually positive in relationship to the setting of the Conservation Area”? I suggest this is gobbledygook.
- 71.3 What exactly is the “setting of the Conservation Area”? Unlike a reference to the setting of a listed building, there is no reference in the Law to the setting of a conservation area being an item to be protected. (Nonetheless LPAs do from time to time suggest that a development proposal will harm the setting of a conservation area.)
- 71.4 The changing season is irrelevant. Nothing in English law can be construed differently in one season from another. The mention of winter is totally irrelevant.
- 71.5 This response is based purely on landscape value. It has no connection with

the Conservation Area. The preservation of hedge line is subject to different law.

72 The Council continues:

“4. Dr Kelly's house is described as being 'of painted brick walls under a slate roof', whereas it is of painted render under a slate roof. This dwelling may not be of particular architectural merit, but is a fairly typical vernacular property, which would contribute to an enlarged Conservation Area.”

I note:

72.1 the Cambridge dictionary defines “vernacular” as “*in architecture, a local style in which ordinary houses are built.*”. The writer of that response clearly has no idea of the meaning of vernacular. Whatever the history of the house and whatever changes have been made over the years, it cannot by any stretch of the imagination be a local style in which “ordinary houses” were ever built.

72.2 This is more ridiculous word play. The Council accepts that his house has no particular architectural merit but nevertheless suggests that it would “contribute” to the Conservation Area.

73 The Council continues:

*“5. Whilst the proposed Northstowe development **brought forward the preparation of this Conservation Area Appraisal**, the question of encroachment of Northstowe is not an issue to be resolved within the terms of the Appraisal and has already been dealt with through the policy of 'Green Separation'. In preparing the Conservation Area Appraisal both QuBE and SCDC have been careful to avoid confusing conservation issues with Green Separation.”*

I note:

73.1 This is a preposterous lie. The Council had no intention of bringing the Added Land into the enlarged Conservation Area until it was proposed by the Conservation Advisory Group led by Alex Riley. There has been no earlier appraisal of the conservation areas since their formation in 1985 nor any since 2005.

73.2 However, we now know that the appraisal was specifically commissioned in order to provide the basis of the Council’s opposition to Northstowe.

73.3 I also note that the CAA consists entirely in obfuscating references to landscape and green separation and thereby succeeds in hiding the absence of any conservation or historic environment points which the document purports to cover.

74 The Council continues:

“6. Toad Acres is surrounded by land that contains significant archaeology. Archaeological investigations undertaken in support of the proposed Northstowe development have also demonstrated that significant

below ground remains relating to the Iron Age, Roman, Saxon and Saxo-Norman settlement in the area. Significant archaeological remains are likely to survive below ground at Toad Acres. Any redevelopment of this site would put this archaeology at risk and also impact on the adjacent open areas of the existing Conservation Area. Badger's Holt and the housing on Mills Lane are on the periphery of the proposed enlargement of the Conservation Area, and would make no significant contribution if they were included within the enlarged Conservation Area."

I note:

- 74.1 I assume the reference to "Toad Acres" is limited to the area of land which contains the residential Homes Park by that name.
- 74.2 There is no record of any archaeological investigation relating to Northstowe, prior to 2005.
- 74.3 There is no record of any archaeological investigation having ever been undertaken in relation to the land at Toad Acres..
- 74.4 Procedures for protection of archaeological interest have been in place for many years. The necessary balance is maintained according to the law. Much of the land area of England "contains significant archaeology". That does not mean that such land shall never be the subject of development.
- 74.5 It is a fundamental tenet in law and practice that where the archaeological value of land may be high, an investigation may be required, and that may lead to further work. That is a risk every developer takes.
- 74.6 This entire paragraph is obfuscating, imprecise, irrelevant, misleading rubbish.
- 75 The document continues:
- "7. There was no prerequisite to connect the two Conservation Areas into a single entity. The proposals have been prepared on their merits."*
- 75.1 This statement is a lie. It denies the entire fraudulent process which culminated in the adoption of the 2005 Conservation Area appraisal and the inclusion of the Added Land by way of enlargement.
- 75.2 David B Hussell knowingly promulgated these lies in order to push through Council the adoption of the CAA.
- 76 I am left to consider the motivation of members and senior officers in 2005 to give effect to the enlargement of the Conservation Area as in the context of the background I have set out in this paper. I invite my reader to consider why those people were prepared to say what they said and do what they did.
- 77 But that is not all. Even more interesting is to consider the motivation of members and senior officers from 2015 to today in denying the facts set out in this paper. To extend my research, I submitted an extremely comprehensive freedom of information request in April 2019. The response was as rude as that given to Mr Kelly in 2005. Even submission to the Information Commissioners Office has

prompted only brief and largely unhelpful responses indicating that members and officers would still prefer to pass any issue relating to the Conservation Area onto someone else's desk.

The “historic patchwork” and Policy NH/1

So what are The Paddocks?

78 Reference to “The Paddocks”, “Longstanton Paddocks”, paddocks generally, together with references to “historic patchwork”, abound in Council documents and policies commencing with the forged Conservation Area Appraisal of November 2005. However, despite the reliance on the historic patchwork apparently formed out of “paddocks”, nowhere in any of the Council’s records have I found a precise description or map of what exactly the Council was or is referring to.

79 The closest description of the paddocks as the CAA reference at paragraph 8.18 which reads:

" Mills Lane

8.18 The open land between Mills Lane and St Michael's Lane and to the southeast of St Michael's Lane is very important to the landscape setting of the village. The long views across the paddocks give a great sense of space and the hedgerows and trees add considerable richness to the village."

I note:

79.1 since we know that this document was put together by multiple authors, it is hardly surprising that accuracy was lost in favour of drama.

79.2 the Site lies between Mills Lane and St Michael’s Lane. This paragraph should therefore apply.

79.3 there are no long views into or out of any of the paddocks. They are all heavily hedged. Long views start on the south side of Saint Michaels Lane where the long views are out over the former military establishment. It is true to say that views over an airfield provide a sense of space but to consider that to be a particularly attractive landscape somewhat stretches the imagination. The second half of the same sentence is unconnected obviously, it is tautologous to suggest that there can be long views from flat land through heavy hedges.

80 I understand from discussions with the oldest resident of the village who has spent his entire 88 years living there, that the Paddocks consists in the land between Rampton Road in the North and Mills Lane to the South. He has no recollection of the land being referred to as “The Paddocks” further back than the last 30 years. He suggests the description has been given by the occupants of Manor Farm in recent times to describe areas of land around their home used substantially to graze horses. He suggests that the term has been picked up by third parties who have assumed (as I did in earlier versions of this report) that the term was far older and applied to a specific area of land.

81 that seems to be a very reasonable suggestion. However for reasons I explain elsewhere in this document, there is no connection between the land to the north

side of Mills Lane and the land to the south side which includes the Site. I submit that members of the Conservation Advisory Group included some person who used the expression and planted the seed in the minds of others that a historic patchwork of paddocks was an attractive description to describe – well – whatever they wanted to describe. I submit to the decision maker that any such reference should be ignored.

- 82 There is no reference on the Council's Website as to what the Council believes constitutes The Paddocks. Nonetheless, five months later, on 09/01/2017, the Council granted permission for Northstowe Phase 2. There is a particular reference to Longstanton Paddocks – land within the Conservation Area and subject to the same policy constraints and the same CAA document as my land. Condition 30b reads as follows:

“b.No development, including Strategic Engineering Elements and Strategic Landscaping Elements, on any Development Parcel containing or adjacent to Longstanton Paddocks, apart from Enabling Works and Earthworks, shall commence until a written scheme for the long term use and care of the Longstanton Paddocks has been submitted to and approved in writing by the Local Planning Authority.”

This makes clear that the term “The Paddocks” was adopted by the Council as convenient shorthand to describe the land between Rampton Road and Mills Lane – for that is undoubtedly the land referred to in that planning application.

- 83 I continue to dwell on the apparently ridiculous question of the meaning of paddocks. Unfortunately however, the Council used that device in consideration of my application. They use expressions and descriptions taken from the CAA and attribute them to the Site alone, despite the fact that they simply do not apply – as any Council employee would understand if he was to get up from his desk and see the Site. It should not be necessary for me to have to correct such incompetence. However, such confusion cannot be unexpected in a document drawn by a disparate group of people, with no named author or contributors.
- 84 The opacity of the CAA is useful to the Council in that the document provides references to sections of the entire village, **covering an area of well over 300 ha.** However, **the built area of the two original conservation areas combined, contains less than 3 ha.** The All Saints Conservation Area included part of The Paddocks, containing a further 9 ha. The Added Land consists in approximately 22 ha. Accordingly, approximately 31 ha of green space is within the Conservation Area. As a result, **it is almost impossible precisely to identify which particular piece of land is referred to in any particular description in the CAA or in any other Council document.**
- 85 I suggest it is inconceivable that the conservation group who put together the CAA were unaware of the information I have set out above. I suggest that they intentionally treated the Added Land as part of the nostalgic description of a “historic patchwork” because that was the nearest they could get to historic interest as a justification for enlarging the Conservation Area.

The CAA is followed up by policy NH/1

86 Eighteen months after the adoption of the CAA in 2005, and after assessment of the Northstowe AAP by government appointed inspectors, the Council published policy NH/1. That policy provides that specified open land uses may be acceptable on all of the open land within the Conservation Area. The Council has used this policy as part of the justification for its refusal of the First Application, relating to the green gap.

87 That policy reads as follows:

*“Policy NH/1: Conservation Area and Green Separation at Longstanton
Areas of countryside within the conservation area at Longstanton will form part of the green separation between Longstanton and Northstowe. Public access to this area of countryside will be controlled to protect the conservation area. The area will contain only open land uses, such as playing fields, allotments and cemeteries, which will contribute towards effective separation between these communities. The open aspect of the fields affording views of All Saints Church will be maintained. Elsewhere the landscape character of a series of hedged paddocks, small copses and tree belts will be maintained and enhanced.”*

I note:

87.1 The policy includes all of the land between Rampton road and St Michael’s Lane – with no differentiation between the land north of Mills Lane, by then part of Northstowe, and the far smaller area of land to the South of Mills Lane which includes the Site.

87.2 The land to the north of Mills Lane is, by 2007, covered by the Northstowe AAP, as directed by the inspectors, while the land on the South side is bundled with it for the purpose of this paragraph.

87.3 The inspectors suggested that the Northstowe land should contain open land uses. The inspectors gave three examples of acceptable use. The Council has interpreted those examples as designated permitted uses.

87.4 The Council has included the land to the South side of Mills Lane as being appropriate for the same three open land uses as the Northstowe land with no consideration, no consultation and no formal designation.

87.5 Apart from the footpath running diagonally across Manor Field, there is no public access to any of this green space, either inside or outside of the Conservation Area. Why and how it should be controlled and why or how such control would protect the Conservation Area remains a mystery. The question of “public access” has never previously been raised, and was not mentioned in the NAAP. It is effectively meaningless.

87.6 The Council has added that the open aspect of the fields affording views of All Saints Church will be “maintained”. There is no obligation on the owners of the Northstowe land to that effect. The inspectors merely commented that the best people to look after land in the Conservation Area were its owners, and that further detailed constraints were not necessary.

87.7 There is no provision in law which obliges a landowner to maintain hedged paddocks, small copses and tree belts, let alone enhance them, even in a

conservation area. I assume the draftsman of this policy had at the back of her/his mind the proposition that the Northstowe developers would undertake this work. In that event, it should have been included in Northstowe policy NS/4, and more specifically, in the Northstowe AAP.

- 87.8 None of the uses specified is compatible with the preservation of the claimed historic form of the land as a historic patchwork of hedged paddocks.
- 87.9 There can be no question that such uses would require car parking and vehicle access. **Playing fields in particular would totally change the land form. Playing fields require flat lands so the fields would require terracing. The hedges would disappear. Substantial car parks would be required with hard surface access. Sports pavilions may be required and hard surfaces created for tennis and some other sports.**
- 88 I maintain that policy NH/1 is muddled and contradictory. There is a complete dichotomy between adding the land to the Conservation Area to prevent development, on the one hand whilst on the other hand, specifying that they will permit uses which require extensive development and destruction of the very character which they say creates the historic value.

NH/1 is about landscape – not about the green gap

- 89 Insofar as policy NH/1 is intended to provide a green gap between Northstowe and the village, it is in direct contradiction of Northstowe policy NS/4 which makes the express provision that the green gap shall be provided within the Northstowe development. Indeed, there is no reason in law nor planning practice why Gallagher or any other developer should ever receive planning consent for a proposal which depends on changing the use of the land of an adjacent owner – particularly when the change of use amounts to confiscation without compensation.
- 90 As I specify in a separate report, there are lawful ways to designate green space but designation of open land as part of a conservation area does not have that effect.
- 91 The Council continues with the following commentary text after policy NH/1.

“Most of the area of green separation is covered by the Northstowe Area Action Plan, but part of the area lies outside its boundary and is covered by this policy. The land within the conservation area has a valuable character which should be preserved or enhanced. The predominant historic character of the open land comprises a series of paddocks with hedgerows and small copses, bounded by the tree-lined bridleway of Long Lane. Historically this is an important area and includes fields which still demonstrate remnants of the early ridge and furrow field system. Long Lane is a long established right of way and its Sylvan character is a key part of the setting of Longstanton.”

This is the paragraph which quite specifically proposes that my land, with other land, should be treated as part of the green separation which they wanted as part of the brand-new development of Northstowe New Town. The Council is virtually saying to Gallagher developments:

“Yes, you can have more houses because we will use land owned by others to

provide the green gap you are a require.”

- 92 The text of this policy has been taken virtually verbatim from the CAA. As a result, it contains the same unsupported, misleading and untrue assertions, leaving questions in the mind of the reader. For example:
- 92.1 none of the text of this policy has been provided by any professional expert. It is simply taken verbatim from the fraudulent CAA.
 - 92.2 the “predominant historic character of the open land” is not described.
 - 92.3 we are not told what it is predominant over
 - 92.4 which hedgerows? Why do they justify protection?
 - 92.5 where are the examples of “early ridge and furrow field system”?
 - 92.6 the existence of evidence of ridge and furrow ploughing is not, and never has been, a reason to prevent development. That is not how archaeology treats it.
 - 92.7 why is the area historically important?
 - 92.8 why should Long Lane be at risk in any way. It is a public byway maintained by the County Council. It is not at risk in any way.
 - 92.9 where are the copses? The word “copse” means an enclosure of trees specifically grown for “coppicing”. There are no trees in the Added Land which show evidence of past coppicing, neither is there any group of trees large enough to justify the word copse - even in a loose modern interpretation of that word.

However one may read this text, it does not assist the Council in any way in making the case that development of the Site would harm the Conservation Area. It is merely incompetent obfuscation.

- 93 **No matter whether or not The Paddocks or the Added Land ever did have historic value, any such value has been completely dissipated by the fact that all of the Added Land north of Mills Lane is part of Northstowe, part of which was acquired in 2016 for a price equating to over £1 million per hectare.**
- 94 On 04/05/2018, on appeal, the Inspector said:

“I note from the appellant's evidence that the appeal Site does not form part of the area covered by the Northstowe Area Action Plan. It does not form part of the designated green separation area. Therefore, technically the proposal does not contradict the policy on the basis of it not forming part of the Northstowe area covered by the Action Plan.”

In any event, on appeal, the Inspector refused to accept the proposition put forward by the Council, accepting my argument that Northstowe policy NS/4 should have satisfied the requirement for green space within the boundary of the Northstowe land ownerships. I have elaborated upon this point in my report “Commentary on Inspectors Report of draft Northstowe AAP”.

Bringing the bulldozers into the Conservation Area

- 95 This section explains how the Council's proposition that my proposal would cause harm to the alleged "patchwork of paddocks", the setting of All Saints Church and the Conservation Area in the round, is in stark contrast to the grant of permission to Gallagher developments (now Homes England) for substantial and non-essential development, which will cause far greater harm on all three counts.
- 96 The accounts of Homes England being a Government entity, are scrutinised annually by the Auditor and Controller General. In order to satisfy that requirement, it is inconceivable that they would have bought this land without first having obtained the approval in principle of the Council to some arrangement whereby additional housing or other valuable development could take place on the land. Regardless of the recent agreement for the long term use and care of this land, it seems unlikely that Homes England would have paid £1 million per hectare simply for the land to contain a short stretch of footpath and cycle track.
- 97 Five months later, on 09/01/2017, the Council granted permission for Northstowe Phase 2. There is a particular reference to Longstanton Paddocks – **land within the Conservation Area and subject to the same policy constraints and the same CAA document as my land**. Condition 30b reads as follows:
- "b.No development, including Strategic Engineering Elements and Strategic Landscaping Elements, on any Development Parcel containing or adjacent to Longstanton Paddocks, apart from Enabling Works and Earthworks, shall commence until a written scheme for the long term use and care of the Longstanton Paddocks has been submitted to and approved in writing by the Local Planning Authority."*
- 98 This is a very specific condition. The development anticipated is such as to require "enabling works and earthworks". It specifically anticipates that the development which will take place on Longstanton Paddocks for an upgraded footpath and new cycle track will be sufficiently significant as to damage the historic value in the long term to the extent that it requires a "written scheme for the long-term use and care" of the land. I note that the document agreed does not prevent substantial future development.
- 99 Condition 31 reads as follows:
- "Longstanton Conservation Area***
Notwithstanding the details set out on Plan 8 (Issue B) and Plan 8B (Issue B) a scheme for the location of the cycle/pedestrian route across Longstanton Conservation Area between Northstowe and the village of Longstanton shall be agreed in writing with the Local Planning Authority prior to the first occupation of the town centre. The approved cycle/pedestrian route shall be fully implemented to the satisfaction of the Local Planning Authority before the first occupation of the town centre.
- REASON: To protect the character of the conservation area."*
- 100 **There is no provision to protect any historic asset.** This is part of the same area of land in respect of which our application was refused on the ground that we would

specifically cause harm to the Conservation Area - not to mention the setting of ALL Saints Church, 450 metres from our site, but a mere 25 metres from this proposed development.

- 101 The reason given is merely to protect “the character of the Conservation Area”. Top marks here to the solicitor for the developer for achieving a restrictive contractual term which is meaningless.
- 102 There is an existing right of way across Manor Field from Woodside to Rampton Road. That would be the shortest and least disruptive route for the new proposed cycleway. It is over 250 m in length.
- 103 I suggest that the approved cycle route must be constructed in accordance with the “*Cambridgeshire design guide for streets and the public realm 2007*”. That requires a 3.5 m width to cover both cyclists and pedestrians.
- 104 The proposed development will run across the slope of the Site and accordingly will require land either side of the track to be graded so as to produce a surface which slopes only in one direction. Were it otherwise, pedestrians, prams and cyclists would tend to fall off the edge of the track. On such a slope, free of motorised vehicles, careless cyclists could easily achieve a speed of 30 miles an hour. In the interest of safety it is therefore likely that separation between the cycle track and the pedestrian footway will be provided, thereby substantially increasing both the width and scope of the development work required.
- 105 I am no engineer, but to avoid a step up one side and the step down at the other side of land which is graded against the natural slope will require further earthwork of at least 1m at each side. The distance is approximately 250 m so we can look forward to these historic paddocks being riven by a 7 m gash containing new footpath and cycle track.
- 106 The Northstowe Phase 2 grant would have been the culmination of many years of discussion between Gallagher Developments and the Council. Indeed the Council’s Annual Monitoring Review excuses their failure to provide enough houses year after year by suggesting that the deficiency was due to the delay in development at Northstowe. It is therefore inconceivable that every member of the Council’s planning department would not have been aware of the grant since it was effectively the culmination of several years work for many of them.

The First Application was still refused

- 107 Despite that knowledge, a mere four months after the Northstowe Phase 2 grant, the Council refused my application on land which is **subject to precisely the same policies**. Only two grounds were ultimately given for refusal of the Application. The one relating to conservation and the historic environment suggested that my proposal would:
- 107.1 harm the ancient patchwork of paddocks;
- 107.2 harm the Conservation Area generally;
- 107.3 harm the setting of All Saints Church.

- 107.4 harm the setting of the remains of the old water pump, already located in an urban setting in the mown verge of a metalled road.
- 107.5 prejudice the “archaeology” (sic) presently hidden.
- 108 The question of prejudice to the archaeology is particularly intriguing since the cycle track will most probably run only 30 to 40 m distant from the Church. Being adjacent to the church, Manor Field will have been little disturbed over the last several centuries. I suggest it is almost certain that any archaeological investigation will produce artefacts. Of course, the same applies to a 500 m radius circle around every village church in England.
- 109 What is more, historical maps indicate changes of use of my land, including development of Clive Hall, over the last 200 years which are certain to have reduced the value of whatever archaeology might lie beneath the surface. Neither the Council nor the County Council has produced evidence that archaeological investigation on the Site will produce more interesting relics than those already discovered in the extensive trial excavation we made in 2016.
- 110 Furthermore, the proposed cycle-way stretches straight across the front of the Church, interrupting the only remaining pleasant view inwards or outwards. By contrast, Celia Wignall claimed that my proposed development of a site located around **450m distant**, would damage the setting of the Church. In fact, quite regardless of the distance, nothing constructed on the Site, not exceeding 25m in height, would be visible from the Church at ground level on account of the view being blocked by buildings, trees and hedges. In the refusal notice, the Council disowned this proposition. The Council refused to produce a copy of her contract or instruction in response to my Freedom of Information request.
- 111 I have already argued that the Council abandoned whatever historic value was attributable to the green space in the Conservation Area by opening it up to those three specific uses. Now I add that the new footpath and cycle way provide a substantial added intrusion which surely dissipates even the slightest residual historic value at least as concerns the Manor Field and the argument about the “ancient patchwork of paddocks”.
- 112 In the light of the foregoing facts, it is clear that the Council's statements in the delegation report and the refusal notice relating to the Application, are false. Worse, at no time in the last five years has any member or officer mentioned the impact of planning permission for Northstowe Phase 2 and in particular the fact that it now includes most of the land in the Conservation Area.
- 113 Unfortunately, my approach to my planning application was made in ignorance of the connection with The Paddocks, the purchase by Homes England of the Conservation Area land, and the history of the expansion of the Conservation Area. It also never occurred to me that an English local authority would under any circumstances act in the way that South Cambridgeshire District Council has acted in connection with the Conservation Area over the last 15 years.

The question is why

- 114 Why would the Council interpret policies so differently for applications for development of land which is controlled by identical policies? Possibilities include:

- 114.1 Members and officers have believed consistently that my proposal is of low importance, that they are overworked, that they are more powerful than I am, particularly since I'm not a ratepayer, and that it is simply too much trouble to get their heads around events of 15 years ago.
- 114.2 It is possible that the Council might allege that the redeveloped footpath and the new cycle track were an intrinsic and important part of the over all development of Northstowe New Town. However, that would seem illogical. The Manor field was not part of the Ministry of Defence land which has formed the core of Northstowe, and specifically its Western boundary against Longstanton. It was bought by Homes England only in 2016, in exercise of an option agreement taken out by Gallagher developments some years earlier. It follows that the Council was under no pressure to grant permission for the urbanisation of that age-old footpath.

The law on pre-determination

- 115 I believe the Council members and officers had predetermined that my application should fail, come what may. Further comments in this paper support that proposition.
- 116 Here is a judicial analysis of what constitutes predetermination and why it is so important. Here is what Ouseley J wrote in Bovis Homes Ltd v New Forest DC [2002] EWHC 483 (Admin) at [111] [CB/234-235] that:

"... a Council acts unlawfully where its decision-making body has predetermined the outcome of the consideration which it is obliged to give to a matter, whether by the delegation of its decision to another body, or by the adoption of an inflexible policy, or as in effect is alleged here, by the closing of its mind to the consideration and weighing of the relevant factors because of a decision already reached or because of a determination to reach a particular decision. It is seen in a corporate determination to adhere to a particular view, regardless of the relevant factors or how they could be weighed. It is to be distinguished from a legitimate predisposition towards a particular point of view. I derive those principles from the Kirkstall Valley Campaign Ltd case [R v Secretary of State for the Environment ex p Kirkstall Valley Campaign Ltd [1996] 3 All ER 304] to which I have already referred, particularly at page 321G.

There is obviously an overlap between this requirement and the commonplace requirement to have rational regard to relevant considerations. But, in my judgment, the requirement to avoid predetermination goes further. The further vice of predetermination is that the very process of democratic decision making, weighing and balancing relevant factors and taking account of any other viewpoints, which may justify a different balance, is evaded. Even if all the considerations have passed through the predetermined mind, the weighing and balancing of them will not have been undertaken in the manner required.

Additionally, where a view has been predetermined, the reasons given may support that view without actually being the true reasons. The

decision-making process will not then have proceeded from reasoning to decision, but in the reverse order. In those circumstances, the reasons given would not be true reasons but a sham."

In search of historic assets on or around the Site

What are “significant historic assets”?

- 117 I have narrated the history of the fear of Northstowe and the consequent urgent manipulation of law and procedure to enlarge the Conservation Area. Now, with extensive references to Doctor Wardle’s report, I respond to the Council’s propositions that the application would cause harm to the Conservation Area.
- 118 The Council’s propositions appeared slowly, one by one, over many months. Like the many-headed Hydra, each time I refuted one objection, the case officer invented another. I now list the most specific of the Council’s suggestions and comment on each of them.
- 119 First, however, I refer to Doctor Wardle’s report by way of explanation of what exactly we are searching for. Paragraph 3.7 of Doctor Wardle’s report explains the 2010 DCM S Circular – “Principles of Selection for Listed Buildings”.

The Minister states in paragraph 1:

“The Secretary of State cannot take any other factors into account when considering his decision”

It seems reasonable to assume that the Minister is attempting to close off the possibility that buildings will be selected for preservation for reasons other than those listed below.

Paragraph 9 states:

“The Secretary of State uses the following criteria when assessing whether a building is of special interest and therefore should be added to the statutory list:

• Architectural Interest. To be of special architectural interest a building must be of importance in its architectural design, decoration or craftsmanship; special interest may also apply to nationally important examples of particular building types and techniques (e.g. buildings displaying technological innovation or virtuosity) and significant plan forms;

*• Historic Interest. To be of special historic interest a building must illustrate important aspects of the nation’s social, economic, cultural, or military history and/or have close historical associations with nationally important people. **There should normally be some quality of interest in the physical fabric of the building itself to justify the statutory protection afforded by listing.**”*

- 120 In the round, Doctor Wardle continues to make clear that Celia Wignall’s methodology and conclusions in assessing the historic value of the Conservation

Area in the round and of the Site in particular are wholly outside the Minister's principles set out in the circular. It is to be noted that these principles effectively carry the force of law, unlike the National Planning Policy Framework.

- 121 I note that there is no reference to landscape issues. However, the CAA document is packed full of references to the "attractiveness" of Longstanton village. Such references include specific mention of buildings and constructions which are not listed – presumably because they do not demonstrate significant historic interest. They also include a large number of references to attractive views and landscapes. You will note that most of the photographs in the document also have no connection with anything of significant historic interest.
- 122 Most simply, if a place or item is not of significant historic interest than its presence cannot be used to support historic value.

Asset 1: Ridge and furrow

- 123 Put very simply, ridge and furrow is not an object, not something you can move or even easily identify. It is more like a footprint in the sand. My basic perception is as follows:
- 123.1 Until the advent of mechanical implements, our ancestors relied on a horse-drawn plough to turn the earth. Ancient land-holdings allocated to, or tended by, an individual for his own personal use tended to be in parallel rows, around 6 m wide. The most efficient way to plough a narrow plot resulted in one side of the section being left as a trench, rather than level. We now refer to the trench as a furrow and the remainder of the plot, comparatively higher, as a ridge.
- 123.2 Often, that trench remained in more or less the same position for many years. As a result, natural drainage resulted in a deposit of silt in the bottom of the trench. In a later age, the action of the mechanical plough levelled these plots. In a very few cases the mechanical plough has never been put to a section of these old plots. As a result, it is possible to walk over a field and identify that original shape. The shape has been retained in scattered parts of England, constituting only a few hectares.
- 123.3 However, the advent of aerial photography revealed the remnants of ridge and furrow cultivation because the effect of rain caused a layer of thin silt to be deposited as the water drained from each furrow. Today, long after most topographical ridge and furrow has been ploughed up, there remain locations where grass grows more strongly over the narrow strips which had constituted the furrows. This is most visible in a dry summer. Moreover, today, most land is in deep ploughed every few years, to a level below the original furrow, thereby removing all trace of it. That still leaves a large area of farmland where aerial photography, in the right season, identifies traces of ridge and furrow.
- 124 Ridge and furrow is of passing interest to archaeologists on account of its context rather than its content. Doctor Peter Wardle assesses the relevance of ridge and furrow as follows:

"The reasons for refusal say that "to be of historic Importance in terms of the

development of the village, with evidence of historic methods of farming". Similarly the Conservation Area Appraisal notes the presence of "Ridge and Furrow" and considers this to be of historic importance. There is not a single example of ridge and furrow (the remains of medieval and post medieval strip fields) protected as a Scheduled Ancient Monument in the Country (England).

Where it is to be destroyed by development it is accepted that it is not a for two years those that have been so imaginary historic even worth archaeologically excavating due to the fact there is so little evidence that can be derived from it (See Wardle and Lacey 2016).

The archaeological evaluation on the land demonstrated that there were no clear extant earthworks (as the Conservation Area Appraisal and the reasons for refusal suggest) but slight traces of Ridge and Furrow.

The Framework warns against the over designation of Conservation Areas and notes that not all parts of a Conservation Area are equally important.

The 1990 Act gives Local Authorities the power to "determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance".

The first test for any land to be included in a conservation area is that it must have special architectural or historic interest. Clearly this land has no architectural interest because there are no buildings on the land. In terms of historic interest the "interest" is confined to the archaeological interest which is not of sufficient historic interest to prevent development provided there is an archaeological excavation prior to development."

- 125 As Doctor Wardle suggests, we are told that the procedure today is simply to note and record non-topographical Ridge & Furrow as found, then to move on.

Asset 2: The listed pump

- 126 The next suggestion of a heritage asset by the Council was contained in the Council's "response" to the application by one Celia Wignall. I understand Ms Wignall is an independent consultant who has provided reports in connection with substantial projects for a number of years.

- 127 The full listing by Historic England is brief indeed. I note that it makes no mention of the pump housing having been moved, nor of the fact that it is no longer any more than a large piece of cast-iron:

List entry Description

Summary of Building

Legacy Record - This information may be included in the List Entry Details.

Reasons for Designation

Legacy Record - This information may be included in the List Entry Details.

History

Legacy Record - This information may be included in the List Entry Details.

Details

TL 46NW LONGSTANTON MILLS LANE (northWest Side)

5/168 Village Pump , opp. Clive Hall Drive

II

Water pump. Late C19. Cast iron but missing cap. Bamfords Deep Well Pump.

Listing NGR: TL4023966076

Selected Sources

Legacy Record - This information may be included in the List Entry Details

- 128 In his "Heritage Statement" Dr Peter Wardle quotes the Act: Chapter 2 Section 16 paragraph 2 states:

"2)In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Dr Wardle says: *"This section states that it is DESIRABLE to protect the setting of listed buildings but crucially "setting" is not defined."*

- 129 For the Council, Ms Wignall says of this object :

"The site forms the part of the pump's setting which makes a positive contribution to its significance. The development of the site will remove the last remaining undeveloped element of the setting, isolating it within a 20th/21st century street scene. The total removal of the positive setting would constitute a high degree of less than substantial harm to the grade II listed pump (engaging NPPF paragraph 134)."

- 130 I have written to Historic England for verification of the data in this paragraph relating to whether or not this pump housing could in fact now be sited in its original location. This paper is not an appropriate document to enter into a discussion since the points I make below are as relevant whether or not it has been moved from some other location over the wellhead. Despite that caveat, it is plain and clear that the present location and setting of the pump has no remaining historic association. To use the words of experts, the setting does not enhance the viewer's appreciation of its historic value. It is not even possible to imagine the well head and picture use of the pump, as it sits on the edge of a metalled road, surrounded by modern housing.

- 131 I note:

131.1 Although a supposed expert on all matters historic, Ms Wignall fails to point out that the object in question is not a pump but merely the cast iron housing, plus handle, of the original village pump.

131.2 The suggestion that the Site will "remove the last remaining undeveloped

element of the setting” implies that there have been other undeveloped elements which have been removed in the past. That clear implication is a misrepresentation. This casting was placed in its present position only recently. In this location, there has never been any development whatever since the pump housing itself was installed a few years ago.

131.3 Wignall refers to the “total removal of the positive setting”. Since, as Dr Wardle says, “setting” is not defined, this is merely her opinion of what sort of a setting the pump could actually require. She does not specifically say that a relocated piece of cast-iron has to be shown at its best by being surrounded by fields. Maybe she means that it should be surrounded by 20th century bungalows? Despite this obfuscating verbal gymnastic, her ultimate assessment is actually of “less than substantial harm”. Wignall is plucking ideas from the air. Nonetheless, her clever phraseology gives the impression that development will cause a great deal more than “less than substantial” harm. Of course, her entire proposition is ridiculous. You could build a power station or a 10 storey office building on the Site without damaging the setting of the pump. The only thing Wignall truly demonstrates is her own willingness to prostitute her professional competence for her fee from the Council.

132 I have used an FOI request to see the Council’s instructions to Wignall, but they have refused to provide them.

Asset 3: The historic patchwork

133 Growing things can never constitute a historic asset. Trees and hedges are protected under different law. For the Council to suggest that an unspecified, unmapped area of “historic paddocks” should provide or even contribute, to reasons for refusal of our application was itself fraudulent misrepresentation.

134 Furthermore, it is most unlikely that the Added Land ever formed part of the “ancient patchwork” to the north of Mills Lane, referred to in the CAA and other Council documents, for the following reasons:

134.1 the Heritage Statement by Doctor Peter Wardle provides on page 21 a brief history of two separate parishes separated by Mills Lane. He mentions in passing that St Michael’s Longstanton was controlled by the Manor of the Colville’s whilst the northern part of the village was controlled by the owner of Cheyney’s Manor.

134.2 We have found no evidence that the land on both sides of Mills Lane has been in common ownership at any time in the last 200 years. Accordingly, the two sides would not have shared a common history and would therefore not have been regarded as a single “entity” locally as suggested by the CAA. For that reason the treatment of the land on both sides of Mills Lane as a single historic asset (“patchwork of historic paddocks”) is a figment of the imagination of the writers of the CAA.

134.3 Separation of the land on either side of Mills Lane is further supported by the fact that the Paddocks have been associated with Manor Farmhouse for at least 200 years, while the land to the south of Mills Lane, in the Parish of St Michael’s, constituted the garden and immediate domestic surrounding to

Clive Hall for as long as that building existed.(It was demolished around 1974)

134.4 the OS map 1926 shows a barn (coach house?) And other buildings **on the edge of the Site**, whilst the remainder of it is likely to have been a fruit and vegetable garden continuing into an orchard, **as the Council's own report confirms.**

134.5 before the construction of Clive Hall it seems likely that the land immediately to the South of it was part of Magdalene Farm, the main barns of which face Woodside and were converted to a single house following planning permission on 21st of June 1983.

135 Accordingly, references by the Council to development on the Site harming the historic patchwork are untrue.

Asset 4: The Site itself is a historic place

136 The last suggestion of heritage assets arose from a meeting with the case officer around 20th February 2017. I asked once again what heritage asset there was on the Site. **For the first time**, he then told me the heritage asset was the Site itself. To confirm this new idea, he sent an email later that same day, referring to the proposition in the Act that a "place" or "area" can be a heritage asset. However, he gave no explanation of what history or characteristic of the Site merited that opinion, nor what level of significance he attached to it. I note that this proposition does not appear in any Council document nor is it mentioned in the CAA – despite the desperation of the authors of that document to find significant historic assets.

137 I note to that even Celia Wignall, the alleged professional, did not attempt to enhance the Council's case with this proposition.

138 These claims of potential harm to some aspect of the Conservation Area by different people on different occasions appear to indicate desperation on the part of the Council to find reasons for refusing my application.

139 I believe that the real reason for expanding the Conservation Area was out of fear of Northstowe, as the record clearly shows.

140 This a long way from the Council's obligation in NPPF P197:

"In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development."

Asset 5: Ms Wignall and the group of three non-designated houses

141 Ms Wignall states :

"In this case the extended boundaries brought No.50 Mills Lane into the conservation area, offering protection to the group comprising Toad Hall,

No.50, and No.49-51. This group set apart at the bend of Mills Lane contains no listed buildings, but is of historic interest and has group value which makes a positive contribution to the character and appearance of the conservation area. Development of the Site would join the group to the main body of the village, harming both the setting of these non-designated heritage assets (engaging NPPF paragraph 135), and the character and appearance of the Longstanton Conservation Area (engaging NPPF paragraph 134)."

I comment:

- 141.1 Ms Wignall is correct in that number 50 Mills Lane (the "White House") came into the Conservation Area as part of the Added Land. I assume it was not considered worthy of inclusion in 1985.
- 141.2 Ms Wignall gives the impression that the "group" was "brought" into the Conservation Area to provide "protection". Another lie. We now have incontrovertible evidence that the Conservation Area was extended solely to keep Northstowe at bay.
- 141.3 These three buildings are not "heritage assets. If they were, they would have been listed. Ms Wignall does not even go to the trouble of describing one of them.
- 141.4 "Historic interest" is not a reason to refuse permission for development. That historic interest must be described and recorded. The Council may not simply use subjective judgement to declare that three ordinary dwellings have historic interest and group value without a shred of evidence.
- 141.5 Neither building has a setting which could be damaged by our proposal because the cottage is invisible and The White House is also protected by a heavy hedge, which we shall enhance and thicken.
- 141.6 **"Toad Hall" does not exist. Neither is there any other building which could be mistaken for a "hall", or otherwise unaccounted for.**
- 141.7 Numbers 49-51 is a single cottage, virtually invisible from anywhere, set back from the road. It has no connection to the house at 50, Mills Lane, in style or period. These two houses do not form a "group" - even by adding the imaginary Toad Hall !
- 141.8 Neither house is on any list on non-designated historic assets nor any other list ever prepared by the Council. Ms Wignall is the sole judge and since she imagines Toad Hall, she has clearly not been anywhere near them to be able to judge their historic interest.
- 142 I have already referred to Ms Wignall's imaginary views from the Site to All Saints Church - later abandoned by the Council when I pointed out that there were none. I have also mentioned her "work" in connection with the pump housing. Further points in her report are:
- 142.1 As any casual pedestrian will observe, the Site cannot reasonably be said to affect the "setting" of Manor Farmhouse.

142.2 The loss of 4 metres of hedge on Mills Lane to create an additional access has been interpreted as an admission by me that “a consequence of development would be the eventual loss of all or parts of the hedge along Mills Lane.” Amazingly, she converts that in the next sentence to double count the loss of hedge as the access point AND adds visibility splays, which would of course, have been re-planted.

142.3 Ms Wignall does not deny that there are no buildings of architectural or historic interest on the Added Land.

142.4 Despite her activity, I note that she steers well clear of involvement with “ridge and furrow” - evidently a bridge too far.

143 Ms Wignall is an experienced expert on the historic environment who has supported or opposed important developments over a number of years. She has clearly read the CAA. As a senior professional, she must have recognised immediately that it had not been drawn by a member of her profession. Nonetheless, she supports it completely. For her to produce this report as a 30 minute “desk job” would indicate that:

143.1 her instructions were to denigrate the First Application.

143.2 she was well paid - not necessarily by the Council.

143.3 unlike 99% of professional consultants working in the construction industry, she was prepared to prostitute her reputation in this modest and unimportant (as she would have seen it) case. Had she said the same under oath, the judge would have committed her for contempt of court.

144 We have asked the Council for details of Ms Wignall’s contract through a formal FoI request. The Council has refused to produce it.

Application of the Law, the NPPF and Guidance by Historic England

The Law

145 An English district council has enormous power over planning and development issues. That power is granted through a massive library of legislation, as varied by the National Planning Policy Framework. The NPPF is supported by a substantial volume of guidance. Where conservation and historic issues are concerned, Historic England also provides extensive guidance. I provide here a brief assessment of the application of those influences to the history I have narrated.

146 The first of the tasks I mentioned in paragraph 12 above relates to the status of the Added Land. The starting point for a discussion must be S69 of the CA Act as follows:

147 The CA Act states:

“69 Designation of conservation areas.

(1)Every local planning authority—

*(a)shall from time to time determine which parts of their area are **areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and***

(b)shall designate those areas as conservation areas.”

148 Apart from the CAA, the Council has been unable to explain or produce any document which satisfies the above requirement. Specifically, **no document or report was produced by an expert in the historic environment in relation to the expansion of the Conservation Area in 2005 (and none has been produced since).**

149 I note that the Council failed in 2005 and **continues to fail today to provide any evidence of special architectural or historic interest on any part of the Added Land.**

Application of NPPF

150 The Council has stated in the past that it will rely on the proposition that development on the Site will be in breach of the provisions of NPPF section 16, paragraphs 184 and 186 to 188.

151 NPPF Paragraph 184 refers to “Sites and buildings of local historic value”. The report by Doctor Peter Wardle demonstrates unequivocally that there are no

relevant buildings or sites which could be damaged by development of the Site. It is also supported indirectly by the failure of the Council to provide any evidence to the contrary.

- 152 NPPF Paragraph 186 exhorts the Council not to devalue the designation of the Conservation Area by including “areas that lack special interest”. However **this is exactly what the Council did in 2005 by including the Added Land.**
- 153 NPPF Paragraph 187 specifies, inter-alia, that the Council should assess the significance of historic assets and the contribution they make to their environment. I note that the Council has no record of the significance of the Site as a historic asset nor the contribution it makes, if any is alleged, to its environment.
- 154 Paragraph 192 requires, inter-alia, that the Council should take account of “the desirability of new development making a **positive contribution to local character and distinctiveness**”. In the management of our application, and in breach of this paragraph, the Council positively refused to consider any positive contribution our proposal might have made.

Historic England

- 155 Advice from Historic England states:

“2 *The advice in this document emphasises that evidence required to inform decisions affecting a conservation area, including both its designation and management, **should be proportionate to the importance of the asset.***”

- 156 Historic England explains how a local authority should act, as follows:

“Designation and its effect

*Local planning authorities are under a positive legal duty to assess their area and review it from time to time to consider whether areas are suitable for designation, **or to remain designated.***

*The more clearly the special architectural or historical interest that prompted designation is defined and recorded, the better local plan policies and development control decisions will be in achieving the objective of sustaining and enhancing the area's character. In deciding whether to designate, an authority may take into account the resources likely to be required in **the process of designation and appropriate follow-up of consultation and formulation of policies for the new area.***”

And:

“A description of the significance of the area and which buildings and features make a positive contribution to it and which detract would be particularly helpful in interpreting how NPPF and local plan policies will apply to the area.” (My bold applied)

- 157 We note the references to:

157.1 whether or not an area should remain designated;

- 157.2 the advice that historical interest should be defined;
- 157.3 the importance of a description of the significance of an area and which buildings and features make a positive contribution to it and which detract.
- 158 I quite accept that the Council are under no obligation to follow advice from Historic England. I doubt that many local authorities do. I mention this point however in support of these propositions:
- 158.1 the Council staff, at every level, have no alternative than to commence the assessment of any planning application with reference to the local plan and accompanying policies. It follows that when the policies are out-of-date or miss-applied, then bad decisions will be made.
- 158.2 Whatever historic value could ever have been attributed to the land at The Paddocks on account of it having been a patchwork of small paddocks 100 years ago, today there is none – apart from the possibility of archaeological interest, as yet unknown.
- 158.3 the devaluation of the historic value of that land has been caused first, by 100 years of changed agricultural methodology, now requiring larger spaces, second, by the takeover of 300 ha of the Village by the Ministry of Defence in 1939, and third, because it is now all part of Northstowe, designated by the Council as suitable for playing fields, allotments and cemeteries, all of which require vehicular access, car parking, and in the case of playing fields, vast engineering works.
- 158.4 surely it is time at last that the Council considered whether or not this area should **remain** designated.
- 159 The CAA is the only document produced by the Council which even remotely purports to provide an assessment of the Conservation Area. That document is far from satisfying the guidance provided by Historic England. I surmise that is one of the reasons why the Council continues to support the ridiculous CAA document.
- 160 *The HE advice continues at paragraph 73:*

“Conservation area designation is not generally an appropriate means of protecting the wider landscape (agricultural use of land falls outside the planning framework and is not affected by designation as a conservation area)

The Council has consistently acted against this advice.

End