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## Appeal Decision

Site visit made on 9 December 2024

**by G Dring BA (Hons) MA MRTPI MAUDE**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 February 2025**

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**Appeal Ref: APP/Y2620/W/24/3347688**

**Land adjacent to Maltings Hotel, The Street, Weybourne NR25 7SY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr P Turner, Chestnut Group Limited against the decision of North Norfolk District Council.
  - The application Ref is PF/23/2247.
  - The development proposed is erection of a single two bedroom dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single two bedroom dwelling at land adjacent to Maltings Hotel, The Street, Weybourne, NR25 7SY in accordance with the terms of the application, Ref PF/23/2247, and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording matching that on the Council's decision has been entered. As neither of the main parties has provided written confirmation that a revised description of development has been agreed, I have used the one given on the original application. I have taken the first line of the site address above from the appeal form rather than the application form as it more clearly reflects the location of the appeal site. I am satisfied that no prejudice arises as a result.
3. Interested parties raise concerns about the validity of the application due to different company names being given on the application form (Chestnut Group Limited) and the appeal form (The Chestnut Group) and that these both differ to that given on the Land Registry document which identifies the proprietor of the site as Chestnut Inns Limited. The appellant was contacted to clarify the correct name and it was confirmed that it should proceed under Chestnut Group Limited, which is the same as that given on the application form. I have been provided with notice that the appellant served a Certificate B on three individuals at neighbouring properties once requested to do so by the Planning Inspectorate's Validation Officer. Whilst the inconsistencies and late notification are not ideal, I do not consider that anyone has been prejudiced by these issues.

4. The National Planning Policy Framework (the Framework) was revised on the 12 December 2024. The main parties have had the opportunity to comment on the revisions through the appeal process.
5. The appeal site is within the Zone of Influence (ZoI) of a number of European Sites. Whilst not a disputed issue, I have a legal duty under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) to carry out an Appropriate Assessment (AA). I have therefore added this matter as a main issue and will consider it further below.

## **Main Issues**

6. The main issues are:
  - the effect of the proposal on the character and appearance of the area;
  - the effect of the proposal on the Weybourne Conservation Area (CA);
  - the effect of the proposal on the living conditions of the occupants of the Gullies, with regard to outlooks, sunlight and daylight;
  - whether the proposal would provide suitable living conditions for future occupiers, with regard to the provision of outdoor amenity space;
  - the effect of the proposal on the users of the loke; and
  - the effect of the proposal on the integrity of European sites, with particular regard to recreational pressure.

## **Reasons**

### *Character and appearance*

7. The appeal site is comprised of a vacant area of land with frontage onto The Street. There is currently a wall in poor condition along part of the front boundary. The side elevation of an adjacent building and a boundary wall are located along the western boundary with a boundary treatment covered in dense vegetation present to the north. The appeal site is currently open to the loke, which is a pedestrian route located adjacent to the eastern boundary. In my view, the appeal site currently appears as a disused area of land rather than an open space that is important to the character and appearance of the settlement.
8. The character and appearance of the area comprises an intimate pattern of vernacular houses grouped around the road network. The use of traditional materials adds to the local distinctiveness of the area. Buildings are either single or two storeys in height. Some dwellings are set back behind front garden areas of varying depths, whereas others are situated at the back edge of the road. There is a mixture in the orientation of dwellings, with some fronting the road, and some sited perpendicular to it. There is variation in the size of gardens. The traditional form and massing of dwellings and the variation in the arrangement and scale of built form contribute positively to the character and appearance of the area.
9. The proposed dwelling would sit back from the road behind a front garden and would have frontage onto The Street. The form and massing of the proposed dwelling would respond sympathetically to the surrounding traditional built

form. The separation between the two storey element of the proposal and the adjacent built form of The Pump House and the Gullies, combined with the set back from the road and the overall height proposed would be sufficient to provide appropriate variation in the streetscene and visual relief between the built form. The outdoor space proposed is more limited than some in the surrounding area, nevertheless, the proposed garden and outdoor amenity spaces to three sides of the dwelling would provide for an acceptable balance between built footprint and undeveloped space, given the variation in the surrounding context. Therefore, when viewing from The Street, the proposal would respond appropriately to the characteristics of the surrounding pattern of development and would not appear as a cramped form of development.

10. When viewing from Home Farm Rise, where the vehicular route terminates, the two storey element of the proposal would be set back from the eastern boundary. Given the scale of the proposal and the proposed siting, I do not consider that it would appear as a cramped form of development from this viewpoint. When walking along the lode in both directions, the current experience would alter, with two storey built form located adjacent to part of the route. However, the majority of the route would remain less affected, with the more significant set back of the single storey elements and the presence of garden and parking areas, which would all provide for less dominant built form or more open character. The mixed planting proposed along the eastern boundary would also soften the appearance of the proposal.
11. The appeal site lies within the Norfolk Coast National Landscape (NL)<sup>1</sup>. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in NLs. The North Norfolk Landscape Character Assessment Supplementary Planning Document January 2021 identifies Weybourne within the Coastal Shelf character type where it is noted that settlements are nestled within pockets of arable farmland and woodland, some of which are markedly rural and unspoilt. The proposal would be contained within the existing site, and it would respect the form, scale and layout of the surrounding built form and be well within the confines of the built up area of the settlement. As a result, the proposal would not stand out in the landscape, nor would it have a harmful effect on the rural character of the surrounding area or the setting of the settlement. The proposal would therefore conserve the NL.
12. I therefore find that the proposal would not be harmful to the character and appearance of the area. The proposal would therefore comply with Policies EN2 and EN4 of the North Norfolk Local Development Framework Core Strategy September 2008 (CS). These policies seek, amongst other things, that development proposals are of high quality design, that they conserve, and where possible enhance the special qualities and local distinctiveness of an area and respond to local context.

### *Conservation area*

13. The appeal site is located within the CA. The significance of the CA is made up of the varied and intimate pattern of development and the prevailing use of traditional materials including brick, flint and red pantiles in the construction of the dwellings and the boundary walls. Adjacent to the appeal site is The Maltings Hotel which is locally listed as a non-designated heritage asset. The

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<sup>1</sup> Formerly known as an Area of Outstanding Beauty (AONB)

Maltings Hotel provides some variation in the character and appearance of the CA with a significant part of the main building being rendered with mainly grey pantiles on the roof. This building and the wider Maltings site contribute positively to the significance of the CA.

14. Currently, the appeal site is an area of vacant land which appears unused. A wall along the frontage is in a state of disrepair which detracts from the appearance of the well maintained surroundings. Therefore, the appeal site does not contribute positively to the CA currently.
15. The overall design, scale and layout of the proposed dwelling would respond sympathetically to the character and appearance of the CA. Traditional brick and flint are proposed for the external walls of the dwelling which would also contribute positively. The proposal includes the use of second hand clay pantiles on the single storey element which would be in keeping with the prevailing roof materials present in the CA.
16. However, on the two storey element, natural and photovoltaic slates are proposed. Whilst the colour of these proposed roof treatments may blend with that of The Maltings Hotel adjacent, they would not represent the prevailing roof materials present in the CA. Despite the provision of a brochure that sets out the specification of the proposed photovoltaic slates, I am not satisfied that the appearance of such a roof treatment would appear in keeping with the CA. I therefore find that the proposed roof materials on the two storey element of the proposal, particularly the photovoltaic slates would be harmful to the character and appearance of the CA. The proposal would therefore be contrary to Policies EN4 and EN8 of the CS. These policies seek, amongst other things, that conservation areas and the character and quality of an area will be preserved and where possible enhanced.
17. The harm to the significance of the CA would be less than substantial. Paragraph 215 of the Framework requires that where less than substantial harm is found to the significance of a heritage asset, that harm must be weighed against the public benefits of the proposal. It also advises that great weight should be given to the asset's conservation, irrespective of the level of potential harm.
18. In terms of benefits, the proposal would bring a disused site within the CA into an active use and as part of the works the failing front boundary treatment would be resolved. It would also contribute one dwelling to the housing supply in an area where the Council cannot currently demonstrate a sufficient housing land supply. Economic benefits would result during the construction phase and after with future occupants supporting local services and facilities. Whilst the provision of one dwelling is small in scale, it would nonetheless make a useful contribution and being a small site, it could be delivered relatively quickly. Taken together, these are positive benefits to which I afford significant weight. As a result, I find that the public benefits of the proposal outweigh the harm to the significance of the CA. I note that the Council arrived at a similar conclusion in its Officer Report.

#### *Living conditions - existing occupants*

19. The appeal site is located adjacent to a two storey semi-detached dwelling known as Gullies. The Gullies is orientated so that its front elevation faces west towards the appeal site. It is reported by both parties that the distance

between the two storey side elevation of the proposed dwelling and the front elevation of Gullies would be 5 metres at its closest point with the lobe situated in the intervening space.

20. The Council refer to guidance set out in the North Norfolk Design Guide Supplementary Planning Document December 2008 (SPD). Whilst the SPD does not form part of the development plan, it is a material consideration. The SPD states that the positioning of dwellings should not lead to overbearing impacts upon existing dwellings. Recommended separation distances are set out depending on the type of windows, if any, are located within existing and proposed elevations.
21. The proposed two storey side elevation that would face part of the front elevation of Gullies, would be a blank wall. Where there are primary windows, the recommended separation distance from a blank wall is 11 metres or where there are secondary windows (defined as windows to bedrooms, kitchens, dining rooms and secondary windows to living rooms), the recommended separation distance from a blank wall is 8.5 metres. Where there are tertiary windows (defined as windows to bathrooms, utility rooms, staircases and landings) a separation distance from a blank wall of 2.5 metres is recommended. I note the SPD identifies that there is some flexibility in the application of these criteria.
22. The appellant has submitted the ground floor and first floor layout plans of the Gullies, and no comments have been received from interested parties or the Council disputing this information. The most southern ground floor window of the Gullies is identified as serving a kitchen. There would be direct views towards the proposed front garden area and any associated boundary treatment rather than the proposed dwelling from this window. However, I accept that the proposed dwelling would be visible in oblique views from this window. It appears that the kitchen is served by an additional window in the southern elevation. Nevertheless, even if this window in the western elevation was the only one serving the kitchen, whilst there would be some harm to outlooks in oblique views from this window, the harm overall would be modest.
23. The most southern first floor window is identified as serving a bedroom which would also have direct views towards the proposed front garden area, with views towards the proposed built form in a more oblique angle. There is a further first floor window that serves the same bedroom which would look more directly towards the proposed dwelling. However, during my site visit I noted that this window appears to be a high level window. Whilst I accept that the positioning of furniture within the room is not determinative, given this can alter at any point in time, I find that the overall harm to outlooks from the bedroom would be modest.
24. The first floor obscure glazed window above the porch and the small circular window are identified as serving bathrooms which are considered to be tertiary windows in the SPD. I do not consider the effect on the outlook from these windows, given the form and treatment of them and the rooms they serve, to be significant. The ground floor circular window is very small and appears to be a secondary window to the lounge area which is served by a large window in the northern elevation, following a recent extension. This window would look towards the corner of the proposed side elevation. However, due to the limited

outlooks gained from this window currently and the presence of the other window in the northern elevation, whilst there would be some harm to outlooks, it would be limited.

25. The two storey blank elevation proposed would be situated directly opposite the front elevation and therefore also the main entrance into the Gullies. Given the proposed separation distance, I accept that it would increase the sense of enclosure of this main route into and out of the Gullies. Nevertheless, this would be a transient effect due to the temporary nature of these movements and therefore any harm would be tempered by this.
26. I therefore find that the separation distance between the Gullies and the side elevation of the proposal would be more limited than that set out in the SPD guidance. I also find that there would be some harm to outlooks, but overall, this harm would be moderate. Therefore, in the specific circumstances of this case, including the positioning, arrangement and role of the existing windows and the resultant relationship between them and the proposed siting of built form, I do not consider that the proposal would result in overbearing impacts that would be significantly detrimental.
27. I note that the appellant has submitted a Daylight and Sunlight Impact Assessment Report (DSIAR) which states that all but one window in the front elevation of Gullies would pass the BRE recommended guidelines for daylight and sunlight metrics. The DSIAR states that the one window that would not meet the guidelines would be the small circular secondary window that serves the lounge. Given there is a much larger window in the northern elevation serving this space, the DSIAR concludes that the room would still receive enough sunlight and daylight. I have no substantive evidence before me to the contrary on this matter. As such, I am satisfied that the proposal is likely to be acceptable in terms of effects on daylight and sunlight reaching the Gullies and that there would not be any significant harmful effects in relation to overshadowing.
28. Given the lack of windows in the eastern elevation of the proposed dwelling, closest to Gullies, and the limited windows proposed at the first floor level in the rear elevation along with the orientation of them, there would be no significant issues of overlooking of the Gullies or its private garden space.
29. I therefore find, in respect of the living conditions of the existing occupants of the Gullies, whilst the proposal would not be likely to result in harm in relation to the loss of sunlight or daylight, it would result in harm with regard to outlooks. However, this harm would be moderate and would not be likely to cause a significantly detrimental effect on residential amenity. I therefore find that the proposal would comply with Policy EN4 of CS which states, amongst other things, that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers.

#### *Living conditions – future occupiers*

30. As stated above, the amount of proposed external amenity space would be smaller than others in the surrounding area. Nevertheless, it would not be dissimilar to other more limited gardens spaces that are also present in the vicinity and in a scheme recently approved. Whilst I accept that each proposal must be assessed on its individual merits, the character and size of garden spaces in the surrounding area are a consideration. The Council refer to the

standards set out in the SPD which states, amongst other things, that private garden areas should be of adequate size and shape to serve their intended purpose, that they should reflect the likely number of occupants and be no less than the footprint of the dwelling on that site.

31. The appellant asserts that the proposed external space would exceed the footprint of the dwelling. The proposal includes the reinstatement of the front boundary wall and the planting of a hedge along the eastern boundary which would partially screen the front garden area from public view. A patio area is shown as being in the front garden area which would be located at the furthest point away from the neighbouring first floor bedroom window. This would provide a space where future occupants could sit out without being significantly overlooked from neighbouring first floor windows. I note the presence of the retained tree might limit the use of the patio for some, at certain times of the day. Nevertheless, the tree would provide additional screening and therefore additional privacy for future occupants.
32. The proposed side garden would be overlooked in views from one first floor bedroom window in the western elevation of the Gullies. Nevertheless, this window appears as a high level window that would not cause a significant perception of being overlooked. The other first floor windows in the western elevation of the Gullies both serve bathrooms with one being obscure glazed and the other a very small circular window which would significantly limit any overlooking opportunities. The existing boundary treatments to the north and west and the proposed hedgerow along the eastern boundary would provide for a rear and side garden space that would be clearly contained for use by future occupants and these spaces would not be significantly overlooked from neighbouring first floor windows.
33. Whilst a fair proportion of the proposed rear outdoor space would be taken up by the parking area, there would still be space for people to sit out, dry washing and carry out some smaller scale gardening activities. Given the proposal is for a two bedroom property, which would limit the number of occupants, I consider that the amount of outdoor amenity space proposed would serve its intended purpose in this case. I note that there is a study proposed on the ground floor, however there is little evidence before me that this would be likely to be used as a bedroom.
34. I therefore find that the proposal would provide suitable living conditions for future occupiers, with regard to the provision of outdoor amenity space. The proposal would therefore comply with Policy EN4 of the CS. This policy seeks, amongst other things, that proposals for new dwellings should provide acceptable residential amenity.

#### *Users of the loke*

35. As stated above the loke is a pedestrian route located adjacent to the eastern boundary which runs between the appeal site and the Gullies. The Council refers to it as a private loke in its reason for refusal. The proposal would not alter the route, but it would intensify the vehicular use of the northern end of the loke. However, vehicle movements would be limited given the scale of the proposal. Turning manoeuvres would be kept to the north of the site in close proximity to where vehicular access appears to be gained to the adjacent dwelling on Home Farm Rise. Consequently, additional small scale vehicular movements would not necessarily be unexpected in this location.

36. The existing pedestrian use of the majority of the loke would not be affected, and it would be demarcated by the provision of a hedgerow along the eastern boundary of the appeal site, which would reduce conflict between users of the loke and future occupants. A kissing gate is proposed at the boundary between the loke and The Street which would provide a clear pedestrian stop point before reaching the traffic moving along the road outside of the appeal site.
37. I therefore conclude that the proposal would not be likely to result in an unacceptable effect on the users of the loke. The proposal would therefore comply with Policy EN4 of the CS. This policy seeks, amongst other things, that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers and new dwellings should provide acceptable residential amenity.

#### *European sites*

38. The appeal site is located within the ZoI of a number of designated European sites, including the Wash and North Norfolk Coast Special Area of Conservation, the North Norfolk Coast Special Protection Area and the Wash Ramsar. The coastline along The Wash is the largest marine embayment in Britain, with the second largest expanse of intertidal sediment flats in the country. The Norfolk Coast from the Wash around to the East coast is the only typical British example of a barrier beach system with extensive areas of salt marsh with characteristic creek patterns that have developed behind sand and shingle spits and bars. The Wash and North Norfolk coast is important for breeding and moulting of one of Europe's largest populations of common seal. The intertidal mudflats and salt marshes represent one of Britain's most important winter-feeding areas for waders and wildfowl outside of the breeding season.
39. The Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy Habitats Regulations Assessment Strategy Document March 2021 (GIRAMS) sets out the potential for recreational activities to disrupt the protection objectives of European Sites in and around Norfolk, specifically as a result of an increase in population resulting from residential and tourism growth. The appeal scheme involves the provision of a new dwelling within the ZoI. This is likely, in turn, to increase recreational pressure and it is therefore likely that the proposal, would have a significant effect on the European Sites identified above. As such, in accordance with the Regulations, it is necessary for me to conduct an AA of the project's implications in view of the relevant sites' conservation objectives.
40. The European sites identified above are covered by the GIRAMS which has been adopted by the Council in partnership with other affected local planning authorities. The GIRAMS comprises a range of mitigation measures including the provision of open space as part of developments, monitoring, education and communication with recreational users, collating information about habitats and working with landowners and partners. The GIRAMS identifies a financial contribution to be sought in connection with proposals that are likely to adversely affect the integrity of the European Sites, to fund avoidance and mitigation measures on a wider strategic basis. Based on the evidence before me I am satisfied that the Council has received the required mitigation payment, and the associated form set out under Section 111 of the Local Government Act 1972 in this regard.

41. Consultation with Natural England confirms that the financial payment identified is commensurate with the tariff that has been collectively agreed through the GIRAMS. I therefore conclude through my AA, that I am satisfied that delivery of the mitigation secured by the appellants' financial contribution, would ensure that the appeal proposal would not have an adverse effect on the integrity of European sites.

### **Other Matters**

42. I note objections raised about the width of the access and the parking and turning arrangements proposed within the site and that they do not meet Highway Authority guidelines. Nevertheless, the Highway Authority has not raised concerns in this regard. Whilst I note the interested party comments about the Highway Authority not providing comments on accesses that do not relate to the public highway, the Council has not identified the proposed width of the access, the parking and turning arrangements within the site or parking effects in the wider area as concerns. No issues are raised by the Council or any technical consultees about surface water drainage. I have little substantive evidence before me that would lead me to a contrary view on these matters. Concerns are raised about the effects of traffic and parking during construction, nevertheless, any impacts would be temporary and would not lead me to dismiss the appeal.
43. Objections are raised by interested parties about the loss of trees and biodiversity. A Tree Survey is provided which shows the loss of trees identified as T2 and T3 and the retention of T1. An Ecological Impact Assessment (EIA) is submitted which states that based on the implementation of mitigation measures and other safeguards, no significant adverse effects are predicted as a result of the proposal. Enhancements are recommended including the installation of bat and bird boxes as well as bat friendly planting.
44. With regard to national requirements relating to biodiversity net gain, the application was made prior to 2 April 2024 and therefore this is not a specific requirement in this case. However, I note that the Framework does identify that decisions should enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The Council has suggested that a planning condition could be used in relation to tree protection matters and I consider that the biodiversity mitigation and enhancements set out in the EIA could also be secured in a similar way. I therefore find that these matters could be adequately dealt with by planning conditions.
45. Whilst not raised in the Council's reasons for refusal, an interested party objects, due to the effect of the proposal on the living conditions of the existing occupants of 21 Hall Farm Rise, directly to the north of the appeal site. No 21 is single storey with accommodation in the roofspace. Three rooflights situated at No 21 face the appeal site. The built form of the open fronted cart shed would be single storey and the roof would be pitched so that it slopes away from the neighbouring property at No 21. The two storey element of the proposal would be situated to the south of the appeal site, further away from No 21. Two first floor windows are proposed in the northern elevation of the proposed dwelling, but they would serve a landing area and a bathroom. A planning condition could be used to ensure no further windows or openings are included in this elevation without prior permission from the Council. Without any substantive evidence to the contrary, I find that the

proposal would be unlikely to have significant harmful effects on the living conditions of the existing occupants of No 21.

### **Conditions**

46. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended and reordered in line with the advice provided in the Planning Practice Guidance. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty.
47. Conditions requiring tree protection and external materials are necessary in the interests of the character and appearance of the area. Tree protection details are required prior to commencement in order to ensure they are adequately protected prior to any works taking place. I have added a condition which requires that the development is carried out in accordance with the mitigation and enhancement measures set out in the submitted Ecological Impact Assessment in the interests of biodiversity. I have imposed a condition requiring that the vehicular access, parking and turning area are provided prior to occupation and retained as such in the interests of highway safety.
48. I have included a condition restricting permitted development rights so that no additional openings in the eastern elevation and no new openings at first floor or above in the northern elevation can be carried out without prior permission from the Council. This is necessary to ensure the privacy of neighbouring residents.

### **Conclusion**

49. For the above reasons, and having had regard to all other matters, I conclude the appeal should be allowed subject to conditions.

*G Dring*  
INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: Site Location Plan, 01 – Ground and First Floor Plans, 02 – Elevations, 03 – Elevations, 04 – Roof Plan.
- 3) No development shall take place on site, including any site clearance works or demolition, in pursuance of this permission until a supplementary Tree Protection Plan (TPP) has been submitted to and approved in writing by the local planning authority. This supplementary TPP shall provide details of the methods proposed for the protection of the tree and its root protection area. All works on site shall take place in accordance with the approved TPP.
- 4) Notwithstanding the details provided with the application, before their first use on site, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to occupation of the dwelling hereby permitted, all mitigation and enhancement measures shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Glaven Ecology, March 2023) as submitted with the planning application.
- 6) Prior to the first occupation of the development hereby permitted the proposed access/on-site car and parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 7) No additional window or other opening shall be constructed in the eastern elevation or at first floor level or above in the northern elevation of the development hereby approved (Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification).