

Heritage Assessment – Addendum Note to Heritage Proof of Evidence

Longhedge Solar Farm, Land East of Hawksworth and
Northwest of Thoroton, Shelton Road, Thoroton

*Installation of renewable energy generating solar farm
comprising ground-mounted photovoltaic solar arrays,
together with substation, inverter stations, security measures,
site access, internal access tracks and other ancillary
infrastructure, including landscaping and biodiversity
enhancements.*

On behalf of Renewable Energy Systems (RES) Ltd

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1. Author's Background

- 1.1. My name is Laura Cassandra Garcia. I am a Senior Director of the Heritage team at Pegasus Planning Group, a member of the Chartered Institute for Archaeologists (CIfA) at Member level and a Specialist Assessor for the CIfA Validation Committee.
- 1.2. I have practised in the heritage sector since 2002, working as a heritage consultant since 2004. I have been a member of the Chartered Institute for Archaeologists (MCIfA) since 2004. I have a Bachelor's Degree with Honours in Ancient History and Archaeology and I have over 20 years of experience working within the heritage consultancy sector.
- 1.3. I have presented cultural heritage evidence at a number of renewable energy public inquiries and at hearings. I have worked on a wide-range of development projects throughout the UK, including residential, power generation, commercial, industrial, and leisure and recreation schemes. I have gained significant experience in the renewable energy sector, preparing the heritage elements of Environmental Impact Assessments, Heritage Statements, providing feasibility and optioneering advice, and in the management of mitigation works during the construction phase of all types of renewable energy schemes.
- 1.4. I, and the other heritage consultants within the Heritage Team at Pegasus Group, undertake our work in accordance with the Chartered Institute for Archaeologists Code of Conduct.
- 1.5. The evidence which I have prepared and provided for this appeal in this Statement is true and has been prepared and given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true professional opinions.



2. Introduction and Background to Assessment

- 2.1. This Heritage Assessment has been requested by Planning Inspector Mr. J. Woolcock in order to consider the potential effect upon the significance of identified heritage assets arising from the infrastructure required to connect the energy generated from the solar panels from the substation into the National Grid. I refer to this as the “DNO infrastructure” / “DNO connection” in this document.
- 2.2. This document forms part of the evidence base for the Inquiry.
- 2.3. The original application was supported by a Cultural Heritage Impact Assessment (CHIA) prepared by Neo Environmental (**CD1.23**). I understand that responsibility for consenting and constructing the connecting infrastructure lies with the Distribution Network Operator (DNO) and so neither the original CHIA nor by previous evidence to the inquiry considered the impacts of such infrastructure. I note that the LPA’s heritage witness also did not assess the impacts of the connecting infrastructure on heritage assets.
- 2.4. Shortly before the inquiry opened, the LPA and Rule 6 party raised concerns about the failure to assess impacts of the pylon options which they considered should be part of the appeal scheme. Without prejudice to the validity of this argument, it was requested by the Inspector during the course of the Inquiry that that experts for each relevant discipline from each of the parties should prepare an assessment of the grid connection elements.
- 2.5. The Appellant has liaised with the DNO during the application process to establish the nature and general design with regard to the connecting electricity infrastructure. In response, the DNO have identified two DNO substation scenarios, referred to as options 1 – tower option (**CD1.16**) and 2 – wooden poles. (**CD1.17**). These two options are discussed below. I note at this stage that both options are located in close proximity to an existing pylon which is 29.09m tall and part of a line of three pylons supporting an overhead line which runs north-south through the Appeal Site.
- 2.6. This Heritage Assessment forms an addendum to my Proof of Evidence (**CD7.12**). This assessment limits itself to assessing the impacts of Option 1 and Option 2 on the significance of the identified heritage assets, as requested by the Inspector. The detailed description of the heritage assets discussed below is found within my main Proof of Evidence and not repeated here for brevity.
- 2.7. My evidence has been read and adopted by my colleague Ms. Stoten who will be providing oral submissions on this aspect of the Inquiry at the forthcoming additional Inquiry sitting day on 1st August 2024. The qualifications and professional experience of Ms. Stoten are set out at Appendix 3.
- 2.8. The Heritage Assessment assumes that the infrastructure of either option (tower or pole) would remain in place following the 40-year lifespan of the Appeal Scheme. Therefore, the options have been assessed as permanent structures within the landscape.

3. Description of Proposed Options

- 3.1. The Appellant's substation is located centrally within field 8 of the solar farm layout. The proposed DNO connecting elements would be located on the eastern side of the substation.
- 3.2. To the north of the DNO connection are solar panels which extend to the northern hedge boundary of field 8. Immediately to the east of the DNO infrastructure lies an area of open space within which a surface attenuation pond is proposed. There is an existing overhead 132kV line and tower within this open area, located approximately 90m northeast of the proposed DNO connection. This overhead line traverses the Appeal Site from north to south with a further two pylons located to the north within the redline boundary of the Scheme and one additional pylon to the south, outside of the redline boundary. East of the DNO connection is a continuation of solar panels up to a treebelt which forms a physical and visual barrier to the east. To the south, there is the proposed access to the substation and further solar panels extending south, framed by existing and proposed woodland. To the immediate west, the proposed substation element would be located, with further panels beyond this.
- 3.3. As set out above, discussions between the Appellant and the DNO have resulted in the DNO identifying two potential options for the connection infrastructure.
- 3.4. Option 1 proposed a 23m high, 16m width at base lattice tower structure for the 132kV connection. This lattice tower would sit within a fenced compound 15m² and would form a terminal tower connecting to the substation. The lattice tower would be comprised of a steel construction with a matt finish identical to the existing adjacent electric pylon towers- this design is shown on **CD1.16**.
- 3.5. Option 2 comprises two 9m high wooden poles to create a 132kV tower structure set within a 15m² security fence. This design is set out at **CD1.17**.
- 3.6. The lattice tower is proposed to be 23 metres and the wooden pole structure would be 9 metres. To understand these heights in a familiar context, a mature tree belt or woodland comprising climax tree species would be 20 – 23 metres in height. Of even more relevance to this particular Scheme, the existing pylon, located to the northeast is 29.09m in height, taller than both options. This existing pylon was useful on site visits as this allowed an appreciation of the visibility of such structures from points within the landscape and to and from heritage assets and given the proximity to the proposed connection, allowed an understanding of where in the landscape this infrastructure would be located.
- 3.7. Given the proposed heights of the towers are 9 metres or 23 metres high, these would be no higher than the mature trees and woodland in the locality.



4. Assessment of Heritage Matters

Legislation and Planning Policy

- 4.1. Details of the heritage legislation and planning policies which are considered relevant to this Appeal are provided at **Appendix 1**.

Methodology

- 4.2. The full methodology utilised in the preparation of the assessments which are set out within this Statement is provided at **Appendix 2**.

5. Grade I Listed Church of St Helena, Thoroton

- 5.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 5 of my Heritage Proof of Evidence for the Inquiry.

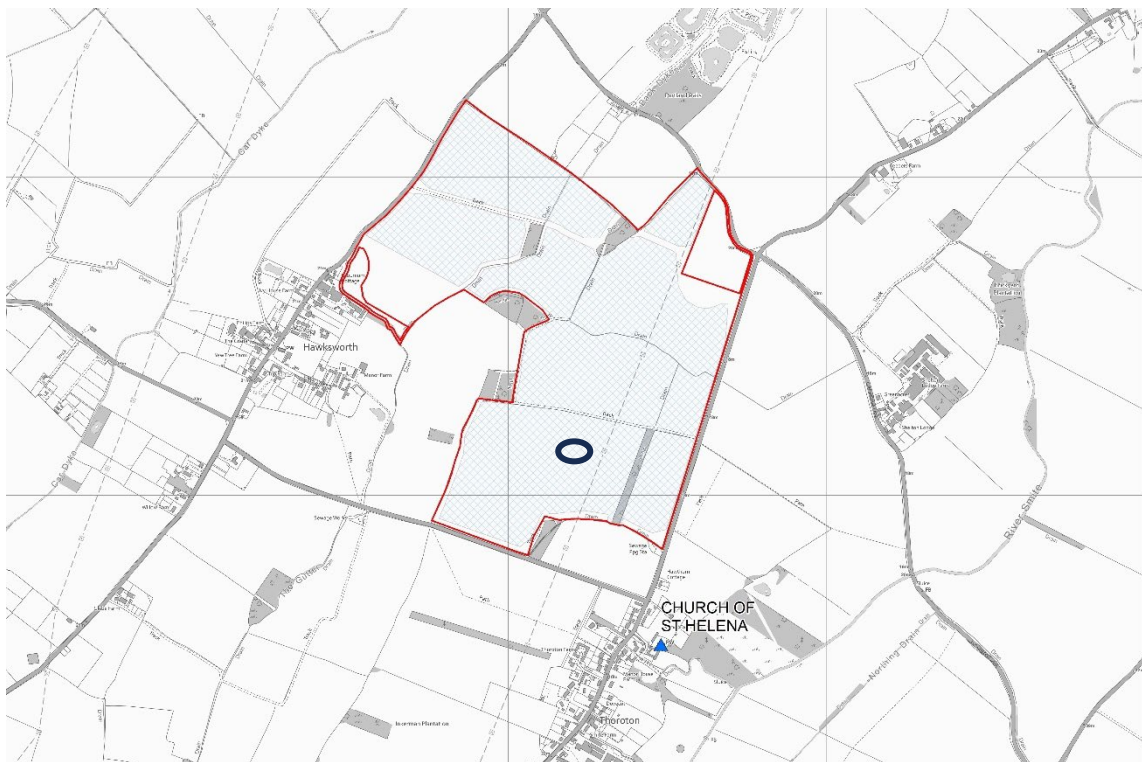


Plate 1 Location of GI Church of St. Helena and the Appeal scheme – very approximate location of substation and proposed grid connection infrastructure indicated in the circle, southwest of the existing pylon

Option 1

- 5.2. Option 1 consists of a 23m tall lattice tower which would be similar in appearance to the existing pylon. There are views, as illustrated in Plate 2 below, of the spire of the Church of St. Helena and the existing pylon in a wide arc of view when moving along the PRow which runs from west-east along the northeastern portion of the Site. It is likely that there would be views of Option 1 from portions of this PRow east of the existing pylon located within the northeastern portion but these would diminish moving further west as the existing vegetation would screen the location. From the western extent of the PRow (VP6 in the original application documents), Option 1 would not be visible. I note that the existing pylon is visible along the entire portion of the PRow from east of the existing pylon near the PRow to the termination of the footpath at the eastern site boundary.
- 5.3. As was noted in my evidence, there are views of the spire of the Church of St. Helena from points along this PRow, however there are a number of existing pylons which are also visible in these views when moving along the PRow. As illustrated in Plate 2 below, there are two pylons already visible in this view and one has to pass directly adjacent to a pylon on this

route and under the overhead lines – there is a constant presence of power infrastructure in views of the spire along this route.

- 5.4. Option 1, whilst potentially visible in some locations within the same arc of view as the spire, would not be in a location directly challenging the presence of the spire within the view. It would not be closer in the view towards the church spire, nor would it block, encroach into or impede any other views of the spire from other locations.
- 5.5. As set out in my previous evidence, this PROW is not an historic route, only appearing on its current alignment on the 1921 Ordnance Survey mapping. In addition, this is not a PROW which has Thoroton as its destination, it is some distance from the settlement and the church spire is not a focus of views, a viewer moving along the path has to turn away from the route ahead to look southeast. In addition, as a PROW, it is a dynamic feature with views changing all along its route.
- 5.6. When moving south along the lane leading to Thoroton, the spire is a presence within these views. It is not considered that Option 1 would be visible in any views when moving southwards towards Thornton and therefore no change would occur as a result of Option 1.
- 5.7. There are no other views which contribute to the significance of the Church of St. Helena which would experience any notable change as a result of Option 1. Whilst there may be visibility of the Option in glimpsed, oblique view northeast when moving east towards Thoroton on the PROW running west from the western edge of Thoroton the spire and Option 1 would not be visible in the same view and more importantly, the views of the spire from this path are very infrequent, glimpsed and not representative of the significance of the asset.
- 5.8. Given the current baseline with the existing pylons already in place and the fact that the proposed Option 1 would be located further away in the view than the existing pylons, it is not considered that Option 1 would cause any harm to the significance of the Grade I listed Church of St Helena. The views of the spire which are available today would remain the same with Option 1 in place. There would be no change at all to the amount of the spire that is visible. It would still stand alone, far removed from Option 1 and plainly distinguishable and identifiable as the spire of the church in these views.
- 5.9. The significance of the asset, and the elements that views and setting contribute to this asset as set out in Chapter 5 of my Proof will not experience any change as a result of Option 1.
- 5.10. The level of harm reported in my Proof of Evidence (less than substantial and the lower end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 1 grid connection option.



Plate 2 View looking south from PRow running west-east across NE portion of the Site – red arrows indicate the location of the spire of the Church of St. Helena and the position of the existing pylon. The proposed option 1 would be visible just to the right of this existing pylon – it is not anticipated there would be any visibility of option 2 in this view.

Option 2

- 5.11. Option 2 comprises two wooden poles, 9m in height. Given the existing vegetation, it is not considered that, even in winter when vegetation is most sparse, that there would be any visibility of these wooden poles from any key views of the church. From the PRow running in the northeastern portion of the Site, where there is visibility of the spire, Option 2 would not be visible from any point along this pathway given the existing vegetation. Even if there were to be glimpses of the tops of Option 2, these would be so glimpsed and would in no way challenge or detract from the view of the spire which currently exists. As can be seen in Plate 2 above, these are views which already contain power infrastructure and the slight view of the top of wooden poles would not cause any change or reduction significance of the views of the spire which are available.
- 5.12. There are no other views of the church which contribute to significance which would be anticipated to contain any views of Option 2.
- 5.13. It is not considered that the construction and operation of Option 2 would result in any harm to the significance of the Grade I listed Church of St. Helena.



- 5.14. The level of harm reported in my Proof of Evidence (less than substantial and the lower end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 2 grid connection option.

6. Thoroton Conservation Area

- 6.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 6 of my Heritage Proof of Evidence for the Inquiry.

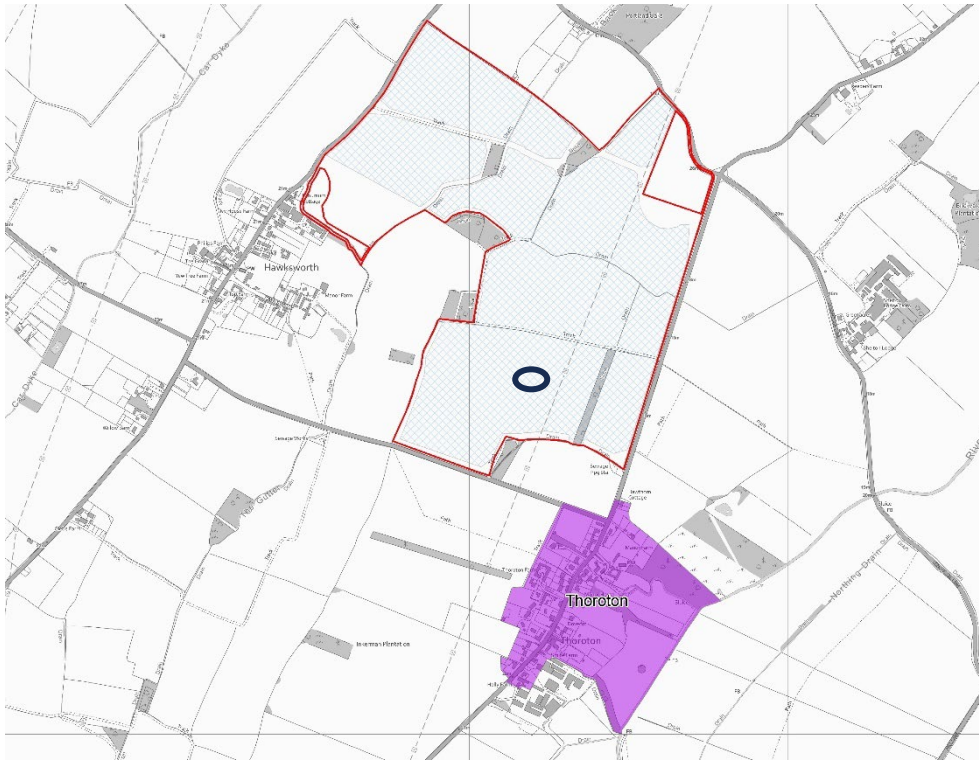


Plate 3: Location of Thoroton Conservation Area and very approximate location of substation and DNO grid connection element.

Option 1

- 6.2. Option 1 will not be visible in any of the key views identified in the Thoroton Conservation Area Appraisal (see plate 4 below).
- 6.3. Option 1 will be visible in views northwest from the gate located outside the northern boundary of the Conservation Area west, along the road to Hawksworth where it will be a more visible element than the existing pylon as it would be located further southwest and away from the taller trees which screen the visibility of the existing pylon. This is illustrated on the Option 1 photomontage from VP1 submitted alongside additional material to support the assessment of the grid connection options. This view (illustrated at plate 20 of my Proof of Evidence though note Option 1 would just be out of shot on the left of the picture) is not a key view illustrating the special interests of the Conservation Area. It is not identified as a key view, it is located outside the Conservation Area with the nearest elements of Thoroton being entirely modern development to the rear of the viewer. This view contains no elements which contribute to the understanding of the architectural and historic interest of the asset. Whilst the existing pylon might be slightly screened by



existing vegetation, it is still visible, as are the overhead lines, and therefore power infrastructure is already an existing element within this view.

- 6.4. As noted above, it is not anticipated that there would be any views of Option 1 when approaching Thoroton from the north, along the road running along the eastern Site boundary. There are no views available of the existing pylon adjacent to Option 1 and therefore Option 1 will, similarly, not be visible.
- 6.5. There may be some visibility of Option 1 when moving along the road linking Hawksworth and Thoroton running along the southern Site boundary, however these are not views of the historic core of Thoroton and views that can be glimpsed of the church spire from this route are incidental. This is not a view which contributes to the understanding of the special architectural and historic interest of the Conservation Area. Option 1 would not 'interfere' with any glimpsed views of the spire along this route in any case, with the Option seen in the context of existing pylons and being located to the north of the road, not directly in line with the spire.
- 6.6. As discussed above, there would be occasional views of Option 1 from the PRoW in the northeastern portion of the Site which would be in the same wide arc of view of the spire of the Church of St. Helena (see plate 2 above) which marks the core of Thoroton. However, the assessment of the impact of this is as set out above. Option 1 would be located further away from the spire than the existing pylons, and would be seen in the context of the line of pylons which extend through the Site and their overhead lines. Option 1 would not change the level of visibility of the spire, nor would it block views or detract from the visibility of the spire. Therefore, the change introduced by occasional glimpses of Option 1 in conjunction with an existing pylon will not result in any harm. The ability to appreciate the spire in terms of locating the core of Thoroton will not experience change. Option 1 would not cause any harm to the significance of the Thoroton Conservation Area.
- 6.7. The level of harm reported in my Proof of Evidence (less than substantial and the lowest end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 1 grid connection option.

Option 2

- 6.8. It is not considered that Option 2 would be visible from or within any key viewpoint or view which contributes to the significance of the Thoroton Conservation Area. The low-level of the proposal means that it would be screened by the existing vegetation within the Site. The view described above, from the gate looking north, located outside the Conservation Area boundary may contain a glimpse of the very top of the wooden pole but this would be indistinct and most likely not available during the summer. In any case, this is not a view within which the key characteristics of the special architectural and historic interest of the Conservation Area can be experienced. .
- 6.9. There are no views of the historic core of the Conservation Area from the Site and, as has been set out above, there will be no views of Option 2 from the PRoW which runs in the northeastern portion of the Site from which views of the spire of the Church of St. Helena, marking the historic core of the settlement, can be appreciated. These views will not be affected at all by Option 2.



- 6.10. Option 2 would not result in any harm to the significance of the Thoroton Conservation Area.
- 6.11. The level of harm reported in my Proof of Evidence (less than substantial and the lowest end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 2 grid connection option.

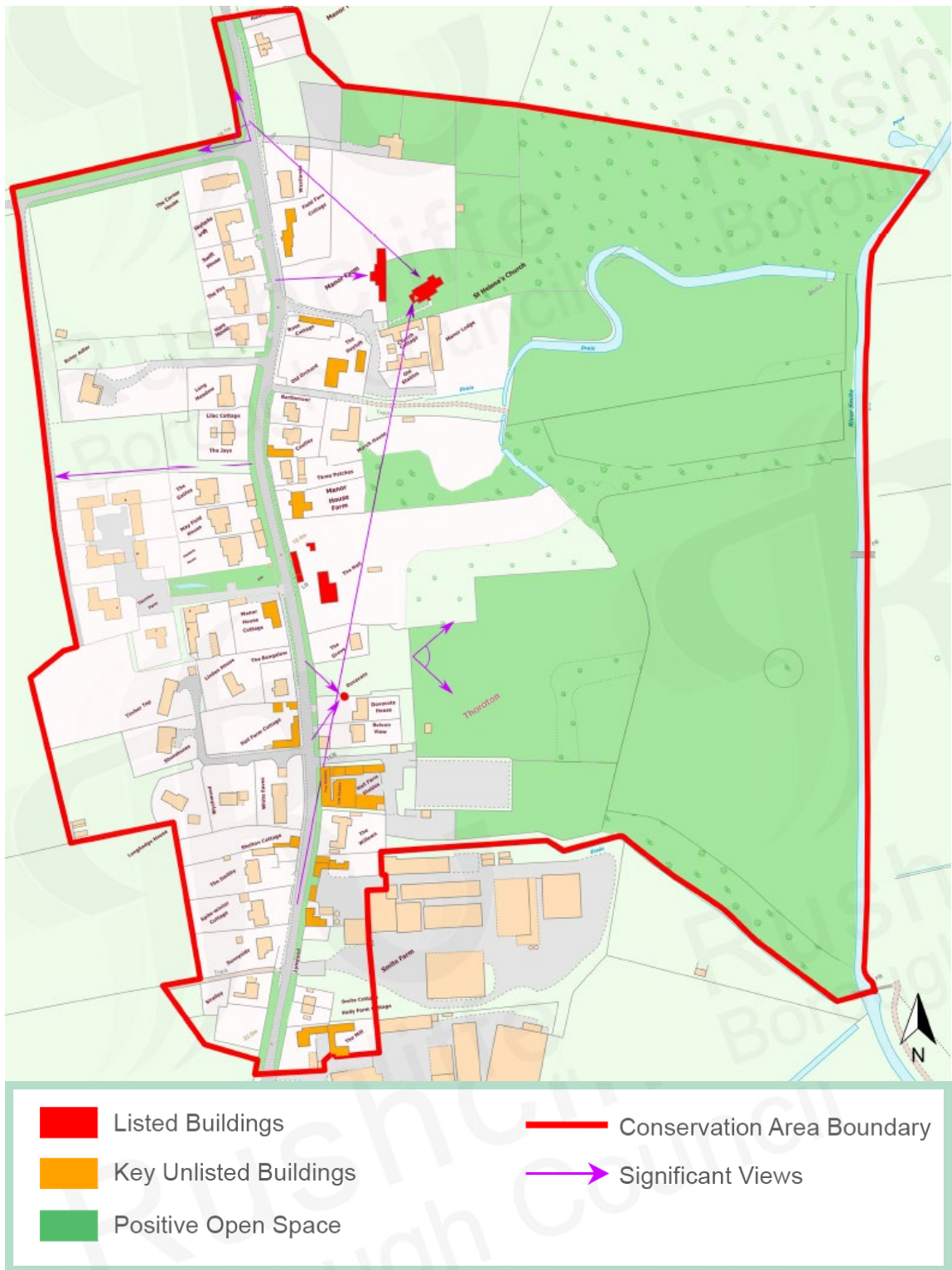


Plate 4: Extract of Thoroton Townscape Appraisal.

7. Grade II Hawksworth Manor and adjoining Pigeoncote

- 7.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 7 of my Heritage Proof of Evidence for the Inquiry.

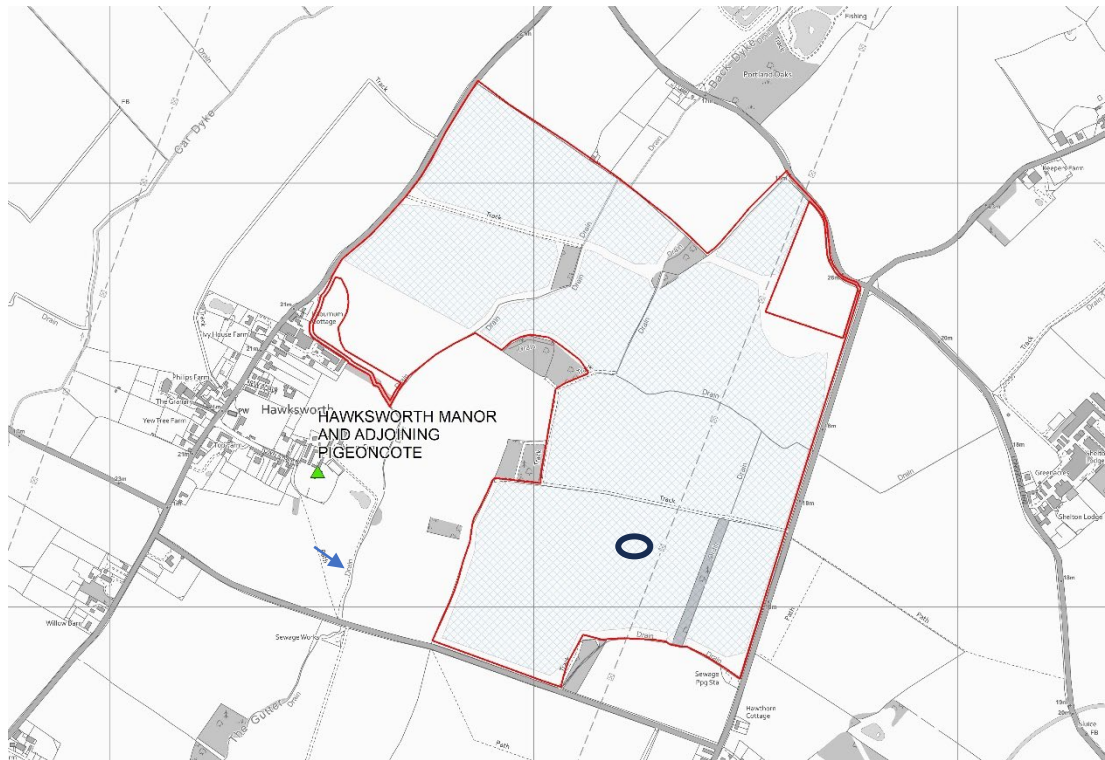


Plate 5: Location of GII Hawksworth Manor and Adjoining Pigeoncote and very approximate location of substation and grid connection infrastructure. Location of view within Plate 6 below marked with blue arrow



Plate 6 View looking east from PRow which leads northwest from the road linking Thoroton and Hawksworth. Red arrow indicates location of existing pylon adjacent to Options 1 and 2 – note Option 2 is not considered to be visible from this location

Option 1

- 7.2. Option 1 is likely to be visible from the upper floors of Hawksworth Manor however it is considered that it may not be visible from the immediate surrounding grounds of the asset given the existing vegetation and topography, with the gently sloping land rising to the east then dropping down at the Site boundary. It is from these immediate grounds that the significance of the asset can be best experienced.
- 7.3. As set out in my Proof, the land in which Option 1 is situated is located in a different parish to Hawksworth and there are no designed views or eyecatchers looking out eastwards from the asset. Option 1 would be seen in the context of the existing pylon and overhead lines. Whilst the views from the upper floors of Hawksworth Manor may experience a slight change resulting in the addition of a new tower, this is change which will not be of such a level that it causes harm to the significance of the asset.
- 7.4. The ability to appreciate the elements which contribute to the significance of the asset, its architectural and historic interest, will not experience any change from Option 1. The



immediate surroundings and the immediate surrounding agricultural land will not experience any change from Option 1.

- 7.5. It is considered therefore that Option 1 would not cause any harm to the significance of the asset.
- 7.6. The conclusions of my Proof that this asset will not experience any harm to significance arising from the Appeal Scheme will remain unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 1 grid connection option.

Option 2

- 7.7. It is not considered that Option 2 would be visible from this asset, even from the upper floors given the relatively low height, coupled with the topography and existing vegetation. It would be situated in an area of the Site which does not have a known historic or functional connection with the asset and is located within a different parish.
- 7.8. As such, it is not considered that Option 2 would cause any harm to the significance of the asset.
- 7.9. The conclusions of my Proof that this asset will not experience any harm to significance arising from the Appeal Scheme will remain unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 2 grid connection option.

8. Grade II* Listed Church of St Mary and All Saints, Hawksworth

- 8.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 8 of my Heritage Proof of Evidence for the Inquiry.

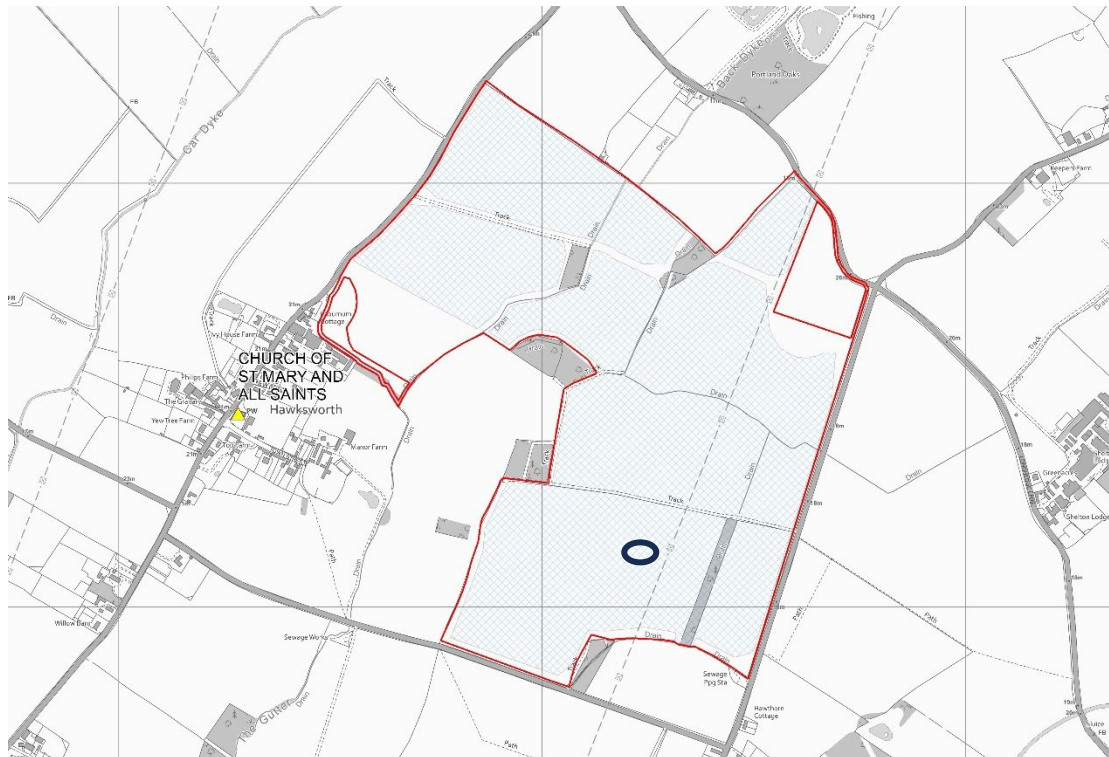


Plate 7: Location of GII Church of St. Mary and All Saints and very approximate location of substation and grid connection infrastructure*

Option 1

- 8.2. Option 1 will not be visible in views from this asset and it is not considered that Option 1 would be co-visible in any views of the church tower which may be available during the winter months from the PRow which runs west-east in the northwestern portion of the Site. Whilst there may be glimpsed views of Option 1 whilst moving along this path, these will not be in views which include, when available, the church tower.
- 8.3. In addition, as set out in my Proof, this PRow is a modern creation, created in the later 20th century along a former field boundary. This pathway does not directly lead to Hawksworth, nor is it focussed on the church as a destination or focal point.
- 8.4. The Option is located in land within the Thoroton parish and there is no known historic or functional association with this asset and the land where the Option will be located.



- 8.5. There would be no harm to the significance of the Grade II* listed St. Marys and All Saints Church in Hawksworth arising from Option 1.
- 8.6. The conclusions of my Proof that this asset will not experience any harm to significance arising from the Appeal Scheme will remain unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 1 grid connection option.

Option 2

- 8.7. Option 2 will not be visible from this asset, nor will it be co-visible in any views towards this asset. The Option is located in land within the Thoroton parish and there is no known historic or functional association with this asset and the land where the Option will be located.
- 8.8. There would be no harm to the significance of the Grade II* listed St. Marys and All Saints Church in Hawksworth arising from Option 2.
- 8.9. The conclusions of my Proof that this asset will not experience any harm to significance arising from the Appeal Scheme will remain unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 2 grid connection option.

9. Grade II Listed Model Farm Buildings at Top Farm, Hawksworth

- 9.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 9 of my Heritage Proof of Evidence for the Inquiry.

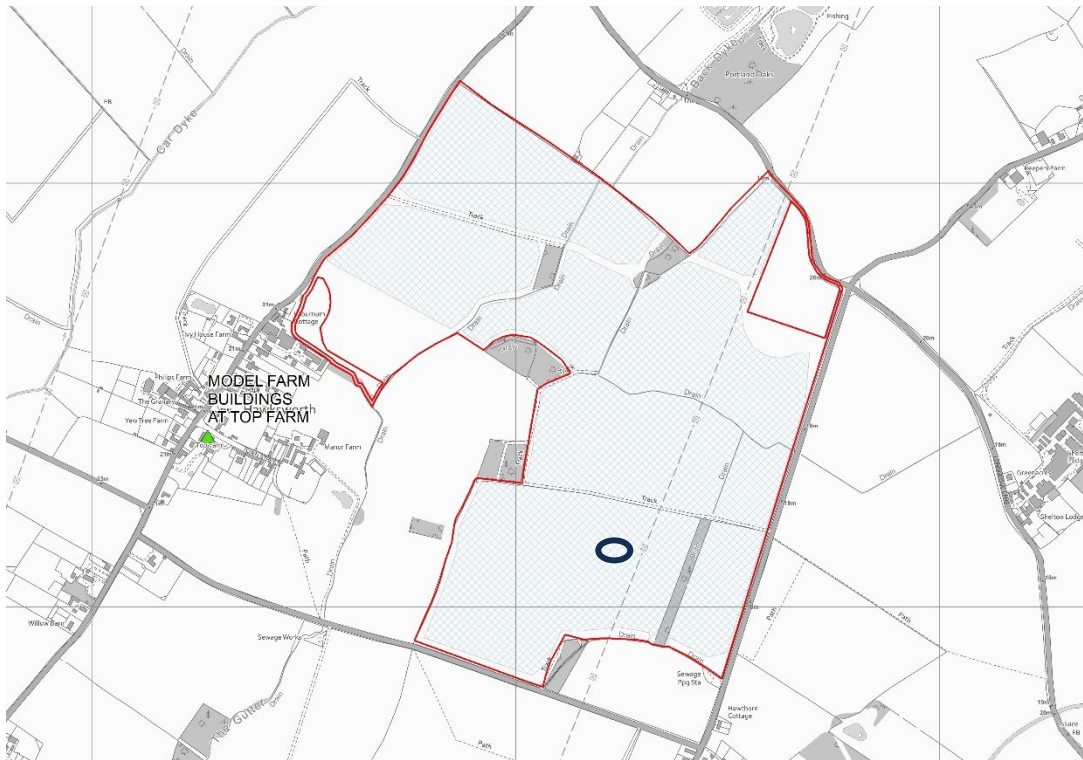


Plate 8 Location of GII Model Farm Buildings and Top Farm and very approximate location of substation and grid connection infrastructure

Option 1 & 2

- 9.2. The options have been considered together for this asset as there will be no visibility of either option either from the asset or in any views of the asset which contribute to significance. The land within which both options are located is within the Thoroton parish and has no known historic or functional association with the asset.
- 9.3. No harm to the significance of this asset would arise from Options 1 or 2. The conclusions of my Proof that this asset will not experience any harm to significance arising from the Appeal Scheme will remain unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with either of the grid connection options.

10. Hawksworth Conservation Area

- 10.1. The full description of this asset, including the significance of the asset and the contribution made by setting and to what extent, if any, the Site contributes to the significance of the asset, are set out at Chapter 10 of my Heritage Proof of Evidence for the Inquiry.

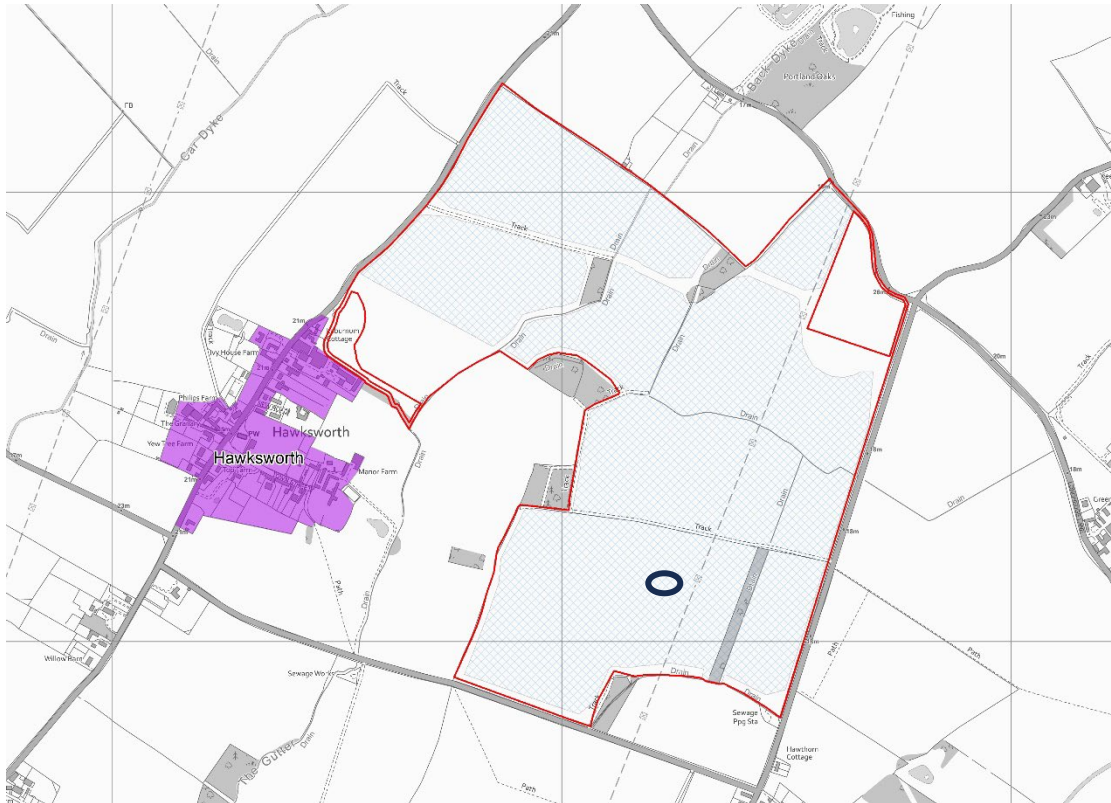


Plate 9 Location of Hawksworth Conservation Area and very approximate location of substation and grid connection infrastructure

Option 1

- 10.2. It is possible that Option 1 may be visible within a key view identified within the Hawksworth Conservation Area Appraisal (see plate 10 below), the view southeast from the outside of the Conservation Area at the southern boundary along the footpath leading southeast to the road between Thoroton and Hawksworth. However, the arc of the view indicates that it may not include Option 1 and is focussed more southwards. The purpose of this view in terms of illustrating the architectural and historic interest of the Conservation Area is not set out in the Appraisal document, however even if Option 1 were to be visible in this view, it would be seen in the context of an existing pylon. It is not considered that the addition of one similar (but lower) tower in a view which already contains a number of pylons and overhead lines would cause a change which would begin to result in a level of harm. The majority of the view of the agricultural land surrounding Hawksworth Manor and this part of the Conservation Area would not experience any change from the Option.
- 10.3. There will not be any visibility of Option 1 from the key view identified in the northern portion of the Conservation Area, the view taken from private land looking eastwards. The

existing pylon near to Option 1 is well-screened by vegetation and it is the case that Option 1 will be similarly well-screened and not visible.

- 10.4. Ultimately, as explained in my proof of evidence, the most important views are the dynamic views and street scenes along Main Road and Town Street which contain the highest concentration of historic built form would not experience any change from Option 1.
- 10.5. The land within which Option 1 is stated is located within the Thoroton parish and there is no known historic or functional association with the Conservation Area.
- 10.6. The intrinsic character and appearance of the Conservation Area would not experience any change as a result of Option 1 and nor will there be any changes to key views to, from or within the Conservation Area which contribute to significance.
- 10.7. I conclude therefore that there would be no harm to the significance of the Hawksworth Conservation Area arising from Option 1.
- 10.8. The level of harm reported in my Proof of Evidence (less than substantial and the low end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 1 grid connection option.

Option 2

- 10.9. Option 2 would not be visible from within the Conservation Area or towards the historic core, nor will it be visible in any key views identified within the Conservation Area Appraisal. The land within which Option 2 is situated is located within is within the Thoroton Parish and there is no known historic or functional association with this land and the Hawksworth Conservation Area.
- 10.10. The intrinsic character and appearance of the Conservation Area will remain unchanged and the most important views within the Conservation Area boundary would not experience any change.
- 10.11. I conclude therefore that there would be no harm to the significance of the Hawksworth Conservation Area arising from Option 2.
- 10.12. The level of harm reported in my Proof of Evidence (less than substantial and the low end of the scale) remains unchanged if I were considering this as a cumulative assessment – with the Appeal Scheme together with the Option 2 grid connection option.

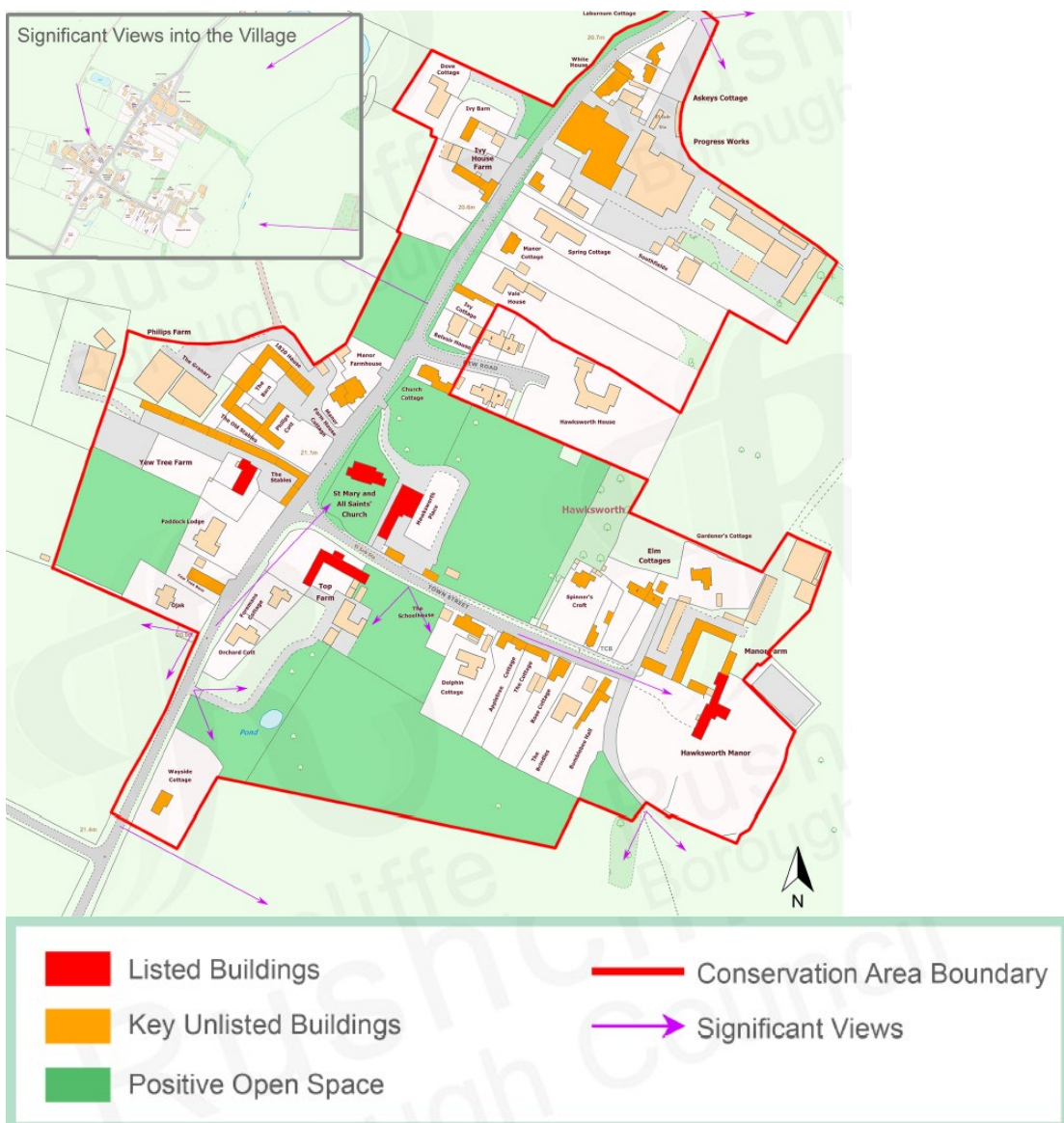


Plate 10: Extract of Hawksworth Townscape Appraisal.



11. Conclusions

- 11.1. This Heritage Assessment has assessed the two DNO options for grid connection infrastructure in relation to the heritage assets discussed at the Inquiry. The assessment has been carried out to establish if the grid connection options – the lattice tower or the wooden poles would cause any harm to the identified heritage assets.
- 11.2. The assessment has also considered the two options cumulatively, along with the Appeal Scheme to set out that if any harm were to be assessed arising from either of the grid connection options
- 11.3. My assessment has concluded that there would be no harm arising to the significance of any of the identified heritage assets from either of the two grid connection options. As a result of this, the levels of harm, where identified, to heritage assets within my Proof of Evidence to the significance through changes to aspects of setting which contribute, will remain as set out and tested under cross examination at the recent Inquiry.



Appendix 1: Legislation and Planning Policy

Legislation

Legislation relating to the built historic environment is primarily set out within the *Planning (Listed Buildings and Conservation Areas) Act 1990*, which provides statutory protection for Listed Buildings and Conservation Areas.¹

Section 16 (2) of the Act relates to the consideration of applications for Listed Building Consent and states that:

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

Section 66(1) of the Act goes on to state that:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”³

In the 2014 Court of Appeal judgement in relation to the Barnwell Manor case, Sullivan LJ held that:

“Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.”⁴

A judgement in the Court of Appeal (‘Mordue’) has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134 of the 2012 version of the NPPF, the requirements of which are now given in paragraph 208 of the current, revised NPPF), this is in keeping with the requirements of the 1990 Act.⁵

¹ UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990.

² UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16(2).

³ UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66(1).

⁴ Barnwell Manor Wind Energy Ltd v (1) East Northamptonshire DC & Others [2014] EWCA Civ 137. para. 24.

⁵ Jones v Mordue [2015] EWCA Civ 1243.



In addition to the statutory obligations set out within the *Planning (Listed Buildings and Conservations Area) Act 1990*, Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that all planning applications, including those for Listed Building Consent, are determined in accordance with the Development Plan unless material considerations indicate otherwise.⁶

National Planning Policy Framework (December 2023)

National policy and guidance is set out in the Government's *National Planning Policy Framework (NPPF)* published in December 2023. This replaced and updated the previous *NPPF* (September 2023). The *NPPF* needs to be read as a whole and is intended to promote the concept of delivering sustainable development.

The *NPPF* sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The *NPPF* continues to recognise that the planning system is plan-led and that therefore Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application, including those which relate to the historic environment.

The overarching policy change applicable to the proposed development is the presumption in favour of sustainable development. This presumption in favour of sustainable development (the 'presumption') sets out the tone of the Government's overall stance and operates with and through the other policies of the *NPPF*. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers. Conserving historic assets in a manner appropriate to their significance forms part of this drive towards sustainable development.

The purpose of the planning system is to contribute to the achievement of sustainable development and the *NPPF* sets out three 'objectives' to facilitate sustainable development: an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these objectives, by creating a positive pro-development framework which is underpinned by the wider economic, environmental and social provisions of the *NPPF*. The presumption is set out in full at paragraph 11 of the *NPPF* and reads as follows:

"Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

- a. all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;***

⁶ UK Public General Acts, Planning and Compulsory Purchase Act 2004, Section 38(6).



- b. strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:**
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or**
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.**

For decision-taking this means:

- a. approving development proposals that accord with an up-to-date development plan without delay; or**
- b. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:**
 - i. the application policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or**
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”⁷**

However, it is important to note that footnote 7 of the NPPF applies in relation to the final bullet of paragraph 11. This provides a context for paragraph 11 and reads as follows:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.”⁸ (My emphasis).

The NPPF continues to recognise that the planning system is plan-led and that therefore, Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application.

⁷ DLUHC, NPPF, para. 11.

⁸ DLUHC, NPPF, para. 11, fn. 7.



Heritage Assets are defined in the NPPF as:

“A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).”⁹

The NPPF goes on to define a Designated Heritage Asset as a:

“World Heritage site , Scheduled Monument, Listed Building, Protected Wreck site , Registered Park and Garden, Registered Battlefield or Conservation Area designated under relevant legislation.”¹⁰

As set out above, significance is also defined as:

“The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage site s, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.”¹¹

Section 16 of the NPPF relates to ‘Conserving and enhancing the historic environment’ and states at paragraph 201 that:

“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”¹²

Paragraph 203 goes on to state that:

“In determining planning applications, local planning authorities should take account of:

- a. the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;***

⁹ DLUHC, NPPF, Annex 2.

¹⁰ DLUHC, NPPF, Annex 2.

¹¹ DLUHC, NPPF, Annex 2.

¹² DLUHC, NPPF, para. 201.



- b. the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and**
- c. the desirability of new development making a positive contribution to local character and distinctiveness.”¹³**

With regard to the impact of proposals on the significance of a heritage asset, paragraphs 205 and 206 are relevant and read as follows:

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”¹⁴

“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a. grade II listed buildings, or grade II registered parks or gardens, should be exceptional;**
- b. assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage sites, should be wholly exceptional.”¹⁵**

In the context of the above, it should be noted that paragraph 207 reads as follows:

“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a. the nature of the heritage asset prevents all reasonable uses of the site; and**
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and**
- c. conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and**

¹³ DLUHC, *NPPF*, para. 203.

¹⁴ DLUHC, *NPPF*, para. 205.

¹⁵ DLUHC, *NPPF*, para. 206.



d. the harm or loss is outweighed by the benefit of bringing the site back into use.”¹⁶

Paragraph 208 goes on to state:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”¹⁷

Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Planning Authorities should approach development management decisions positively, looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. Additionally, securing the optimum viable use of sites and achieving public benefits are also key material considerations for application proposals.

National Planning Practice Guidance

The then Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities (DLUHC)) launched the planning practice guidance web-based resource in March 2014, accompanied by a ministerial statement which confirmed that a number of previous planning practice guidance documents were cancelled.

This also introduced the national Planning Practice Guidance (PPG) which comprised a full and consolidated review of planning practice guidance documents to be read alongside the NPPF.

The PPG has a discrete section on the subject of the Historic Environment, which confirms that the consideration of ‘significance’ in decision taking is important and states:

“Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals.”¹⁸

In terms of assessment of substantial harm, the PPG confirms that whether a proposal causes substantial harm will be a judgement for the individual decision taker having regard to the individual circumstances and the policy set out within the NPPF. It goes on to state:

“In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the

¹⁶ DLUHC, NPPF, para. 207.

¹⁷ DLUHC, NPPF, para. 208.

¹⁸ DLUHC, PPG, paragraph 007, reference ID: 18a-007-20190723.



asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.¹⁹ (My emphasis).

National Design Guide

Section C2 relates to valuing heritage, local history and culture and states:

"When determining how a site may be developed, it is important to understand the history of how the place has evolved. The local sense of place and identity are shaped by local history, culture and heritage, and how these have influenced the built environment and wider landscape."²⁰

"Sensitive re-use or adaptation adds to the richness and variety of a scheme and to its diversity of activities and users. It helps to integrate heritage into proposals in an environmentally sustainable way."²¹

It goes on to state that:

"Well-designed places and buildings are influenced positively by:

- ***the history and heritage of the site, its surroundings and the wider area, including cultural influences;***
- ***the significance and setting of heritage assets and any other specific features that merit conserving and enhancing;***
- ***the local vernacular, including historical building typologies such as the terrace, town house, mews, villa or mansion block, the treatment of façades, characteristic materials and details – see Identity.***

¹⁹ DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723.

²⁰ DLUHC, NDG, para. 46.

²¹ DLUHC, NDG, para. 47.



Today's new developments extend the history of the context. The best of them will become valued as tomorrow's heritage, representing the architecture and placemaking of the early 21st century.²² (My emphasis).

Local Planning Policy

The Rushcliffe Local Plan is in two parts. Part 1 was adopted December 2014 part 2 in October 2019. Policies relevant to this Appeal and referenced within the RfR are:

LPP1 Policy 11: Historic Environment

"1. Proposals and initiatives will be supported where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance. Planning decisions will have regard to the contribution heritage assets can make to the delivery of wider social, cultural, economic and environmental objectives.

2. The elements of Rushcliffe's historic environment which contribute towards the unique identity of areas and help create a sense of place will be conserved and, where possible, enhanced with further detail set out in later Local Development Documents. Elements of particular importance include:

a) industrial and commercial heritage such as the textile heritage and the Grantham Canal;

b) Registered Parks and Gardens including the grounds of Flintham Hall, Holme Pierrepont Hall, Kingston Hall and Stanford Hall; and

c) prominent listed buildings.

3. A variety of approaches will be used to assist in the protection and enjoyment of the historic environment including:

a) the use of appraisals and management plans of existing and potential Conservation Areas;

b) considering the use of Article 4 directions;

c) working with partners, owners and developers to identify ways to manage and make better use of historic assets;

d) considering improvements to the public realm and the setting of heritage assets within it;

²² DLUHC, NDG, paras. 48-49.



e) ensuring that information about the significance of the historic environment is publicly available. Where there is to be a loss in whole or in part to the significance of an identified historic asset then evidence should first be recorded in order to fully understand its importance; and

f) considering the need for the preparation of local evidence or plans.

4. Particular attention will be given to heritage assets at risk of harm or loss of significance, or where a number of heritage assets have significance as a group or give context to a wider area."

LPP2 Policy 16: Renewable Energy

"1. Proposals for renewable energy schemes will be granted planning permission where they are acceptable in terms of:

a) compliance with Green Belt policy:

b) landscape and visual effects;

c) ecology and biodiversity;

d) best and most versatile agricultural land;

e) the historic environment;

f) open space and other recreational uses;

g) amenity of nearby properties;

h) grid connection;

i) form and siting;

j) mitigation;

k) the decommissioning and reinstatement of land at the end of the operational life of the development;

l) cumulative impact with existing and proposed development;

m) emissions to ground, water courses and/or air;

n) odour;

o) vehicular access and traffic; and

p) proximity of generating plants to the renewable energy source."



LPP2 Policy 28: Conserving and Enhancing Heritage Assets

“1. Proposals that affect heritage assets will be required to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development in order that a decision can be made as to whether the merits of the proposals for the site bring public benefits which decisively outweigh any harm arising from the proposals.

2. Proposals affecting a heritage asset and/or its setting will be considered against the following criteria:

a) the significance of the asset;

b) whether the proposals would be sympathetic to the character and appearance of the asset and any feature of special historic, architectural, artistic or archaeological interest that it possesses;

c) whether the proposals would conserve or enhance the character and appearance of the heritage asset by virtue of siting, scale, building form, massing, height, materials and quality of detail;

d) whether the proposals would respect the asset’s relationship with the historic street pattern, topography, urban spaces, landscape, views and landmarks;

e) whether the proposals would contribute to the long-term maintenance and management of the asset; and

f) whether the proposed use is compatible with the asset.”



Appendix 2: Methodology

Assessment of significance

In the *NPPF*, heritage significance is defined as:

“The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage site s, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.”²³

Historic England's *GPA:2* gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset.²⁴

In order to do this, *GPA 2* also advocates considering the four types of heritage value an asset may hold, as identified in English Heritage's *Conservation Principles*.²⁵ These essentially cover the heritage 'interests' given in the glossaries of the *NPPF* and the *PPG* which are archaeological, architectural and artistic, and historic.²⁶

The *PPG* provides further information on the interests it identifies:

Archaeological interest: *As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.*

Architectural and artistic interest: These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skills, like sculpture.

Historic interest: An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.²⁷

²³ DLUHC, *NPPF*, Annex 2.

²⁴ Historic England, *GPA:2*.

²⁵ Historic England, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008). These heritage values are identified as being 'aesthetic', 'communal', 'historical' and 'evidential', see *idem* pp. 28–32.

²⁶ DLUHC, *NPPF*, Annex 2; DLUHC, *PPG*, paragraph 006, reference ID: 18a-006-20190723.

²⁷ DLUHC, *PPG*, paragraph 006, reference ID: 18a-006-20190723.



Significance results from a combination of any, some, or all of the interests described above.

Historic England guidance on assessing heritage significance, *HEAN:12*, advises using the terminology of the *NPPF* and *PPG*, and thus it is that terminology which is used in this Report.²⁸

Listed Buildings are generally designated for their special architectural and historic interest.

Levels of significance

Descriptions of significance will naturally anticipate the ways in which impacts will be considered. Hence descriptions of the significance of Listed Buildings will be discussed with reference to the building, its setting, and any features of special architectural or historic interest which it possesses.

In accordance with the levels of significance articulated in the *NPPF* and the *PPG*, three levels of significance are identified:

Designated heritage assets of the highest significance, as identified in paragraph 206 of the *NPPF*, comprising Grade I and II* Listed Buildings, Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, World Heritage Sites and Registered Battlefields (and also including some Conservation Areas) and non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments, as identified in footnote 72 of the *NPPF*;²⁹

Designated heritage assets of less than the highest significance, as identified in paragraph 206 of the *NPPF*, comprising Grade II Listed Buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas);³⁰ and

Non-designated heritage assets. Non-designated heritage assets are defined within the *PPG* as “*buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets*”.³¹

Additionally, it is of course possible that sites, buildings or areas have no heritage significance.

Grading significance

There is no definitive grading system for assessing or categorising significance outside of the categories of designated heritage assets and non-designated heritage assets, specifically with regard to the relative significance of different parts of an asset.

²⁸ Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets*, *Historic England Advice Note 12* (Swindon, October 2019).

²⁹ DLUHC, *NPPF*, para. 206 and fn. 72.

³⁰ DLUHC, *NPPF*, para. 206.

³¹ DLUHC, *PPG*, paragraph 039, reference ID: 18a-039-20190723.



ICOMOS guidance recognises that a degree of professional judgement is required when defining significance:

“...the value of heritage attributes is assessed in relation to statutory designations, international or national, and priorities or recommendations set out in national research agendas, and ascribed values. Professional judgement is then used to determine the importance of the resource. Whilst this method should be used as objectively as possible, qualitative assessment using professional judgement is inevitably involved.”³²

This assessment of significance adopts the following grading system:

Highest significance: Parts or elements of a heritage asset, or its setting, that are of particular interest and are fundamental components of its archaeological, architectural, aesthetic or historic interest, and form a significant part of the reason for designation or its identification as a heritage asset. These are the areas or elements of the asset that are most likely to warrant retention, preservation or restoration.

Moderate significance: Parts or elements of the heritage asset, or its setting, that are of some interest but make only a modest contribution to the archaeological, architectural, aesthetic or historic interest of the heritage asset. These are likely to be areas or elements of the asset that might warrant retention but are capable of greater adaptation and alteration due to their lesser relative significance.

Low or no significance: Parts or elements of the heritage asset, or its setting, that make an insignificant, or relatively insignificant contribution to the archaeological, architectural, aesthetic or historic interest of the heritage asset. These are likely to be areas or elements of the asset that can be removed, replaced or altered due to their minimal or lack of significance and are areas and elements that have potential for restoration or enhancement through new work.

Setting and significance

As defined in the NPPF:

“Significance derives not only from a heritage asset’s physical presence, but also from its setting.”³³

Setting is defined as:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to

³² International Council on Monuments and Sites (ICOMOS), *Guidance on Heritage Impact Assessment for Cultural World Heritage Properties* (Paris, January 2011), paras. 4-10.

³³ DLUHC, *NPPF*, Annex 2.



the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”³⁴

Therefore, setting can contribute to, affect an appreciation of significance, or be neutral with regards to heritage values.

Assessing change through alteration to setting

How setting might contribute to these values has been assessed within this Report with reference to *GPA:3*, particularly the checklist given on page 11. This advocates the clear articulation of “*what matters and why*”.³⁵

In *GPA:3*, a stepped approach is recommended, of which Step 1 is to identify which heritage assets and their settings are affected. Step 2 is to assess whether, how and to what degree settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated. The guidance includes a (non-exhaustive) checklist of elements of the physical surroundings of an asset that might be considered when undertaking the assessment including, among other things: topography, other heritage assets, green space, functional relationships and degree of change over time. It also lists aspects associated with the experience of the asset which might be considered, including: views, intentional intervisibility, tranquillity, sense of enclosure, accessibility, rarity and land use.

Step 3 is to assess the effect of the proposed development on the significance of the asset(s). Step 4 is to explore ways to maximise enhancement and minimise harm. Step 5 is to make and document the decision and monitor outcomes.

A Court of Appeal judgement has confirmed that whilst issues of visibility are important when assessing setting, visibility does not necessarily confer a contribution to significance and factors other than visibility should also be considered, with Lindblom LJ stating at paragraphs 25 and 26 of the judgement (referring to an earlier Court of Appeal judgement):

Paragraph 25 – “But – again in the particular context of visual effects – I said that if “a proposed development is to affect the setting of a listed building there must be a distinct visual relationship of some kind between the two – a visual relationship which is more than remote or ephemeral, and which in some way bears on one’s experience of the listed building in its surrounding landscape or townscape” (paragraph 56)”.

Paragraph 26 – “This does not mean, however, that factors other than the visual and physical must be ignored when a decision-maker is considering the extent of a listed building’s setting. Generally, of course, the decision-maker will be concentrating on visual and physical considerations, as in Williams (see also, for example, the first instance judgment in R. (on the application of Miller) v North Yorkshire County Council [2009] EWHC 2172 (Admin), at paragraph 89). But it is clear from the relevant national policy and guidance to which I have referred, in

³⁴ DLUHC, *NPPF*, Annex 2.

³⁵ Historic England, *GPA:3*, pp. 8, 11.



particular the guidance in paragraph 18a-013-20140306 of the PPG, that the Government recognizes the potential relevance of other considerations – economic, social and historical. These other considerations may include, for example, “the historic relationship between places”. Historic England’s advice in GPA3 was broadly to the same effect.”³⁶

Assessment of harm

Assessment of any harm will be based on a consideration of each element of the proposals and articulated in terms of the relevant policy and law. For Listed Buildings, this means assessing whether the proposals preserve the building, its setting and any features of special architectural or historic interest, and articulating the scale of any harm in order to inform a balanced judgement/weighting exercise as required by the NPPF.

In accordance with key policy, the following levels of harm may potentially be identified for designated heritage assets:

Substantial harm or total loss. It has been clarified in a High Court Judgement of 2013 that this would be harm that would “*have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced*”;³⁷ and

Less than substantial harm. Harm of a lesser level than that defined above.

With regards to these two categories, the PPG states:

“Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.”³⁸

Hence, for example, harm that is less than substantial would be further described with reference to where it lies on that spectrum or scale of harm, for example low end, middle, and upper end of the less than substantial harm spectrum/scale.

It is also possible that proposals will cause no harm or preserve the significance of heritage assets. Here, a High Court Judgement of 2014 is relevant. This concluded that with regard to preserving the setting of a Listed Building, “*preserving*” means doing “*no harm*”.³⁹

Preservation does not mean no change, it specifically means no harm. GPA:2 states that “*Change to heritage assets is inevitable but it is only harmful when significance is damaged*”.⁴⁰ Thus, change is

³⁶ Catesby Estates Ltd. V. Steer [2018] EWCA Civ 1697, paras. 25 and 26.

³⁷ Bedford Borough Council v Secretary of State for Communities and Local Government [2013] EWHC 2847 (Admin), para. 25.

³⁸ DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723.

³⁹ R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin).

⁴⁰ Historic England, GPA:2, p. 9.



accepted in Historic England's guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

As part of this, setting may be a key consideration. When evaluating any harm to significance through changes to setting, this Report follows the methodology given in *GPA:3*, described above. Fundamental to this methodology is a consideration of "what matters and why".⁴¹ Of particular relevance is the checklist given on page 13 of *GPA:3*.⁴²

It should be noted that this key document also states:

"Setting is not itself a heritage asset, nor a heritage designation..."⁴³

Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage interests that contribute to this significance, through changes to setting.

With regards to changes in setting, *GPA:3* states that:

"Conserving or enhancing heritage assets by taking their settings into account need not prevent change".⁴⁴

Additionally, whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require Planning Permission to be refused. This point has been clarified in the Court of Appeal.⁴⁵

Benefits

Proposals may also result in benefits to heritage assets, and these are articulated in terms of how they enhance the heritage interests, and hence the significance, of the assets concerned.

The *NPPF* (at Paragraphs 207 and 208) requires harm to a designated heritage asset to be weighed against the public benefits of the proposals.⁴⁶

Recent High Court Decisions have confirmed that enhancement to the historic environment should be considered as a public benefit under the provisions of Paragraphs 207 to 209.⁴⁷

The *PPG* provides further clarity on what is meant by the term 'public benefit', including how these may be derived from enhancement to the historic environment ('heritage benefits'), as follows:

⁴¹ Historic England, *GPA:3*, p. 8.

⁴² Historic England, *GPA:3*, p. 13.

⁴³ Historic England, *GPA:3*, p. 4.

⁴⁴ Historic England, *GPA 3*, p. 8.

⁴⁵ *Palmer v Herefordshire Council & Anor* [2016] EWCA Civ 1061.

⁴⁶ DLUHC, *NPPF*, paras. 207 and 208.

⁴⁷ *Including – Kay, R (on the application of) v Secretary of State for Housing Communities and Local Government & Anor* [2020] EWHC 2292 (Admin); DLUHC, *NPPF*, paras. 207 and 209.



“Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.

Examples of heritage benefits may include:

- ***sustaining or enhancing the significance of a heritage asset and the contribution of its setting***
- ***reducing or removing risks to a heritage asset***
- ***securing the optimum viable use of a heritage asset in support of its long term conservation.”⁴⁸***

Any "heritage benefits" arising from the proposals, in line with the narrative above, will be clearly articulated in order for them to be taken into account by the decision maker.

⁴⁸ DLUHC, PPG, paragraph 020, reference ID: 18a-020-20190723.



Appendix 3: Qualifications and Professional Experience of Ms. Gail Stoten

- 11.1. My name is Gail Stoten. I am a Heritage Executive Director at Pegasus Planning Group, where I lead the Heritage Team, which comprises 19 specialist consultants.
- 11.2. I have been a heritage professional for over 24 years, including 14 years working for Cotswold Archaeology and nine years at Pegasus Group.
- 11.3. I am a Member of the Chartered Institute for Archaeologists (MCIfA). I have been elected a Fellow of the Society of Antiquaries of London. I have a First Class Honours degree in Archaeology.
- 11.4. I am a Trustee of Painswick Rococo Gardens, and have been a member of the board of the charity for seven years.
- 11.5. I have acted as a heritage consultant on numerous large-scale developments in England, Wales and Northern Ireland, on behalf of developers, local planning authorities, and third parties.
- 11.6. I provide expert advice to clients on heritage assessment and also manage survey work (including built heritage assessments and archaeological works) carried out by our company and sub-contractors.
- 11.7. My role necessitates close liaison with heritage stakeholders such as Historic England, Local Authority heritage officers, and Amenity Group Representatives.
- 11.8. The assessment of the setting of heritage assets is an area in which I have significant expertise, and I have over twenty years' experience in completing setting assessments. I have made assessments of the setting of a wide variety of heritage assets, including Listed Buildings, Conservation Areas, Registered Parks and Gardens, Scheduled Monuments, Battlefields and World Heritage Sites. I have assessed the impact of many different types of development including residential, commercial and energy developments, including tall structures.
- 11.9. Projects I have been professionally instructed on relating to the setting of heritage assets, have included:
 - Land at 'Perrybrook' to the north of Brockworth and south of the A417, Brockworth, Gloucestershire. Secretary of State decision (concurring with Inspector's recommendation) allowing the construction of up to 1500 dwellings in the wider vicinity of Listed Buildings;
 - Land west of Knights Hill Village, Grimston Road, South Wotton, Norfolk. Secretary of State decision (concurring with Inspector's recommendation) allowing the construction of up to 600 dwellings and associated works in the wider vicinity of Castle Rising Castle Listed building, Scheduled Monument and Conservation Area;
 - Land south of Gallows Hill/West of Europa Way, Heathcote, Warwick. Secretary of State Decision (concurring with Inspector's recommendation) allowing the construction of



up to 450 residences, in the wider vicinity of Listed buildings, Scheduled Monument the Conservation Area and Registered Park and Garden associated with Warwick Castle and the town of Warwick;

- Land at Bocking Church Street, Braintree, Essex, where up to 265 residences and associated works were consented close to a Grade II Listed farmhouse;
- Land at Pope's Lane, Sturry, Kent, Inspector's Decision, not allowing the residential development of the site for 140 dwellings on transport grounds, but concurring with my assessment of less than substantial harm at the lower end of the spectrum for an adjacent Listed farmhouse complex.
- Land at Langford Devon, Inspector's decision, consenting a solar farm in the surrounds of a Grade II* Listed building.
- Land at Copse Lodge, Northamptonshire, consenting a solar farm in the surrounds of a Conservation Area and Listed buildings.
- Land at Tenterden, Kent, Inspector's Decision, consenting residential development in proximity to a Conservation Area and Listed buildings.
- Squire's Hill, Belfast, Commissioner's Decision, consenting a wind turbine in proximity to a Scheduled Monument.

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