

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000**

**APPLICATION BY WESTON HOMES PLC AND
COLUMBIA THREADNEEDLE INVESTMENTS**

NORWICH CITY COUNCIL REFERENCE - 18/00330/F

PINS REFERENCE - APP/G2625/V/19/3225505

**Peter Luder BA(Hons) MUP MRTPI
Rebuttal Proof of Evidence
Housing Supply;
Heritage (HE Alternative Scheme)
Local Plan Compliance (Housing Density);
Air Quality (Demolition Impact)**

For

Hybrid Planning Application

At

ANGLIA SQUARE, NORWICH

**Weston
Homes**



Scope of this Rebuttal Proof of Evidence

This Rebuttal Proof has been prepared by Peter Luder. The Preamble to my Proof of Evidence (PoE) WH 4/1 remains valid. At (iv) in the Preamble, I intended to refer to this call-in Inquiry rather than 'appeal'.

This rebuttal addresses the following issues in respect of the Rule 6 and Interested Parties indicated by each heading below:

1. Item (a) of the Secretary of State's letter of 21 March 2019 (CD11.35): – the extent to which the proposed development is consistent with the Government's policies for delivering a sufficient supply of homes:
Norwich Green Party :Dr Andrew Boswell (NGP 1/1);
2. Item (d) The extent to which the proposed development is consistent with the Government's policies for conserving and enhancing the historic environment (NPPF Chapter 16):
Historic England: John Neale (HE1/1) with reference to (HE1/2 Appendix 1: Ash Sakula Report) and
SAVE Britain's Heritage: Alec Forshaw (no reference, but technically SBH1/1);
3. Item (e) – the extent to which the proposed development is consistent with the development plan for the area, including any emerging plan,(where not addressed by other witnesses for the Applicant and Item (a) above):
Norwich Green Party :Dr Andrew Boswell (NGP 1/1); (dealt with in this Rebuttal along with Item (a) above
The Norwich Society: Simeon Jackson (NS3) and
The Norwich Society: Jon Boon (NS1)
4. Item (f) Any other matters the Inspector considers relevant:
The Effect of the proposal on Air Quality :
Norwich Cycling Campaign – Anthony Clarke (CYC/201): Demolition of Sovereign House and
Norwich Cycling Campaign – Anthony Clarke (CYC/203): Demolition of Edward Street Car Park

Consistent with my (PoE), the relevant Core Documents are referred to by the abbreviations in my paragraph 2.1

- 1 **Item (a) of the Secretary of State’s letter of 21 March 2019 (CD11.35): – the extent to which the proposed development is consistent with the Government’s policies for delivering a sufficient supply of homes;**

Norwich Green Party: Dr Andrew Boswell (PoE-NGP1/1) Affordable Housing, (AH)
(paragraph numbers and headings from Dr Boswell’s PoE-NGP1/1 in ***Bold Italics***)

- 1.1 **2.1 Evidenced Conclusions 4 (3)** -*“10% is the minimum affordable housing level required by the NPPF, and very poor compared to the JCD 33% policy requirement.”* This conclusion is based on a misinterpretation of NPPF (CD 1.1), para 64, which is consistently repeated within Dr Boswell’s PoE. The effect of this is that Dr Boswell expresses the view that the NPPF requires at least 10% of dwelling units within a scheme to be affordable - and by not achieving this (in his view, which is contested below), the Anglia Square scheme does not comply with NPPF para 64. In fact to understand NPPF para 64, it is essential to refer to Footnote 29, and to include the remainder of the same sentence. The correct reading is that in major developments, planning decisions should expect (not require) at least 10% of the overall affordable housing (AH) contribution to be available for *“affordable home ownership”* (defined in Annex 2 – Glossary), ie some form of intermediate housing, unless even that level of intermediate housing provision would, inter alia, significantly prejudice the ability to meet the identified affordable housing needs of specific groups. In other words, if the need for affordable rented housing is identified to be sufficiently large, then it is acceptable for the intermediate housing provision to be less than 10% of the overall affordable housing provision. NPPF para 64 does not comment on the overall proportion of affordable housing that should be sought by development plan policy.
- 1.2 In 4(3) Dr Boswell compares the 10% minimum required by the NPPF, (which as explained above is an incorrect interpretation), to the development plan *Joint Core Strategy (JCS)* (CD 2.2), specifically the JCS 4 *“policy requirement”* for affordable housing, which in the policy is expressed as a *“target proportion”*. He refers to this *“requirement”* as 33% of units. However, JCS 4 states: *“The proportion of affordable housing sought may be reduced... where it can be demonstrated that site characteristics, including infrastructure provision, together with the requirement for affordable housing would render the site unviable in prevailing market conditions, taking account of public subsidy to support affordable housing.”* Thus the 33% in JCS 4 is the starting point, and in this case, the viability appraisal, now reviewed by Mr Truss (WH 3/1), to take account of the delay due to the Call-in process, demonstrates that even with public subsidy, the maximum initial provision that can be made for affordable housing is 120 units (10%), which will be subject to a series of later viability reviews. Thus JCS 4 does support lesser percentage provision where suitably justified by viability assessment. Furthermore, consideration must be given in this case to the impact of Vacant Building Credit (as required by NPPF para 63), and the scope for conversion of Gildengate House to residential under Part O of the General Permitted Development Order, on a policy-compliant affordable housing provision, which is addressed in the CR paras 210 - 211. In this case applying those allowances, the affordable dwellings starting point for this development would be 262 units (22% of 1209).

- 1.3 **2.1 Evidenced Conclusions 4 (4)** – “When compared to the specific needs for 1-bed and 2 – bed affordable homes in the emerging SHMA data of 66% and 51% respectively, the development’s overall affordable housing is (even more) extremely poor.” This conclusion is reliant on a very specific, forensic application of the affordable housing needs data from the SMHA in a manner which is not appropriate.
- 1.4 First, although reference is made to the “emerging” SHMA data, in fact the 66% and 51% come from NGP1/1 PoE Table 2 (page 9), which comes from Figure 83 in the SHMA, (which is on NGP1/1 page 8). The SMHA (CD 2.21) is not “emerging” - it already exists (most recently covering 2017), and is part of the evidence base that will be used to demonstrate the soundness of relevant proposed policies in the emerging Greater Norwich Local Plan, (GNLP). The SMHA is not in itself an existing or emerging policy, and as noted in the AS PGN (CD 2.11), at *Section 7 Policy Guidance – Housing*: paragraph 7.5 “As required by government the local authorities keep housing needs under review. The latest housing needs assessment (SHMA for Central Norfolk) ...looks across a longer period than the JCS (to 2036) but in general terms it shows the need for a similar annual rate of development across the NPA... This has yet to be tested and incorporated into the development plan so will not carry full weight in the decision making process.” (emphasis added)
- 1.5 Second, taking account of the above limitations, the SMHA 2017 presents housing need for the period 2015 - 2036. Therefore in 2020, an allowance must be made for completions already made from 2015 - 2019, meaning that for that snap shot, the figure in 2020 would be less. Indeed, the NGP1/1 Footnote 7 on page 9 notes that “the GNDP state that the need for affordable housing, has dropped slightly following the SHMA 2017”. Furthermore, since submission of the NGP1/1, the Greater Norwich Local Plan Regulation 18 Draft Plan (GNLP), (CD 2.5), has appeared on NCC agendas seeking agreement for public consultation. The consultation period is anticipated to coincide with the Inquiry into this application. Whilst at present the policies of the GNLP Draft Plan can still only carry limited weight, it is relevant to note the following quote:
- Section 1 – Introduction, paragraph 22 states “While the GNLP sets out plans for the additional growth needed to 2038 and identifies the best ways for establishing long-term growth, we also need to look beyond the end date of the plan by setting a strategy that can be sustainably added to in the long term.” (emphasis added).*
- 1.6 Thus the time period covered by the SHMA 2017 does not reflect current completions and is out of alignment with the GNLP finish date of 2038, and the need to consider requirements beyond that date.
- 1.7 Taking account of the limitations of the SHMA data, I also question whether the percentages given in Table 2, (which are not from SMHA Figure 83), are expressed in the correct manner to indicate AH need by unit size. Dr Boswell’s Table 2 Column “E” states that of the 3136 (actually 3135) x 1-bed flats needed in Norwich from 2015 - 2036, 66.5% need to be affordable, and of the 2-bed flats, 51.2% need to be affordable, with 3-bed affordable houses only needed for 1459 (23.1%) of all 3 bed houses. Whilst these figures are not at issue in the context of the SHMA, they are not the correct way to identify the mix required of the identified total affordable housing units that are needed: a further column, “C %”,

would indicate that of the 5828 (actually 5829) total AH units needed, 2086 (36%) need to be 1-bed, 1216 (21%) need to be 2-bed flats, (a separate figure addresses 2-bed houses), and 1459 (25%) need to be 3-bed houses. Thus the greatest need by an extra 14% of the AH total need is for 1-bed flats, whereas the proportions of the total need for affordable dwellings that are needed as 2-bed flats and 3-bed houses are actually fairly similar, but with a slightly greater need for 3-bed houses. The application, steered by the NCC housing officers, provides principally for the unit size for which there is the largest percentage need out of all affordable housing sizes: 1-bed flats, after which it provides a small number of dwellings of the next most needed category, namely 3-bed houses, the latter to be in a location within the site, (Block B), where the dwellings would not be above commercial accommodation but rather at ground level. Thus the scheme's contribution is aimed at the unit size in greatest need, ie 1-bed flats, and then a small contribution to the next most needed category, ie 3-bed houses. Dr Boswell's approach to expressing the proportions of 1 and 2 bed affordable flats needed in Norwich or the SHMA area does not recognize this, and thus fundamentally impacts on the conclusions he reaches in respect of the contribution made by the scheme to meet affordable housing need, and its compliance with adopted policy.

- 1.8 **Evidenced Conclusions 4 (5)** *"The developer benefits from a hidden planning obligation subsidy as the need for 2-bed affordable homes have been ignored and written off. This results from the conflation, by both the council and the developer, that providing 1-bed flats alone meets the needs for affordable homes."* The case for the public benefit of the scheme providing 111 x 1-bed flats and 9 x 3-bed houses is set out above. There is no hidden subsidy by omitting any 2-bed flats, at the Council's request, since the viability appraisal, as reviewed by Mr Truss confirms the scheme's marginal viability with the mix of affordable unit size and tenure proposed. Had a proportion of these been required by the Council to be 2-bed units, the additional floorspace required would have reduced market flat floorspace correspondingly, thus impacting on scheme revenue and thus overall viability. As a consequence, there would have been a need to reduce the overall number of affordable dwellings proposed in order to maintain sufficient market housing sales income. JCS 4 does set out a target proportion of affordable tenure (85% social rented and 15% intermediate tenures), which this application satisfies, but it does not set out a target mix of unit sizes.
- 1.9 **Evidenced Conclusions 4 (6)** *"When the omission of providing any 2-bed affordable housing is considered the development does not meet even "10% affordable housing".* JCS 4 does not specify a mix of affordable housing size, and in fact it specifically refers to the percentage of dwellings, not of habitable rooms. Thus it is correct to express the affordable unit provision as the percentage of the total number of dwellings in the scheme. This is how the CR addresses Tenure Mix in *Main Issue 4 Principle of Housing*, paras 208 – 219. The more recent NPPF paras 62 - 64 do not specify how policies for the provision of affordable housing should be expressed. The GNLP draft Policy 5 – *Homes* also refers to a percentage of housing rather than habitable rooms, and draft Policy GNLP 0506 which allocates Anglia Square for a residential-led mixed use development, proposes affordable housing in accordance with Policy 5, subject to viability considerations. Under 'Notes' it states *"The site is likely to accommodate in the region of 1200 homes, a minimum of 120 of which will be affordable ..."* Thus as proposed, the emerging policy, compliant with the NPPF, does not seek a percentage based on habitable rooms. Accordingly, with reference to both adopted and emerging

development plan policy, the application does correctly propose 10% affordable housing, which is not a “*crude*” claim as stated by Dr Boswell at para 29 (D).

1.10 **Evidenced Conclusions 4 (7)** *“The phasing in the application acts to jam up the housing queue in the NR3 area for at least another 5 years.”*

and

(indicated by Dr Boswell to relate to : Item (e) The extent to which the proposed development is consistent with the development plan for the area, including any emerging plan) :

Evidenced Conclusions 4 (9) *“the development creates a structural imbalance between affordable and market housing in Norwich during the next two decades of the emerging GNLP to 2036 (Conclusion 9). It will not be possible to correct this imbalance by realistic, or viable housing policy within the GNLP, and therefore the application undermines the ability of the City Council to meet the specific housing requirements of those who need affordable housing in the medium-term future.”*

I address these conclusions together, but do not set out a detailed rebuttal of each point here as this can be discussed at the Housing round table session. However, to inform that discussion and challenge both conclusions , I set out the following comments:

i) conclusion 4(7) is explained further in paras 30 – 35. The claim in para 30 that *“the 2017 SMHA allows a more accurate precision in evaluating the proposed delivery against assessed need”*, which is then undertaken in Tables 5 and 6, relies on an assumption that the SMHA should be used in this way for the determination of a single planning application. This is flawed because:

a) JCS 4 is the adopted policy against which this application must be assessed. Compliance with this policy in respect of affordable housing provision has been demonstrated in my proof and addressed above;

b) whilst the SMHA is more recent than JCS 4 it is only part of the evidence base for the emerging GNLP, not the emerging policy itself. As the AS PGN states at para 7.5, the SMHA *“has yet to be tested and incorporated into the development plan so will not carry full weight in the decision making process.”* ;

c) this Inquiry is not the forum to undertake that testing of the SMHA as part of the soundness of the GNLP draft policies that it informs;

d) The SMHA will have been considered in the formulation of the housing and relevant regeneration draft policies of the GNLP Draft Plan, but it does not reflect subsequent housing delivery and any more recent evidence of housing need, such as the up to date housing waiting list. Furthermore, the emerging plan covers a longer period. Thus *Section 2 – Greater Norwich Spatial Profile*, para 48 states *“Local evidence [Office for National Statistics] identifies that 28% of the housing required from 2015 to 2038 should be affordable housing. It also shows that the mix of*

housing tenures required differs by the type of home as illustrated in the graph below.” The graph shows that of all housing needed, inter alia, 1-bed affordable flats represent 7%; 2-bed affordable flats represent 4% and 3-bed affordable houses represent 8%. This supports the case that a public benefit of the scheme is its provision of affordable 1-bed flats for which there is greater need than 2-bed flats, with the inclusion of some 3-bed houses where these can be at ground level, this being a higher need category than 2-bed flats, as set out at 1.7 above.

e) GNLP draft Policy 5- *Homes*, whilst only of limited weight at present, seeks at least 28% affordable housing in proposals within Norwich City Centre, unless the site is allocated in the plan for a different percentage. Draft Policy 7 – *Strategy for the Areas of Growth* identifies Anglia Square in the Northern City Centre, defined in Map 9, and Draft Policy GNLP 0506 allocates Anglia Square for in the region of 1200 dwellings of which at least 120, ie 10% are affordable. Thus, policy is emerging against which an application at Anglia Square would be assessed in the future as it gains in weight as a material consideration. This supports the overall quantum of housing proposed, the proportion that is proposed as affordable, and as noted, it is the case that the proposed size mix satisfies the unit types most in need as affordable.

f) Those new policies will be the subject of consultation, an Examination in Public to consider their evidence base and their soundness against NPPF etc, leading to an Inspector’s report and any amendments to enable adoption. Therefore their weight is limited now, but they challenge Dr Boswell’s methodology of using the SHMA alone to assess the application with “*more accurate precision*” than the adopted JCS 4.

ii) It should be remembered that the Hybrid application seeks consent for up to 1250 dwellings, with 1209 currently illustrated, and that the further Reserved Matters applications for later phases could include additional dwellings, or a different mix, including more 2 bedroom flats, some of which could be affordable, if this were found at that time to be desired by the Council, subject to the viability implications at the time. Thus, the Hybrid proposal is not a fully detailed scheme in respect of which a precise, accurate assessment against an exact housing need profile can be undertaken.

iii) the point being made in Dr Boswell’s Figure 6 and para 33 is that “*whilst the development makes a significant contribution to meeting the SHMA assessed need for 1-bed and 2-bed market homes, it makes an abysmally small contribution to meeting the SMHA assessed need for 1-bed and 2-bed affordable homes.*” This is expanded upon in para 46 which repeats Evidenced Conclusions 4 (9) above. I assume that this can be summarized, that since so much of the 1 and 2 bed flatted market housing needed in Norwich for the GNLP period will be provided by the scheme, but with only a small percentage of the needed affordable 1 and 2 bed flats, the latter will not be provided for decades, since the remaining market housing would have to provide more of these affordable units than would be viable. I challenge this view on the following basis:

- a) As explained, the SHMA cannot be used alone to identify actual future housing need by tenure and size;
- b) The GNLP Draft Plan is of limited weight, but identifies the tenure and size needs anticipated to 2038 – (not just 2036);
- c) The GNLP Draft Plan anticipates a lower percentage provision of affordable dwellings in Norwich City Centre generally, and at Anglia Square specifically;
- d) The fact that the GNLP Draft Plan accounts for the general quantum of housing and affordable housing now proposed at Anglia Square, within the totals needed to 2038 implies that delivery of this application would not “*jam up the housing queue in the NR3 area for 5 years.*” or “*the next two decades*”;
- e) The construction of the scheme is intended to be transformational in the Northern City Centre, as is acknowledged in the AS PGN para 1.1 “*Its redevelopment has the potential to regenerate both the site itself and act as a catalyst to the regeneration of this quarter of the city centre.*” Accordingly, far from discouraging other redevelopment schemes in the vicinity, it could assist their viability, and thus deliverability, with appropriate affordable housing reflecting currently the JCS 4 and in due course the GNLP as soon as this gains sufficient weight. As noted, the latter takes account of the quantum needed in the city centre.

1.11 **3.8 “The development is contrary to the [NPPF]”**

Dr Boswell’s Paras 43 – 44 make a case that the scheme is contrary to NPPF para 64 since it does not meet the latter’s 10% affordable housing requirement, and that it is not reasonable to use only 1-bed affordable flats in the calculation, given the SHMA indication of the need for 2-bed affordable flats. As noted above, this is a misunderstanding of NPPF para 64, which expects 10% affordable home ownership housing, except where this would prejudice other identified affordable housing needs, and in this regard the CR para 214 states “*Affordable Home Ownership ...products would not meet the housing need in this part of the city*”. The unit size mix amongst the rental forms of tenure is a matter for the local planning authority to consider via policy or assessment of applications. Accordingly, the application scheme is in accordance with NPPF para 64.

- 1.12 Dr Boswell’s Para 44 states “*The development comprises 525 market 1-bed flats, 563 market 2-bed flats.*” In fact this Hybrid application seeks permission for up to 1250 units, of which 1241 are flats, and within which 111 are affordable flats. This allows for 1130 market flats, rather than 1088 indicated in the illustrative drawings from which Dr Boswell derives his figures. The actual split between 1 and 2 bed market flats would not be determined until the final Reserved Matters application is approved, and is not prescribed by JCS policy. This is not a significant matter, but a clarification. Related to this, as a matter of correction to my proof, at para 2.18, I stated “*With regard to the market units, (up to 1212), these are a mix of 45% 1 and 55% 2 bedroom flats. The sizes of these units varies, as does the character of units in different buildings, (ie some being duplex), but the case is put that this is the appropriate type and size mix of dwellings in this highly sustainable location, in a scheme which, (excepting Blocks B and C), seeks to effect a fundamental change to the character of the entire site, whilst maintaining its function as the major element of the Large District Centre*”. I took the percentage mix from the application form which referred to 1250 units,

but clearly the numerical figure was incorrect, and should have been “up to 1130”.

1.13 **3.9 Evidence-based approach: what should development deliver?**

Dr Boswell’s Para 48 states “*market and affordable homes in developments should ideally be delivered at the same proportional rates as the SHMA needs indicates.*” His Table 6 demonstrates that for the scheme, of the total 1209 dwellings, using the SHMA percentage needs for 1 and 2 bed flats and 3-bed houses, a total of 714 units should be affordable. This equates to 59% of all units, which Dr Boswell justifies as meeting “*the needs-based assessment within the SHMA, and to be fully compliant with the NPPF, and to lead to a balanced housing trajectory in the GNLP.*” I consider this approach is incorrect, since it simply ignores:

- a) the requirement to assess the application against the adopted development plan policy JCS 4 with its in-built viability provisions, which determines the appropriate affordable housing contribution for a scheme, rather than using the SHMA as a policy to do so;
- b) the provisions of NPPF para 63 which apply Vacant Building Credit to reduce the affordable housing contribution by a proportionate amount “*to support the re-use of brownfield land*”, as in this case;
- c) the very limited weight of the GNLP at this stage, and the fact that this Inquiry should not be reviewing its draft policies, notwithstanding the fact that these do not rely on Anglia Square providing more than the proposed 120 affordable dwellings to meet the overall needs to 2038;

1.14 In any event, I believe that this approach is also unrealistic, in view of the various scenario viability appraisals submitted with the application for this scheme, from which I conclude that an affordable housing contribution of anything like 59% could not be achieved for this development. In fact, from my experience, I am not aware of any commercially-funded mixed use residential scheme (as opposed to a publicly-funded scheme) on an urban brownfield site that has been delivered with a 59% affordable housing contribution.

2 Item (e) The extent to which the proposed development is consistent with the development plan for the area, including any emerging plan

The Norwich Society NS3 - Simeon Jackson

2.1 **DM12 – Principles for all residential development** “*The use of “in addition to” strongly suggests that the intention of this clause is that these criteria should be met regardless of any other factors which impact upon the development’s acceptability in other ways.*” I disagree with the assertion that policy DM12 (part of CD 2.3) applies regardless of other factors. “*Should comply*” does not mean that other development plan policies are less relevant considerations, nor that NPPF para 2 which notes that “*planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise*” is not engaged in respect of applications for residential development in Norwich. Indeed, the lengthy Supplementary

Text to DM 12 incorporates references throughout to the NPPF and other JCS and DM Plan policies with which it interacts. Paras 12.15 – 12.17 emphasize inter alia the importance of residential proposals maximizing efficient use of sites, achieving higher densities in the city centre and other highly accessible locations, and the acceptability of particular densities as determined by viability considerations, albeit in the context of the need to preserve or enhance the setting of heritage assets. The policy aims to meet housing targets to ensure that housing supply requirements are being met. It is correct for the DM12 criteria to be assessed, and then to be considered in the context of its aim, but this must be in the overall context of the NPPF and other development plan policies.

- 2.2 **DM12 Criteria a:** *“...CR para 200 ... states “the quantum of residential proposed is the level the applicant indicates is necessary for the whole regeneration scheme to be viable.” This is the applicant’s opinion and is not a satisfactory assessment of the application against this policy criteria.”* Mr Jackson has omitted the start of the quoted sentence from the CR para 200, (CD 2.15), which is *“As referenced in Main Issue 2”*. That Main Issue is *“Development Viability”*. This is a detailed assessment, but fundamental to this point is the section headed *Viability Review* (paras 156 – 159) which advises that the applicant’s Viability Report and supporting evidence have been reviewed on behalf of the council by the District Valuer Services (DVS) and sets out the DVS conclusion: *“In relation to the submitted scheme, with grant funding and CIL exemption he states that with profit at ‘16% is approaching a level that could be deemed marginally viable against our target profit level of 18.5%’”* (para 158). Therefore CR para 200 is not referring to the applicant’s case but rather the independent DVS assessment that this quantum of housing is only just viable even with the public support being sought.
- 2.3 *“Nowhere in the council’s policy is there a statement that “the proposed level of housing is essential to deliver the regeneration of the site and the wider northern city centre”, as the officer states.”* Mr Jackson has omitted the start of the quoted sentence (also CR para 200) which is *“In terms of criteria a) of DM12, the case is made that ...”*. The officer is not suggesting that there is a policy that states that up to 1250 units at Anglia Square is essential for delivery; the site does not have an allocation in the development plan. Rather, the CR is summarizing the scheme assessment against criterion a) noted above, that the quantum of housing has been independently assessed to be only just viable, and therefore required to secure a deliverable scheme.
- 2.4 **“A further criteria of DM 12 [e] states: ‘Proposals should achieve a density in keeping with the existing character and function of the area, taking account of the significance of heritage assets where relevant and the proximity to local services, and/or public transport routes. At least 40 dwellings (net density) per hectare should be achieved unless this would have a harmful impact on the character and local distinctiveness of the area or where there are other exceptional circumstances which justify a lower density. In the city centre, within and adjoining district and local centres and in other locations of high accessibility higher densities will be accepted taking account of identified housing needs and the need to protect character, local distinctiveness and heritage significance.’** *The CR quoted only the first sentence of this criteria. This omission may have misled councilors in making their decision as they may not have been aware of the full criteria. The report also only directly*

responded to the issues raised within the first sentence”

2.5 I respond as follows;

a) the first sentence effectively covers the issues of which account should be taken, with the remainder of the criterion expanding on this, so omission of the remainder does not change the emphasis;

b) the last sentence adds justification for even higher densities in a location such as Anglia Square if other requirements are satisfied. Dr Miele and Peter Vaughan have addressed how the scheme achieves these aims;

c) the CR para 222 which follows the quote ends *“The implications of the number of dwellings/density on the design, heritage impact and amenity levels is assessed in the other sections of the report and in the concluding section of the report.”*

Accordingly I disagree that “the report” only directly responds to the issues in the first sentence.

2.6 **Conclusion:** *“ In my view the significant increase in density and height of the proposed development does not respect the height, density and traditional character of buildings and streets in the local area and therefore the application should be refused.”*

2.7 I respond as follows:

a) in this case, given the acknowledged impact on heritage assets addressed for the Applicant by Dr Miele in his PoE WH 2/1, NPPF para 196 is engaged in respect of the determination of the application; it should not simply be refused due to a difference in density and height to its surroundings and to the character of the streets in the local area, since any identified harm should be weighed against the public benefits of the proposal; I address this at Section 4 of my PoE WH 4/1

b) in respect of the relationship of the scheme to its surroundings, the AS PGN *Proposed Vision* (para 5.4) anticipates *“a rejuvenated Anglia Square with a distinctive identity that complements the neighboring area and reflects its location in the heart of the historic northern city centre.”* Thus whilst this is guidance rather than policy, a distinctive character to the entire development is supported by the Council.

c) Peter Vaughan addresses the scheme design’s response to context in his PoE WH 1/1 at Section 3, and Dr Miele has addressed the scheme’s local impact on heritage assets and townscape in his PoE WH 2/1 at Section 7. Together they set out why the land uses, building layout, scale, height, design and appearance, boundary connections and internal permeability, landscaping and public open spaces in combination represent a positive enhancement to the function, townscape and historic character of the wider surroundings.

The Norwich Society NS1 – Jon Boon

2.8 Mr Boon’s Proof of Evidence (NS1) addresses the Secretary of State’s fourth issue, Item (d) *The extent to which the proposed development is consistent with the Government’s policies*

for conserving and enhancing the historic environment (NPPF Chapter 16) . Parts of his PoE are addressed by Dr Miele and Mr Vaughan as relevant. However in his “Part 1: Urban Design Evaluation” at 1.2 he covers “Scale and Density”, and therefore I respond to this under SoS Item (e), where The Norwich Society’s Mr Jackson has dealt with density. It seems logical to deal with the matter under the heading of development plan policy.

2.9 In his 1.2, Mr Boon states: “the density of the scheme is 296 DU/Ha in Phase 1, rising to 320 DU/Ha for the development as a whole”. Mr Boon does not quote sources for these density figures, or present the calculations, but before considering the relevance of assessing the scheme in terms of density, I would comment that they are incorrect and too high, as follows:

a) the application site is made up of three elements, as described in the CR paragraphs 1 & 5. The scheme proposes dwellings throughout the main area (4.11ha), and in Block B, which is on the west side of Botolph Street, (0.27ha). Block C, on the northern side of Edward Street would be occupied by the relocated Surrey Chapel with no housing, (0.13ha). Thus the application site area is 4.51ha, and 4.38ha without Block C. The Hybrid application seeks consent for up to 1250 dwellings, but illustrates 1209 units. The additional 41 units are anticipated to be included within the Reserved Matters applications for subsequent phases 2 – 4, within the massing parameters of the Hybrid application. The following densities are therefore correct:

Table 1: Scheme Density as Dwellings per Hectare (dph)

Dwelling Numbers	Whole Site: Main Area & Blocks B and C (4.51ha)	Main Area & Block B only (4.38ha)
1250 Hybrid	277 dph	285 dph
1209 Illustrative	268 dph	276 dph

b) I note that the CR para 220 states “The proposed residential density of this development is approximately 296 dph.” This figure equates to approximately 1209 /4.11 ha, which is the main area without Block B, but since the latter is wholly residential, it is incorrect to omit it from the density calculation. Furthermore, given that Block C could accommodate dwellings, (there is housing immediately to its west and north), and in that situation another part of the application site would have to accommodate the relocated chapel, I consider that Block C should be included in the site area. Accordingly, the most relevant density is 277 dph for the whole scheme, (not just Phase 1 to which Mr Boon refers).

2.10 Turning to his substantive point of assessing the application by its density, Mr Boon states: “The following table is extracted from the London Plan, where the relevant density range is highlighted in yellow and falls within the highest band of the City Centre:” In Table 3.2 Mr Boon has highlighted a box in the matrix which shows a density range of 215 – 405 dph for a ‘Central’ location [in London]with units of 2.7 – 3.0 habitable rooms per dwelling, where the Public Transport Accessibility Level (PTAL) is 4 – 6. That matrix also however shows a range

of up to 260 dph for that size of dwelling in an 'Urban' location with a PTAL 4 – 6. Mr Boon then notes density figures for Leeds City Centre and fringe, as per that city's Core Strategy policy H3: *Density of Residential Development*.

2.11 I consider that comparison to the London Plan density matrix, or even just comparisons of the scheme density to density levels elsewhere, as a tool for the determination of this application, to be irrelevant: there are no such provisions in Norwich, but since it has been raised, I respond as follows:

a) The (Second) London Plan is about to be replaced. On 9 December 2019 the Mayor of London issued to the Secretary of State his intention to publish the replacement (Third) London Plan. The density matrix approach to housing policy in the Second London Plan quoted by Mr Boon has been removed, because, as I understand, it was thought to be too rigid as a development management strategy for the assessment of housing scheme applications and to stifle design-led appropriate solutions in city centres and other urban locations. I note that even average densities for new housing approvals in some Inner London boroughs regularly exceeded those prescribed by the matrix but were nonetheless found to be acceptable.

b) Third London Plan Policy D3 – *Optimising site capacity through the design-led approach* sets out the replacement strategy to the density matrix for assessing applications as follows:

"A All development must make the best use of land by following a design-led approach that optimizes the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned infrastructure capacity and that best delivers the requirements set out in Part B." Whilst this policy is not one against which this application should be assessed, it does support my conclusion that assessment of this application against a rejected strategy from the outgoing Second London Plan would be inappropriate as well as irrelevant, as would comparisons to density policies in other authorities.

3 Item (d) The extent to which the proposed development is consistent with the Government's policies for conserving and enhancing the historic environment (NPPF Chapter 16)

Historic England (HE) – John Neale HE 1/1 in respect of HE 1 /2 Appendix 1: Ash Sakula Report – an Alternative Proposal

3.1 Mr Neale explains at 1.18 that HE commissioned Ash Sakula (AS) to explore an alternative approach sympathetic to the character of the city. In 1.19 he states *"... I commend their proposals to the Inquiry as illustrating how Anglia Square could be redeveloped so as to realize the potential of the site in a manner appropriate to the significance of this exceptional historic city."*

- 3.2 I note here that the AS proposal extends beyond this application's boundaries in three areas. Whilst this may be theoretically possible to achieve in the first two cases, it would increase site acquisition, demolition and construction costs, whereas in the third case it would not be possible to redevelop as proposed. These areas are:
- a) 100 Magdalen Street at the corner of Edward Street, which is in different ownership to Anglia Square; the AS proposals show this redeveloped for 3 storeys of residential over retail space;
 - b) the southeastern part of Anglia Square, currently occupied by shops in a two storey brick-faced building that the land owner wishes to refurbish and retain alongside this application's proposal to convert to residential and re-clad Gildengate House, which adjoins this area; the AS proposals see this area occupied by part of a 5 storey hotel, 3 and 4 storey buildings with retail and residential over or only housing, part of a supermarket and the southern section of the reinstated Botolph Street and Stumps Cross space;
 - c) the land under the St Crispin's Road flyover, which is owned by Norfolk County Council as Highway Authority, with restrictions on the erection of any permanent building given the maintenance requirements of the structure, (hence the approved scheme for a box park with flexible commercial / community uses). To demonstrate this, I attach at Appendix 1 an email from Norfolk County Council to NCC in respect of the box park proposal, which confirms *"that a minimum distance of 3m is required between the flyover and the containers, ... it be made clear that, although unlikely, should significant structural maintenance be required ... some of the containers may need to be moved temporarily."* The AS proposals show the area occupied by a supermarket;
- 3.3 Section 10 *An alternative approach to the redevelopment of Anglia Square* proposes at 10.5 that if the Secretary of State (SoS) agrees that the application would cause material harm to the significance of designated heritage assets, *"then he may consider whether there is an alternative approach to the problem of Anglia Square."* This is not the test that Mr Neale later invites the SoS to make to determine the application in his concluding paragraph 11.12, which in itself does not apply the intent of NPPF para 196.
- 3.4 There is clearly a contradiction between commending an illustration of how the site might be redeveloped, (whilst acknowledging that it is not viable, needing also inter alia, a developer's input), and stating that the alternative proposals demonstrate that another, better scheme is possible, thus suggesting that refusal of this application will not perpetuate *"the problem of Anglia Square"*. In short, HE infer that the SoS should consider this alternative, ignoring its lack of deliverability.
- 3.5 Dr Miele considers the presentation of this hypothetical scheme in his Rebuttal evidence, and concludes that it should be given little or no weight, noting that the SoS is considering the current application and not a theoretical undeliverable proposition. I agree.
- 3.6 Notwithstanding this position, Mr Truss comments on the differences between the

application scheme and the AS alternative proposal, and identifies aspects of the latter which impact on its viability and deliverability in his Rebuttal evidence. I note that the issues are fundamental to the impact of the design and layout on the market for the non-residential uses proposed and thus values they would generate, and also on the delivery of anchor retail facilities such as the supermarket.

- 3.7 I note that Mr Neale acknowledges at 10.13 that the presentation of an alternative proposal would require a planning appraisal, but I do not here intend to present a design critique or to speculate on the degree that an application for the AS alternative proposals would be found to satisfy adopted and emerging development plan policy (as relevant) and the Council's aspirations for the redevelopment of the site to enhance the Large District Centre whilst meeting housing needs. Instead, I note that there are practical layout issues which would impact on the quantum of commercial, studio, workshop and residential accommodation that the AS alternative proposal could realistically provide, which would further impact on its viability.
- 3.8 It is therefore not at odds with HE to conclude that the AS proposal is neither viable nor deliverable, and I also note that it is in any event not a feasible scheme to build out, irrespective of viability.

SAVE Britain's Heritage – Alec Forshaw (no reference but technically SBH 1/1)

- 3.9 Dr Miele addresses Mr Forshaw's SAVE's evidence in his Rebuttal evidence, and I do not comment further other than in respect of two matters.
- 3.10 The first relates to Botolph Street, which Dr Miele deals with from a heritage perspective. Mr Forshaw addresses this at his paragraph 64 stating inter alia *"Furthermore, the Council's policies are to retain historic paving materials and the loss of the surviving granite sett highway is contrary to this policy and harmful to the character and appearance of the Conservation Area."*
- 3.11 In response I note:
- a) Norwich City Council has not at any stage raised this matter with the Applicant;
 - b) there is likely to be a public benefit in lifting the setts since, as I understand it, Botolph Street follows the alignment of the defensive ditch around the Saxon settlement, in respect of which implementation of this scheme would fund an archaeological investigation;
 - c) in light of SAVE's comments, I have discussed this point with the Council, who advise that they would consider a proposal to relay the setts within the new public realm on the general alignment of Botolph Street, or to receive them for their stock of old setts used for road repairs where old setts are intended. I can confirm that the Applicant would accept a planning condition which required submission and approval by the Council of a proposal in respect of which either of these alternatives is to be followed.

3.12 The second matter relates to the potential for re-purposing of the multi storey car park (MSCP) structure within the application. Under the heading “*Alternative Visions for the Site*”, where Mr Forshaw comments on the HE Ash Sakula alternative proposal, and notes at para 109: “*the vision offers flexibility and the ability to change over time. While a modest amount of car parking is provided to comply with current City Council requirements it is arranged in a manner so that the space can easily be reduced and replaced in the future, in a gradual manner if necessary, by additional buildings and/or public realm. ... This alternative vision, significantly, does not include a 600-space public multi-storey car park, which will be expensive to construct, and to demolish or convert when it becomes a white elephant.*”

3.13 In response I note:

a) Mr Forshaw offers no evidence to justify his assertion that conversion of the MSCP would be expensive;

b) although it is the case that the MSCP would be the subject of a 25 year lease, were there to come a time when a reduced number of parking spaces would be needed, the surplus floorspace could in fact be converted to other uses with relative ease, in view of the large open spans between columns, the good floor to ceiling heights and flat floors, the presence of 7 circulation cores around Block A allowing access to separate parts of each floor directly from the lift lobbies, together with its external elevations and the potential for skylights at part of the 3rd floor, thus affording opportunities for natural light;

c) the surplus floorspace could be used for a number of uses which would be compatible with the presence of both residential uses around parts of the elevations, and the continued presence of some parking. These uses include B1(a) offices where windows can be added, B1 (c) workshops and studios, B8 storage, and D2 activities such as a gym.

d) an illustrative sketch scheme, WH 4/3 SK005 – *Public MSCP: Future Alternative Use Flexibility – Block A*, is provided at Appendix 2. This has not been costed, but demonstrates how the 1st to 3rd floors could be converted with minimal structural implications. With the provision of additional cycle storage for the occupiers of those premises, together with dedicated delivery zones, the illustrative layout shown would reduce parking on the typical floor by 89, which is 51% of the total in the application at present. This conversion could be undertaken in phases, and therefore demonstrates how the same approach to re-purposing as suggested by Mr Forshaw for the AS alternative proposal could be applied.

3.14 Taking this point further, I note that draft planning condition 9, set out in the Council’s Statement of Case, proposes that a scheme for monitoring usage of the residential car park in Block A is to be approved prior to any residential occupation, and this will include details of how the results are to be reported to the local planning authority. This will inform the level of residential car parking to be provided in Phase 2, (Blocks D, E & F), which will have to

be proposed in detail in the Reserved Matters application. This will enable the scheme design to be tailored to actual car parking requirements for the scheme, with the Block A residential car park floors providing some spaces for the later phases.

- 3.15 Accordingly, it would be possible for later blocks, such as E & F to be designed with fewer spaces than shown in the Outline illustrative drawings, and for the surplus floorspace to be used for alternative uses, in the same way as I have shown for Block A. There could be a central sunken garden or skylights within part of the podium to afford natural light to the accommodation on what would otherwise have been a parking floor. Such an approach could also be undertaken at a later date, if the opportunity to remove a section of central podium was designed in, thus allowing flexibility in the future. An illustrative sketch scheme, WH 4/3 SK006 – *Residential Car Park Floors: Future Alternative Use Flexibility – Block F*, is also provided at Appendix 2, and whilst again this has not been costed, such potential flexibility as it demonstrates for these areas has been anticipated by the approach of a Hybrid application with a lower illustrated number of dwellings than is sought overall.

4 Item (f) Any other matters the Inspector considers relevant:

The Effect of the proposal on Air Quality

Norwich Cycling Campaign – Anthony Clarke CYC/201 – Demolition of Sovereign House

- 4.1 This PoE raises concern about the air quality impact of the demolition of Sovereign House because of the known presence of asbestos in the building. Paragraph 1.4 states “*Norwich Cycling Campaign request that a condition be applied for the demolition of Sovereign House to be undertaken as part of Phase One and to be completed before any construction work is started.*”
- 4.2 I respond as follows:
- a) the Council wishes to ensure that the Anglia Square shopping centre remains operational throughout the 10 year redevelopment process, in order to protect the Large District Centre function of the area, and in particular maintain the attraction of shoppers to the area for the benefit of Magdalen Street shops;
 - b) to achieve the objective in ‘a’, it is necessary for the shops under Sovereign House to remain occupied whilst all of the Phase 1 area is demolished;
 - c) some of the shops in the Phase 1 area would need to be decanted to the units under Sovereign House whilst their premises are redeveloped;
 - d) Sovereign House can only be demolished once the shops on its ground floor are vacated; this cannot be prior to completion, fit out and occupation of the Block A retail units;
 - e) it is the Applicant’s intention to proceed with the demolition of Sovereign House as soon as feasible;
 - f) in any event, the removal of asbestos from Sovereign House will be strictly controlled so that it does not cause a health issue due to asbestos fibres being released into the

environment. This will be ensured by draft Outline Condition number 28, which will require the preparation of a Construction and Environmental Management Plan, (CEMP) , to be submitted to and approved by the local planning authority.

- 4.3 To support the current application and in response to the request by the SoS for Further Environmental Information, the Applicant commissioned Stansted Environmental Services, (SES), to prepare an *“Assessment of the Likely Significant Effects Resulting from Demolition Activities , Version 2”*, (CD 10.2), to be read in conjunction with the *“Draft Construction Phase Site Waste Management Plan Version 2”* (CD 10.3). To explain how this will avoid harm caused by asbestos, SES have prepared a further note, dated 17 December 2019, which forms Appendix 3 to this proof.
- 4.4 Accordingly there is no need for a condition which requires demolition of Sovereign House prior to construction of Block A.

Norwich Cycling Campaign – Anthony Clarke CYC/203 – Demolition of Edward Street Car Park

- 4.5 This PoE raises concern about the air quality impact of the demolition of the Edward Street Car Pak because of the presence of PM material. Paragraph 1.2 states *“The existence and scope of this potential hazard should be established before any demolition takes place”*.
- 4.6 I respond as follows:
- a) SES have prepared a response to this request which confirms that the concerns raised will be addressed by standard demolition practices; the response forms Appendix 4 to this PoE.