

CONFIDENTIALITY

The appendix to this report qualifies as exempt information under section 100(A)(4) and paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 as it is *“Information relating to the financial or business affairs of any particular person (including the authority holding that information)”* and paragraph 7 of Part I of Schedule 12A of the Local Government Act 1972 as it is *“Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime”*.

and

In relation to the “exempt” information, it has been determined that the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure of the value will prejudice the public view, adversely affecting the authority’s ability to obtain best value for the property.



URN: 22-219

Subject: Proposed Compulsory Purchase

Report to: ELT

1 February 2023

Policy and Resources Committee

7 February 2023

Report by: Sue Bolan - Enabling & Empty Homes Officer

SUBJECT MATTER

This report provides the information needed to enable the Policy and Resources Committee to decide whether the compulsory purchase of 114 Colomb Road and its subsequent disposal or reservation for use under Council ownership, is appropriate.

Recommendations

That Policy and Resources Committee:

1. Authorise the making of a Compulsory Purchase Order along with the confirmation and implementation of the compulsory purchase of 114 Colomb Road under S226(1)(a) of the Town and Country Planning Act 1990
2. Authorise officers to take all action necessary to make, confirm and implement the Compulsory Purchase Order
3. Authorise the use of Disabled Facilities Grant monies to fund the costs of the Compulsory Purchase Order and renovation and adaptation works to the property and if these works are proved not viable, authorise the use of the approved empty homes budget to support any compensation claim and the costs of the Compulsory Purchase Order.
4. Authorise the disposal of the property via public auction; the sale to include conditions requiring the satisfactory renovation and occupation of the premises within a reasonable timeframe should it not be possible for the Council to adapt the property as set out at paragraph 4.5 of the report.

1. INTRODUCTION

- 1.1 The property at 114 Colomb Road was built in 1996 and occupied until it was sold in 1999. The property has remained empty since its purchase in 1999 and was initially maintained by the owner. However, it is evident the owner has not been maintaining the property in recent years. The planning approval for the property shows it to be a 2-bedroom bungalow with kitchen, living room and separate dining room.
- 1.2 The property is identified in the location plan and the HM Land Registry title plan for NK176666 in the annexed Compulsory Purchase Order (CPO) report. The CPO shall not include the slither of land at the rear of the property held by National Highways under HM Land Registry title number NK58932.
- 1.3 A property owner is able to leave their property empty but there may be a compelling case in the public interest for the Council to take enforcement action where the poor condition of an empty property and the garden of such property is impacting on neighbours and the wider community or being used for illegal activities. In this instance, the property remained empty but was being visited and maintained up until October 2019. However, since then no upkeep has taken place. If the property is in a good condition, taking enforcement action can be a protracted and costly process. The Council must consider its fiduciary duties in determining when to take action against empty homes.

2. REASONS TO COMPULSORY PURCHASE

- 2.1 Following the owner's failure to maintain the property since October 2019, the property has the appearance of being unoccupied and is prominent in the neighbourhood with the neighbouring properties being well maintained. It has attracted Anti-Social Behaviour, crime, and vandalism. It has been suggested that the property has been used for drug dealing, although any activity indicative of such use has stopped reflecting the neighbours' actions to cut back overgrown foliage. The Council has also received complaints about the property from neighbours. These have ranged from the effect the property is having on the amenity of the area, its effect on neighbouring properties and the overgrown nature of the gardens.
- 2.2 Compulsory acquisition of the property is required, to enable the property to be renovated, improved, and brought back into beneficial use, which will remedy its adverse environmental, economic, and social impact on the surrounding area. The Council has exhausted all other options to bring the property back into use, see Section 3.

3. ACTIONS

- 3.1 In 2014, an approach was made to the owner by our partner Registered Provider, under the Empty Homes Project, to include the property within the lease and repair option. Unfortunately, the lease amount offered was not acceptable to the owner and this option could not be progressed.
- 3.2 Since 2019/20, several letters have been sent to the owner, requesting they update the Council on their intentions for the property and introducing the options available to empty homeowners in the borough. These letters include the option of the Council purchasing the property.

- 3.3. Following a recent complaint from neighbours, highlighting break-ins and Anti-Social Behaviour at the property, the property was attended, and photos were taken as evidence of condition (these photos are included in within Appendix A at pages 9-14).
- 3.4 Further addresses for the owner were found at the property and correspondence was sent, highlighting the problems at the property, in the hope of reaching the owner. Unfortunately, this was not successful.
- 3.5 Environmental Health visited the property w/c 20th June 2022 to secure against further entry, but on attendance found that the neighbours had secured the property and cut back the foliage surrounding the property, which was being used to hide packages for collection.
- 3.6 As the owner has not engaged with the Council nor, despite frequent letters to them, confirmed their intentions for the property or brought it back into use, the Council considers that a CPO is the most appropriate action to address this long-standing empty home. To support this process, the property has been externally valued and surveyed, making use of planning information as to the construction and layout of the property.

4. INTENDED USE

- 4.1 Generally, when a CPO is considered, the approach used to ensure the property is brought back into use, is to dispose via auction with a covenant requiring the property to be brought into beneficial use within a reasonable timescale. This option has been successful in bringing the empty home back into use following CPO. However, in relation to 114 Colomb Road a different option is also available to ensure the property is brought back into use, through the Council retaining the property once the CPO has been implemented.
- 4.2 The Council has duties under the Housing Act 1996 and the Homelessness Prevention Act 2017 to provide temporary accommodation. A report to Housing and Neighbourhoods Committee on 10 November 2022 highlighted an increasing demand for temporary accommodation. Whilst the Council has a range of owned temporary accommodation held within the General Fund, there is a particular identified need for properties suitable for those who require ground floor accommodation and particularly those who require a wheelchair accessible home. The Council currently has no specific temporary accommodation suitable for wheelchair users.
- 4.3 Indicative plans drawn up by the Council based on the planning permission issued for the property have identified that it can be converted into a 3-bedroom wheelchair accessible property with hoist between the main bedroom and shower room. In addition to being used by homeless households, the property provides an opportunity to accommodate other households, where adaptation works are being carried out by the Council's Independent Living Service, and it is not suitable for them to remain in their home whilst the works are undertaken or alternatively to provide short term accommodation for those leaving hospital and requiring adaptation work to their property before returning home.

In the 9 months between April and December 2022 two clients moved out of their homes into alternative accommodation (paid for through Disabled Facilities Grant (DFG) monies) while extensive and disruptive works were carried out to their homes. There is a third client considering the same approach.

Currently there are 2 people in hospital waiting for suitable accommodation to be able to be discharged, with a further person discharged into residential care as their home was not suitable. They will remain in this accommodation until a suitable property can be found, the timescale may be extended if the property requires adaptations to be suitable.

There are further 3 housing applicants on the waiting list requiring 3-bedroom wheelchair accessible properties and 57 who require ground floor accommodation

There have been 4 x 3 bed new disabled properties provided since 2019, the majority of these through acquisition and works making use of Retained Right to Buy Receipts.

Since 2019, 5 x 3 bed ground floor properties have become available through the voids process.

There are 32 x 3 bed ground properties in the borough (owned by the Council or other Registered Providers) although not all will be wheelchair accessible or be able to be adapted to be so.

- 4.4 A funding opportunity has been identified, within the Independent Living Service to utilise the underspend on DFG, that arose during the pandemic because of several national lockdowns and restrictions being place on the work that could be carried out in people's homes. The underspend will fund the costs of acquiring, repairing and adapting 114 Colomb Road, into a fully wheelchair accessible property. Norfolk County Council have been approached about the proposal to use the underspend to acquire, renovate and adapt the property and have responded stating that they are supportive of the principle that DFG can be used more flexibly to support people in the community. A formal request is being submitted and will be considered shortly.
- 4.5 Should the option of the Council retaining 114 Colomb Road and converting it to a wheelchair accessible property prove unviable, DFG monies are not available or the property be found to be unsuitable once a full internal inspection can be carried out, the Council would, once the CPO process is complete, dispose of the property via public auction, with a covenant requiring the property to be brought back into use within a reasonable timeframe.

5. FINANCIAL IMPLICATIONS

- 5.1 Financial details have been included in the Confidential Appendix.
- 5.2 The Council is currently holding an underspend of DFG monies from previous years reflecting the impact of the Covid pandemic totalling £826,905. Part of these monies will be used to fund the costs of the Compulsory Purchase of the property, along with the costs of renovation and to adapt it to provide a fully wheelchair accessible property.
- 5.3 Should it not be possible, for the reasons set out at 4.5 above for the Council to use DFG monies, the approved Empty Homes Budget will be used to fund the compensation costs which would be required to be paid to the owner following the CPO being completed, should they make a claim. There is currently £510,447 available in the Empty Homes Budget, this is funded by borrowing, the costs incurred will utilise only part of the available budget.

6 RISK IMPLICATIONS

- 6.1 NPLaw will be supporting the Council throughout the CPO process to address any legal challenges or issues which may arise.
- 6.2 All CPO's carry a risk of public inquiry and tribunal; however, it is understood that the work carried out by officers, will provide enough evidence to oppose challenge through these routes.
- 6.3 The CPO process can be stopped at any stage up to confirmation of the order, therefore should any new information come to light which questions the use of CPO, the process can be stopped.
- 6.4 Leaving the property, will result in further break-ins and Anti-Social Behaviour, causing upset for the neighbours, incurring costs for the Council and other agencies and damaging the Council's reputation for not addressing the property.
- 6.5 There will be a continuing adverse environmental and social impact on the local community if the property is not compulsorily purchased. The recent break ins and Anti-Social Behaviour surrounding the property is extremely damaging to wellbeing of the community, particularly that of the neighbouring properties.

7 LEGAL IMPLICATIONS

- 7.1 Consideration has been given to the Council's Acquisitions and Disposal Policy (February 2021). The policy states properties subject to a CPO, are considered under separate policy, however as the intention is to retain this property, it is prudent to have mind to the policy to ensure retention is financially viable and acceptable.
- 7.2 The first 4 steps of the acquisition policy are difficult to apply to a CPO given the circumstances in which a CPO arises. However, step 5 & 6 have been adhered to, the OPEG budget has been used to carry out a valuation and survey to establish costs.
- 7.3 The remainder of the acquisitions policy is superseded by the legislation surrounding the CPO process and the Constitution which requires that a CPO is brought to Policy and Resources Committee to decide whether to progress.
- 7.4 The Council has powers under s226(1)(a) of the Town and Country Planning Act 1990, to make a CPO on the basis, that the acquisition of the property and its subsequent improvement, would promote the economic, social, or environmental wellbeing of the area. It is considered, for the reasons set out in this report, that use of s226(1)(a) of the Town and County Planning Act 1990 is the most appropriate legal basis for the CPO.
- 7.5 Compulsory purchase of empty buildings may be justified as a last resort in situation where there appears to be no further prospect of the building being renovated by the Owner and brought back into use.

8 HUMAN RIGHTS AND EQUALITIES

- 8.1 The Council must consider the provisions of the European Convention on Human

Rights, with particular reference to Article 1, 8 and 14. This is particularly important when considering a compulsory purchase order.

- 8.2 Article 1 (of the First Protocol) protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- 8.3 Article 8 (of the Convention) protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic wellbeing of the country.
- 8.4 Article 14 (of the Convention) protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.
- 8.5 It is considered, on balance that the Article 1 and 8 and 14 rights of the owner are, in this case, superseded by the impact of the property remaining empty. The owner appears to have abandoned the property. In relation to Article 14, the Council has had due regard to its Equalities Duties as specified under section 149 of the Equality Act 2010 to date and will continue to do so throughout the CPO process. In taking the decision to make a CPO, the Council considers that the proposal is fully compliant with the Equality Act.
- 8.6 The Council considers that CPO action will be compatible with the Public Sector Equality Duty and as it will not have a significant negative impact upon protected groups. The Property is not used disproportionately by any group with protected characteristics as it is currently empty. The property owner has no known protected characteristics.
- 8.7 The Public Sector Equality Duty has also been considered in relation to information known about the Owner and will continue to be applied in future efforts to make contact with the Owner and throughout the compulsory purchase process.
- 8.9 The Council considers that this CPO is required to facilitate the property being renovated and brought back into use and that the CPO is necessary as a last resort. The Council considers that there is a compelling case in public interest which justifies interfering with the human rights of any person with an interest in the property as this benefit could not be achieved by agreement.

9 CONCLUSIONS

- 9.1 The property at 114 Colomb Road has remained empty since 1999 and has recently attracted Anti-Social Behaviour including alleged drug dealing, causing a problem for the neighbours and the surrounding area.
- 9.2 It is proposed that GYBC compulsorily acquire the property under s226(1)(a) of the Town and Country Planning Act 1990, to ensure its renovation and reuse potentially as wheelchair accessible temporary accommodation. If it is not possible for the Council to bring the property back into use, the property will be disposed of via public auction with a covenant requiring reuse within a reasonable timescale.

10 BACKGROUND DOCUMENTS

Town & Country Planning Act 1990

Planning & Compulsory Purchase Act 2004

Empty Homes Policy – Housing & Neighbourhoods Committee – 6th December 2018

Acquisition and Disposal Policy – February 2021

Homelessness Update and Temporary Accommodation Acquisition - Housing & Neighbourhoods Committee – 10th November 2022

Area for consideration	Comment
Monitoring Officer Consultation:	Through ELT
Section 151 Officer Consultation:	Through ELT
Existing Council Policies:	Empty Homes Policy Acquisition and Disposal Policy
Financial Implications (including VAT and tax):	Section 4
Legal Implications (including human rights):	Section 6
Risk Implications:	Section 5
Equality Issues / EQIA assessment:	After an initial consideration there are no known protected characteristics for the owner. If protected characteristics become apparent an assessment will be carried out prior to further action.
Crime & Disorder:	Section 2
Every Child Matters:	No

Appendix A – Compulsory Purchase Order Report

Report for 114 Colomb Road

For the purposes of Compulsory Purchase

Great Yarmouth Borough Council

Susan Bolan

Enabling & Empty Homes Officer

PROPERTY REPORT



BACKGROUND

114 Colomb Road is a 2-bed bungalow built in 1996.

The property has a neighbour to the north and is surrounded by land to the south and west belonging to National Highways Ltd as the property backs onto the A47 dual carriageway. Meadow Park is opposite the property to the east.

It was occupied, until it was sold in 1999 and has remained empty since. The owner is currently liable for, and paying, the levy 10 premium for council tax, meaning four times the basic amount due is being paid.

ACTION TO DATE

Several letters have been sent to the owner with no response. As time has elapsed, the property has fallen into disrepair and has recently been used for Anti-Social Behaviour and it has been alleged, drug dealing.

In 2014, the property was considered for lease and repair under the Empty Homes Project funded by Homes England. However, the partner Registered Provider was unable to agree an acceptable lease amount with owner. Enforcement action was not considered essential at this time, as the property was not a blight on the locality.

Communication was increased in 2020. However, with the impact of Covid and staff redeployed into front line services, further action was delayed.

In June 2022, the property was placed on the Operation Property Enforcement Group list, following recent break-ins and neighbour complaints, the group agreed that action was required against this property.

Following the above report, the Environmental Health team visited the property to secure it. However, on attendance discovered that the neighbours had secured the property themselves and cut back the vegetation to deter people from hiding items in the foliage. The neighbours had also parked a vehicle in the drive to try to deter illegal access.

A planning enforcement officer attended the property in August, but due to the work completed by the neighbours, service of a S215 notice (Town and Country Planning Act 1990) was not necessary.

A survey of the condition of the property has not been undertaken. A valuation has however, been completed and is included in this report.

CONCERNS

The neighbours are concerned about the property remaining empty for so long and the problems the property has had recently. Reports have been made to the police and these are captured in the Complaint section of this report.

Through discussions with the neighbours, duration empty and lack of response of the owner to correspondence, it is believed that without intervention, this property will not be brought back into use.

CONSIDERATION

Seeking a Compulsory Purchase Order (CPO) is considered the most appropriate action to take to bring the property back into beneficial use for several reasons;

- Recent Anti-Social Behaviour has caused damage at the property, both through the break-in and by way of graffiti and damage to the inside.
- The property is now known to offenders and, whereas it is monitored by both the police and the Council, this will not deter activity permanently.
- The property is causing distress to the neighbours, due to the recent increase in Anti-Social Behaviour.
- Information from the neighbours, regarding the owners health when last seen, and lack of response to the letters sent to various addresses, has led to the belief that the owner is not expected to bring the property back into use.
- There is a need for 3 bed disabled accommodation in the borough, with potential funding available for use as adapted temporary accommodation.

PHOTOGRAPHS











COMPLAINTS

COUNCIL

28.06.22 Complaint received from neighbour of ASB drink/drug behaviour and property was insecure. Environmental Health visited to board property, but neighbours had already carried this out. Property Enabling Officer continuing to offer reassurance to neighbour and regularly visiting property.

POLICE

10.06.2022- call stating derelict property, owner not been seen for around 5 years. Heard noises coming from property. Police attended found a tent pitched in back garden, no one inside the property. Front door window and bedroom window smashed.

19.06.2022 – 2 persons seen in the address, police attended, no one found inside, tent not lived in.

25.06.2022- 4 teenagers seen in rear garden, ongoing problem. Police did not attend on this occasion as it was classed as civil trespass and attempts have been made to contact the owner in the past.

CORRESPONDENCE WITH OWNER

18th June 2019 – Letter to ascertain intentions for the property.

16th July 2019 – Letter to state that GYBC remain interested in assisting the owner to bring the property back into use, deadline 31st August included for owner to contact the council or case would be passed to enforcement team.

22nd October 2019 – As above extending deadline to December 2019.

27th April 2020 – Letter introducing options available to owner to support reuse including council purchasing.

22nd March 2021 – Letter giving investor details and Council purchasing option.

30th May 2022 – Letter including options to support owner to reuse the property , explaining the housing crisis and request to carry out a valuation and survey of property alongside the Councils interest to purchase the property.

28th June 2022 – Following break in at property additional addresses, to the one the council holds for contacting the owner, were found in Halesworth, Lowestoft & Cheshire. Letter sent advising of issues at the property, requesting owner attends to secure. Stating again Council remains interested in acquiring the property. No responses received and the Halesworth letter was returned to sender 28th July 2022.

INTENTIONS FOR THE PROPERTY

GYBC intend to compulsorily acquire 114 Colomb Road under S226(1)(a) of the Town and Country Planning Act 1990.

There are then two options for the Council will ensure the property will be brought back into use in a timely way.

Option 1

The Council will renovate the property. The expected works schedule is included in Appendix A. Reflecting a need for wheelchair accessible properties particularly for those who are homeless, further works would be undertaken to adapt and convert the property to become a 3-bedroom wheelchair accessible property.

The cost of acquisition, reflecting the valuation in this report and works to bring the property back into use is to be funded by Disabled Facilities Grant.

The property could then be used as temporary adapted accommodation, for households where they are unable to remain in their home whilst adaptation works are required or to allow hospital discharge pending adaptation works to the home.

Option 2

Should option 1 not proceed, the Council would CPO the property and then dispose via public auction to ensure best value with a covenant to bring the property back into use within a reasonable timeframe.

Land registry documentation dated 5th September 2022.

HM Land Registry



Official copy
of register of
title

Title number NK176666

Edition date 04.05.1999

- This official copy shows the entries on the register of title on 05 SEP 2022 at 12:18:31.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 05 Sep 2022.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Kingston Upon Hull Office.

A: Property Register

This register describes the land and estate comprised in the title.

NORFOLK : GREAT YARMOUTH

- 1 (30.06.1986) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 114 Colomb Road, Gorleston, (NR31 8BU).
- 2 A Conveyance of the land in this title and other land dated 29 June 1973 made between (1) Herbert Hanslip and (2) Geoffrey Gray and Edith Audrey Gray contains the following provision:-

"subject to the right of British Rail or other the owner or owners of the land adjoining or near to the land hereby conveyed and their successors and assigns and their lessees tenants and persons authorised by them so to do at any time and without making any compensation to erect or suffer to be erected any building or other erection on any part of the Board's said land in such manner as to obstruct or interfere with the access of light or air to the land hereby conveyed or to any building or erection which is or hereafter may be erected thereon and also subject to the right of British Rail and all persons and corporate bodies claiming under them without making any compensation to maintain reconstruct alter and use all such (if any) pipes wires works cables as are or may be laid through and under the piece of land hereby conveyed for whatever purpose such pipes wires and works or cables are or may be used or acquired and of whatsoever description the same may be."
- 3 (03.07.1995) The Transfer dated 8 June 1995 referred to in the Charges Register contains a provision as to light or air.
- 4 (13.08.1996) The land has the benefit of the following rights reserved by a Transfer of land adjoining the northern boundary of the land in this title dated 12 April 1996 made between (1) Siegelord Limited (Transferor) and (2) Ralph Thomas Bowles and Ann Bowles (Transferees):-

"SUBJECT TO the right in fee simple for the Transferor and its assigns the owners or occupiers for the time being of the neighbouring land to the south of free passage and running of water and soil by and through the channels drains pipes and sewers which are now laid in through or under the land TOGETHER with the right at all reasonable times to enter upon the land with or without workmen for the purpose of inspecting repairing cleansing or renewing the said channels drains pipes and

1 of 2

A: Property Register continued

sewers Subject to the Transferor and its assigns and the owners or occupiers for the time being of the neighbouring land making good at its own expense all damage thereby occasioned

2. The parties hereto hereby agree and declare that they will renew and relay when necessary all drains laid in or under the land and will bear in equal proportions the costs charges and expenses of cleansing repairing renewing and relaying any common channels drains pipes and sewers used in common as need shall require."

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (04.05.1999) PROPRIETOR: NORMAN HAYCOCK of 114 Colomb Road, Gorleston, Great Yarmouth, Norfolk NR31 8BU.
- 2 (04.05.1999) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

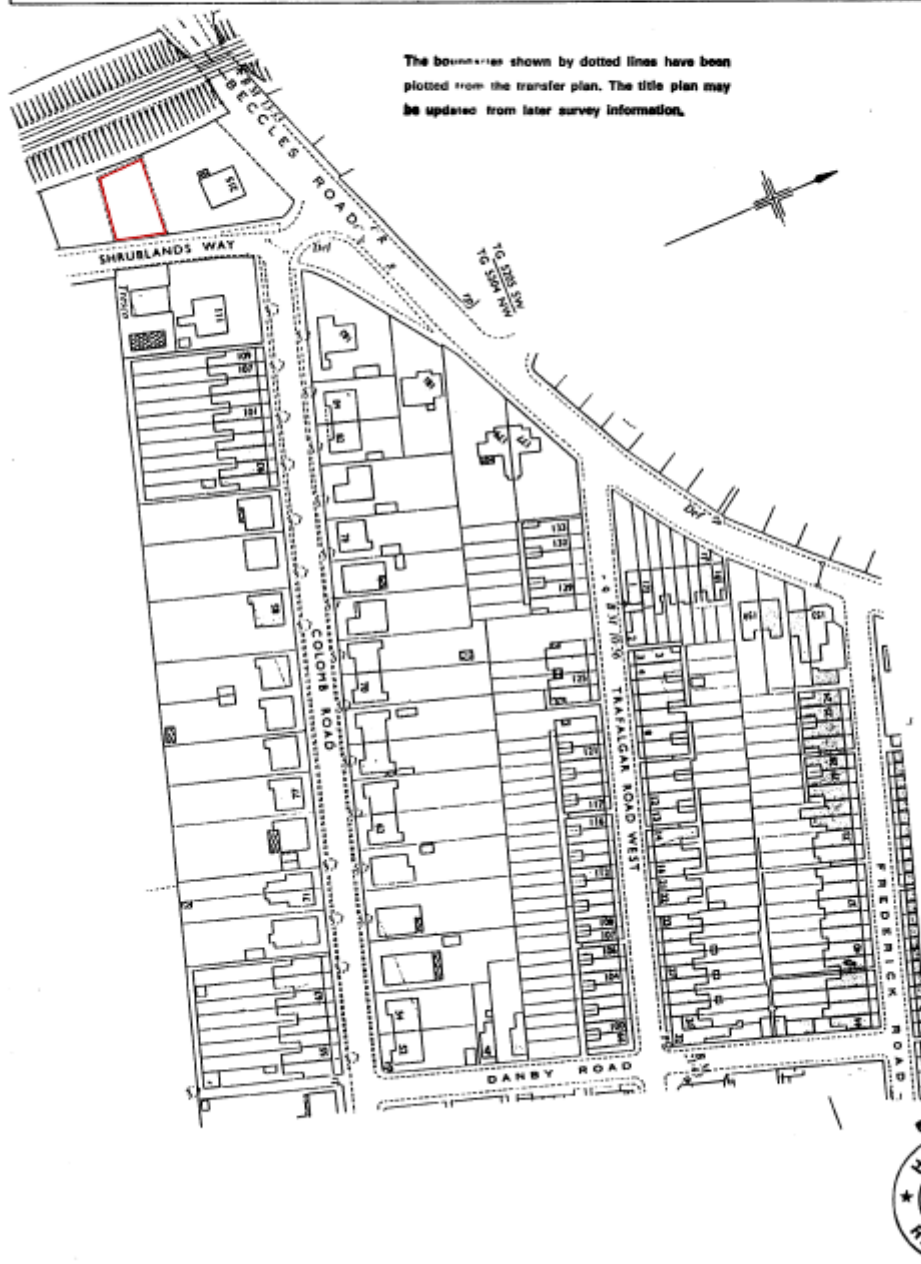
C: Charges Register

This register contains any charges and other matters that affect the land.

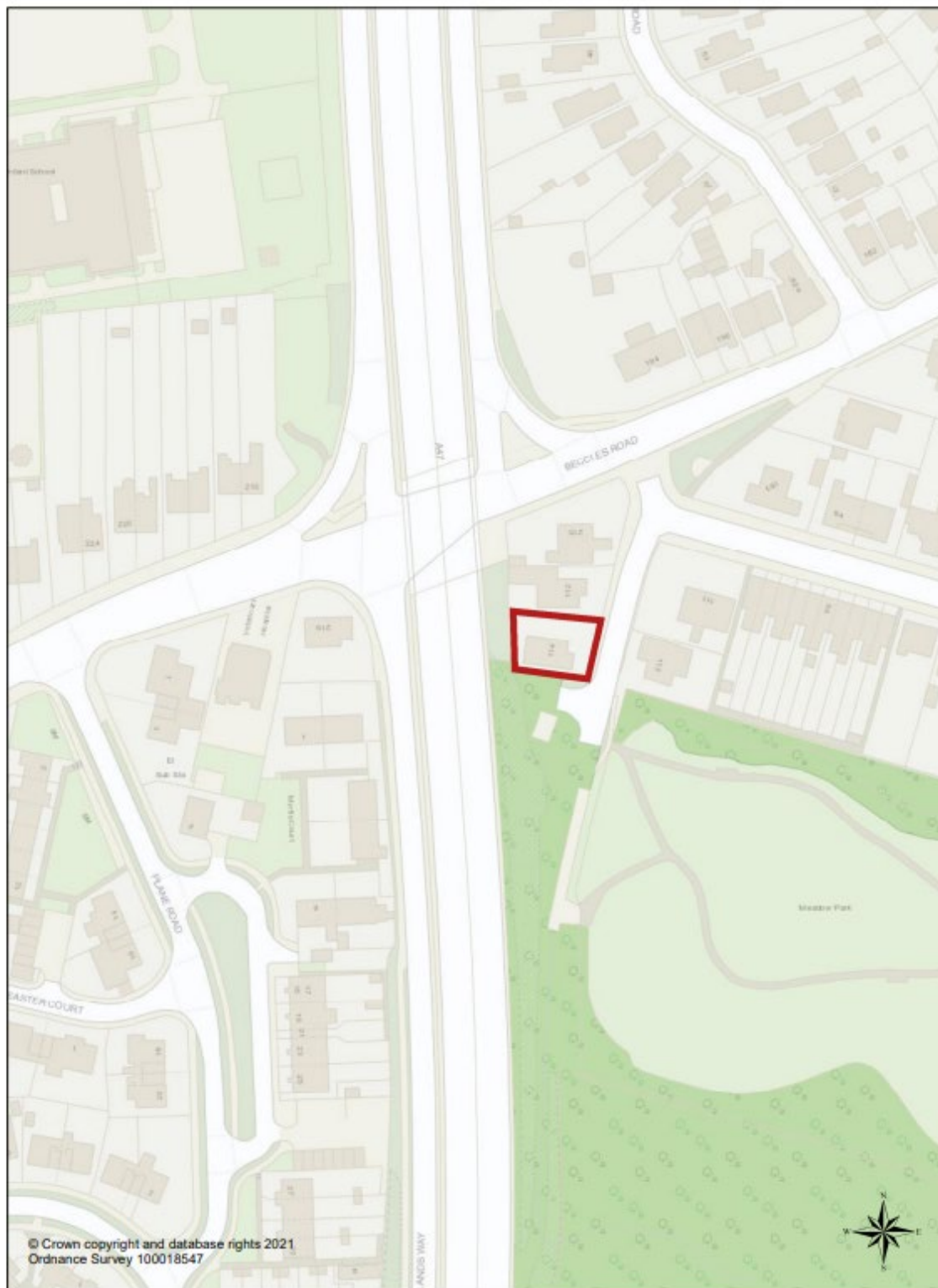
- 1 (03.07.1995) A Transfer of the land in this title dated 8 June 1995 made between (1) Secretary of State for Transport and (2) Anthony Boyne contains restrictive covenants.
NOTE: Copy in Certificate.
- 2 (03.07.1995) The land is subject to the rights reserved the Transfer dated 8 June 1995 referred to above.

End of register

H.M. LAND REGISTRY		TITLE NUMBER	
		NK176666	
ORDNANCE SURVEY PLAN REFERENCE @	COUNTY	SHEET	NATIONAL GRID
	NORFOLK		TG 5204 @
Scale: 1/1250		GREAT YARMOUTH DISTRICT	
		© Crown copyright	



LOCATION



Great Yarmouth Borough Council
114 Colomb Road Compulsory Purchase 2022 - Site Area 330.22m²
 Town Hall, Hall Plain, Great Yarmouth, NR30 2QF
 1:1,250

VALUATION

See Confidential Appendix

POLICY & RESOURCES DECISION

To be added following meeting