



**Land off Bullens
Green Lane,
Colney Heath**

Proof of Evidence of:

Andrew Crutchley

BA (Hons), PG Dip
(Oxon), MCIfA

In respect of:

Heritage Matters

On behalf of:

Canton Ltd

PINS REFs:

APP/B1930/W/20/3265925

APP/C1950/W/20/3265926

LPA REFs:

5/2020/1992/LSM

6/2020/2248/OUTLINE

Volume I:

MAIN TEXT

March 2021

Report Ref:

edp6550_r002b

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	Report Ref: edp6550_r002			
	Author	Formatted	Peer Review	Proofed by/Date
r002_1 st DRAFT	AC	FD	ES	-
r002a_2 nd DRAFT	AC	FJ	-	-
r002b	AC		-	JM 290321

Section 1

Preamble

- 1.1 This Proof of Evidence on heritage matters has been prepared by Andrew Crutchley, a Director at The Environmental Dimension Partnership Ltd (EDP) with more than 23 years of continuous experience in practice as a heritage professional.
- 1.2 My qualifications comprise a BA (Hons) Degree in History from the University of East Anglia and a Postgraduate Diploma in Field Archaeology from Oxford University Department of Continuing Education (OUDCE).
- 1.3 I am a full Member of the Chartered Institute for Archaeologists (MCIfA) and Responsible Post Holder (RPH) for the Archaeology and Heritage Team at EDP, comprising teams of specialist consultants in all three offices and which, as a whole, comprises a Registered Archaeological Organisation (RAO).
- 1.4 My portfolio of project involvements includes the assessment, evaluation and recording of archaeological sites, monuments and remains, as well as the investigation and assessment of both standing buildings and structures and historic/designed landscapes and areas across England, Wales and Scotland.
- 1.5 My undergraduate studies at the University of East Anglia included an emphasis on the understanding and investigation of historic areas, landscapes and buildings within the School of Landscape Studies under Tom Williamson and Roberta Gilchrist.
- 1.6 As an experienced cultural heritage professional, I have prepared numerous baseline assessments, and also provided expert witness evidence, to inform and support the determination of planning applications involving designated and non-designated heritage assets, in S78 public inquiries, informal hearings and through the exchange of written reps.
- 1.7 With specific reference to the current appeal, I have previously provided expert witness evidence in respect of the potential impacts to listed buildings, both through direct and indirect effects – i.e. changes within their setting.

1.8 In that regard, my portfolio of expert witness involvements of relevance to this case includes the following listed buildings:

- Warwick Castle Grade I listed building and scheduled monument (Warwickshire);
- Kedleston Hall Grade I listed building (Derbyshire);
- Haughley Park Grade I listed building (Suffolk);
- Church of St Katherine Grade I listed building (Irchester, Northamptonshire);
- Howell's School Grade II* listed building (Cardiff); and
- Morton Grange Grade II* listed building (Thornbury, South Gloucestershire).

Section 2

Appointment and Scope of Evidence

- 2.1 This second section of my Proof of Evidence will detail my involvement with the appeal site and the proposals that form the appeal's focus.
- 2.2 It will then outline the response of the two Councils to the evaluation and determination of the planning application in respect of the proposal's effect on the single heritage asset that would be affected by its implementation.

My Appointment and Involvement in the Project

- 2.3 I was first approached by Talys Nikan of Woods Hardwick Planning Ltd, acting on behalf of the appellant, to prepare an archaeological and heritage assessment to (first) inform the design of the illustrative masterplan and (second) support the submission, validation and determination of the outline planning application in May 2020.
- 2.4 Following the submission of a fee proposal for the provision of inputs to the design process, the completion of the archaeological and heritage assessment and subsequently designing and managing evaluative fieldwork (where needed), I was instructed by Talys Nikan for the appellant in June 2020.
- 2.5 The Archaeology and Heritage Assessment [**CD 1.19**] was prepared, finalised and submitted to Woods Hardwick on 18 August 2020.
- 2.6 As well as dealing with the heritage issues, I have overseen the completion of the desk-top and field-based archaeological investigations at the appeal site.

The Councils' Case

- 2.7 My Proof of Evidence responds to and addresses Reason for Refusal (RfR) 5 of the Decision Notice for Outline Planning Application Ref. 6/2020/2248/OUTLINE, which was submitted

to Welwyn Hatfield Borough Council (WHBC) on 02 September 2020 and where the Council responded with the following in its Decision Notice [**CD 4.01**] dated 02 December 2020:

“The development would cause less than substantial harm to the significance of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm. The proposal would represent a poor standard of design in conflict with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM15 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, the National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.”

- 2.8 Minutes of the St Albans City and District Council (SACDC) Planning Referrals Committee meeting held on 18 January 2021 [**CD 4.02**] identify eight RfRs for the refusal of the outline planning application following its discussion. RfR 5 covers heritage matters and states:

“The development would cause ‘less than substantial’ harm to the significance and setting of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm, contrary to Policy 86 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework 2019”.

- 2.9 A summary of the legislative and planning policy framework that governs the conservation and management of the historic environment, and which is referenced by the two Councils in the Reason for Refusal above, can be found in **Appendix AC 1**.

- 2.10 WHBC received advice (in respect of heritage matters) for the determination of the outline planning application from Place Services in a letter from Maria Kitts, Senior Built Heritage Consultant, dated 16 November 2020 [**CD 3.10**].

- 2.11 Paragraphs 8.16.11 to 8.16.23 (on Pages 44 and 45) of the Case Officer’s Report ahead of the 18 January 2021 meeting of SACDC’s Planning Referrals Committee [**CD 4.02**] present the Conservation Officer’s evaluation of the appeal proposals.

- 2.12 The two local authorities issued a **joint** Statement of Case in February 2021 [**CD 13.03**]. Paragraph 1.3 identifies the eight RfRs cited by WHBC in determining to refuse the outline application and Paragraph 1.4 identifies that *“The putative reasons for refusal of SADC are*

outlined in the Officer Report”, so it is presumed that RfR 5 in Paragraph 1.3 forms the basis of the case on heritage matters insofar as the two respective Councils are concerned.

2.13 The Councils’ case on heritage matters is set out in Paragraphs 5.26 to 5.30 on Page 20, with the following key headlines:

- 68 Roestock Lane Grade II listed building derives its special interest in part from its setting relative to its open countryside setting to the south (i.e. the appeal site);
- The former agricultural workers’ cottages were linked to the fields that the occupants worked and comprise an important element of the setting of the building and are important in understanding the special interest of the building;
- The extent of the “*land*” has diminished over the years and so now the appeal site forms the only coherent link to the building’s original setting;
- The relationship at the rear of the asset is to the agricultural fields comprising the appeal site;
- Views to the south will be curtailed and replaced with a pocket of suburban open land containing the sustainable drainage system (SuDS) water feature that would be surrounded on all sides by residential housing;
- The proposals will enclose views to the south with a residential housing estate and remove any connection between the listed building and any agricultural fields; and
- This situation compares unfavourably with the existing open setting providing a relationship between the asset and its rural setting and agricultural fields that once formed part of a common ownership.

2.14 Notwithstanding the above, Paragraph 5.29 states that *less than substantial harm* would result and that harm would be “*low to moderate*” in respect of that spectrum. Following on, Paragraph 5.29 also concludes that:

“Within the scale of less than substantial harm the Councils will show that the level of harm will be low to moderate and in accordance with paragraph 196 NPPF the Councils conclude that the public benefits of providing more housing outweigh that harm”.

- 2.15 This appears to be a clear agreement from the Councils that the appeal proposals pass the Paragraph 196 balancing exercise in the National Planning Policy Framework (NPPF) [CD 9.30], which is at odds with the stance taken by them in determining to refuse the outline planning application in part due to the effect on the Grade II listed building.
- 2.16 The only question then is whether the Councils are correct in concluding that the appeal proposals would give rise to a ‘low-moderate’ degree of less than substantial harm when it weighs the harms and public benefits in completing that exercise.

The Case for Rule 6 Party

- 2.17 The Association of Friends and Residents of Colney Heath Village (AFRCHV) submitted their Statement of Case on 03 March 2021 [CD 13.04].
- 2.18 This Rule 6 Party make no case in respect of the Grade II listed building in their Statement of Case and so therefore the points they make regarding the appeal proposals will not be considered in this Proof of Evidence.

Section 3

Assessment of Effects

- 3.1 This section of my Proof of Evidence identifies and assesses the nature and magnitude of any effects upon the heritage asset identified by the two Councils as being adversely affected by the appeal proposals in both refusing the planning application and in preparing their combined Statement of Case.
- 3.2 In line with the wording of the RfR, the following assessment of effects will discuss the main heritage issues on 68 Roestock Lane, Colney Heath.
- 3.3 No. 68 Roestock Lane (List Entry 1172857) was listed at Grade II on 27 September 1984 and is positioned on land immediately north of the site boundary. The listing citation for the property is reproduced at Paragraph 4.5 of EDP's Archaeology and Heritage Assessment and included here once again for ease of reference:
- “House. Late C17. Timber frame. C20 cement-rendered ground floor and weatherboarded upper floor. Plain tile steep pitched roof. 2 storeys. 4 C20 leaded casements. Ground floor built forward slightly and with 2 leaded bows. C20 porch on right. Towards left of roof is a wide late C17 chimney stack with 3 flues. Possibly a staircase attached inside. Lean-to on left joins with a C20 garage.”*
- 3.4 The location of the appeal site, in relation to this single designated heritage asset, is clearly illustrated on **Proof Plan AC 1**.

Methodology

- 3.5 Current best practice guidance for the identification and assessment of ‘indirect’ effects on heritage assets is set out in Historic England (2017) *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3*, which is known and referenced as GPA3 [**CD 9.19**].

- 3.6 When assessing the ‘indirect’ impact of proposals on heritage assets, i.e. such as those beyond the boundary of a development site, it is **not** a question of whether there would be a direct physical impact on that asset, but instead whether change within its wider ‘setting’ would then lead to damage to or a loss of its ‘significance’.
- 3.7 The identification of change within a heritage asset’s setting must not be confused with harm to that asset. Instead, the question that should be asked is whether the change would result in a loss of (or damage to) its significance as a heritage asset.
- 3.8 The NPPF [**CD 9.30**] defines significance 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.”*
- 3.9 To answer this question, it is first necessary to understand the significance of the asset in question (and any contribution made to that significance by its setting), in order to establish whether there would be any loss or damage to that significance, and therefore harm caused as a result of the proposal being implemented.
- 3.10 The Historic England guidance [**CD 9.19**] is clear in stating that change within a heritage asset’s setting need not necessarily be harmful; the implementation of development proposals within a heritage asset’s setting can be positive, negative or neutral.
- 3.11 The guidance [**CD 9.19**] presents an approach to setting and development management based around a five-step procedure:
1. Identify which heritage assets and their settings are affected;
 2. Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated;
 3. Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it;
 4. Explore ways to maximise enhancement and avoid or minimise harm; and

5. Make and document the decision and monitor outcomes.

3.12 My application of this stepped methodology is to be found in the Archaeology and Heritage Assessment [edp6550_r001b] submitted with the planning application; the following section of my Proof reiterates my professional judgement in terms of the predicted impact of the appeal proposals on the listed building highlighted by the Councils.

68 Roestock Lane (Grade II Listed Building)

Step 2 of GPA3

3.13 Paragraphs 5.3 to 5.23 of EDP's Archaeology and Heritage Assessment [edp6550_r001b] describe the listed building's significance and the contribution made by its setting.

3.14 The following paragraphs reproduce that description, reviewed, updated and augmented where relevant with additional information gathered in the period since the outline planning application for the development of the appeal site was refused by the two Councils and the Appellant decided to appeal those determinations.

3.15 The majority of this 17th century house's significance (its "*special interest*") is derived from the architectural and historic interest of its built form and fabric, recognised and underlined by its Grade II listing in 1984.

3.16 There is no suggestion or evidence that it possesses or exhibits any archaeological interest or any artistic interest, given that there are no recorded artistic depictions of note and the listing citation identifies only a single period of construction for 68 Roestock Lane, thereby reducing the potential for archaeological investigation and research.

3.17 The asset's setting is assessed as making a contribution to its overall significance, but this is a smaller contribution than is derived from its built form and fabric, i.e. the setting of this building provides a minority of its significance.

3.18 The 1839 Tithe Map (**Proof Plan AC 2**) shows that the building comprised a pair of dwellings set back from the frontage of Roestock Lane further north and positioned within a broadly bottle-shaped enclosure divided in two.

- 3.19 No outbuildings are shown on the Tithe Map (nor on the later OS map editions) and there is no physical connection depicted between the enclosure and the adjoining farmland. As a consequence, there is no indication that the occupants of the two dwellings were actively engaged in the management or cultivation of the land forming the site at this time.
- 3.20 The Tithe Apportionment lists the occupants of Parcels 756 and 757 as one Thomas Sams and one Joseph Baldwin Gapp. It identifies the two paired dwellings as “*cottage & garden*” and lists the owner as being one Robert William Gausson, who is similarly identified as the owner of Parcels 736, 737, 738 and 750, which together made up the arable farmland within the site boundary located to the south.
- 3.21 The apportionment for the 1839 Tithe Map identifies that the land within the appeal site was occupied by a Samuel Jackson.
- 3.22 Robert William Gausson is identified as the owner of the ‘Brookmans Estate’ centred on Brookmans Manor and was not only the owner of the land within the site and the two properties that together represent 68 Roestock Lane, but also the landowner for a significant amount of North Mimms Parish during the middle years of the 19th century. Therefore, whilst there is an historic connection between the Grade II listed building and the agricultural farmland at the site, it is a limited and indirect one; one that derives from their geographic location and the fact they were owned by one single landowner and formed a very small part of a very large and extensive country estate.
- 3.23 According to the Tithe Apportionment, the Brookmans Estate owned a substantial amount of the land illustrated on the North Mimms Tithe Map in the mid-19th century. This included the adjoining cottages at 68 Roestock Lane and the land at the appeal site boundary to the south, but in contrast there is no apparent connection between the cottages and the land itself, even though the cottages’ occupants are known as having been agricultural workers over a prolonged period of time.
- 3.24 Examination of the late 19th and early 20th century census returns demonstrates that the two families occupying the semi-detached cottages at 68 Roestock Lane were engaged in agricultural labouring through most of this period. However, there is no evidence from these census returns to demonstrate a functional inter-relationship between the land within the appeal site and the two cottages; it merely serves to highlight that these families drew their income from agricultural employment in this general location.

3.25 Details of the employment of the two families occupying 68 Roestock Lane in the second half of the 19th century and early decades of the 20th century are presented in **Table AC 1** underneath.

Table AC 1: Summary of late 19th/early 20th Century Census Information for 68 Roestock Lane.

Census	Baldwin Family Occupation(s)	Sams Family Occupation(s)
1841	Joseph Baldwin - agricultural labourer	Not recorded
1851	Joseph Baldwin - agricultural labourer	Thomas Sams – agricultural labourer Wife – straw plait maker Sons x 2 – agricultural labourers Daughters – scholars
1861	Joseph Baldwin – agricultural labourer Wife – straw plait maker Son (Solomon) – brick layer’s labourer	
1871	Solomon Baldwin - Brazilian hat maker Wife – hat maker Lodger – retired agricultural labourer Lodger grandson – scholar	
1881	Not recorded	
1891	Solomon Baldwin – agricultural labourer	
1901	Not recorded	
1911	Solomon Baldwin – farm labourer	

3.26 So, in that sense, both 68 Roestock Lane and the appeal site have a functional, historical inter-relationship with the Brookmans Estate because the owner in the mid-19th century is identified as Robert William Gausson in each instance.

3.27 However, there is no comparable inter-relationship between the listed building and the land at the appeal site due to the fact that the exploitation of the farmland did not contribute to the maintenance and upkeep of the cottages in a direct sense.

3.28 The Brookmans Estate derived income from its ownership of the two cottages and the land within the appeal site, but that is not to say that the paired cottages at 68 Roestock Lane or the families that occupied them did likewise.

- 3.29 Moreover, there is nothing tangible to link 68 Roestock Lane with either the appeal site or the Brookmans Estate now; it is purely based on the available documentary records. There are no signs or characteristic features located on or around the appeal site to illustrate this historic connection and there are no characteristic features to the listed building that mark it out as being an 'Estate building'.
- 3.30 Even if it was concluded that the 'shared' relationship between the Grade II listed building and the appeal site with the Brookmans Estate does contribute to the significance of this heritage asset, this could only really be a very small one because of the large and extensive nature of the Brookmans Estate during the 19th century and the scale of property ownership that is recorded, along with the absence of any characteristic features to enable either the experience or the appreciation of this link between the listed building and appeal site and the Brookmans Estate within the contemporary landscape.
- 3.31 The 1839 Tithe Map shows that, at that time, the Grade II listed building formed one of a disparate and widely dispersed collection of buildings arranged along Roestock Lane to the north, Bullens Green Lane to the east and Fellowes Lane to the south and separated by an expanse of undeveloped agricultural fields.
- 3.32 Other than some limited new development in the latter part of the 19th century, including the construction of the Mission Hall in front of 68 Roestock Lane in the years between the first and second editions of the OS maps (**Proof Plans AC 3 and 4**), this situation remained largely unchanged through until the 1930s and the development of the Manor Gardens Estate to the north-east (**Proof Plan AC 5**) and then the 1960s and the development of the grounds associated with Roestock Hall to the south-west to create the existing estate. This is shown clearly in **Proof Plan AC 6**.
- 3.33 The available editions of the Ordnance Survey map show that 68 Roestock Lane remained two adjoining residential dwellings until the end of the 1960s, first being identified as one single dwelling on the OS edition dated 1971.
- 3.34 Together with the construction of the Pumping Station to the south-west and the addition of the arrangement of detached dwellings along the road frontage to the north-east in the middle decades of the 20th century, this 'ink-spot' expansion of the settlement around it served to bring the listed building into the built fabric of a more substantial place that was markedly different to the dispersed settlement pattern on the historic maps.

- 3.35 The architectural and historic interest of the Grade II listed building is best and most easily experienced and appreciated from its garden enclosure, even if its plan form has changed slightly since the 19th century. This well vegetated and enclosed private space is therefore assessed as representing the element of 68 Roestock Lane's setting that contributes most to its significance as a heritage asset (see **Proof Image AC 1**).
- 3.36 The building is set back from the Roestock Lane frontage (see **Proof Image AC 2**), but it can still be experienced and appreciated from the public realm here and this interrelationship with the road – where the architectural character and detailing of the main elevation cannot only be experienced but also appreciated in conjunction with other aspects of the historic built environment illustrating the origins and development of Colney Heath – is deemed to make a positive contribution to its significance.
- 3.37 The rear (southern) boundary of the asset's garden enclosure is defined by mature trees and vegetation that afford a reasonable degree of screening and separation from the fields within the site area to the rear.
- 3.38 This is illustrated in **Proof Images AC 3, 4 and 5**, which show that, other than the far south-west corner (beside Fellowes Lane) and the north-east corner flanking Bullens Green Lane, the site is situated entirely within the setting of 68 Roestock Lane, insofar as there is a variable experience of its rear elevation.
- 3.39 The mature and relatively thick hedgerows defining the southern and eastern edges of the site (on the north side of Fellowes Lane and west side of Bullens Green Lane) screen out long distance views towards the listed building from all but a small and localised area close to the road junction at the south-east corner of the site.
- 3.40 Even then, in these long range views (nearly 400m away) it is difficult to understand and appreciate the architectural interest of the building because of (a) the late 20th century and early 21st century extensions, (b) the screening effect of the boundary trees and (c) the close spatial relationship with the mid-20th century detached dwellings immediately to the north-east, which stand out much more prominently.
- 3.41 It is true to say that there is an 'experience' of the listed building looking north-west across the open, agricultural field that forms the site, but, in view of the fact that its *special interest* derives to a large extent from its 17th century origins and vernacular construction, it is very

basic and actually quite difficult to understand and appreciate those aspects that really underpin and contribute to its significance. In terms of the more distant views across the field and site, it is the building's modest scale and characteristic chimney stack that are the elements of its form and fabric that allow any understanding of its significance when seen alongside the later developments on the road beside it.

- 3.42 It is principally from the public right of way (PRoW) at the north-western corner of the site that it is properly possible to understand and appreciate this designated heritage asset's significance.
- 3.43 With a separation distance of circa 115m, the views available from the PRoW crossing the north end of the site enable a largely unobstructed experience of the building's rear elevation in conjunction with the agricultural field within the redline boundary forming the foreground (**Proof Images AC 6, 7 and 8**).
- 3.44 To provide a counterpoint to the assessment which was submitted with the outline planning application [**CD 1.19**], a series of photographs that illustrate the experience of the building and the appreciation of its significance as a heritage asset, taken in February 2021, are to be found included here as **Proof Images AC 9 to 16**.
- 3.45 These photographs show that the relationship between the listed building and the land at the appeal site to the rear, along with the experience and appreciation of the building's significance, remains relatively consistent in summer and winter conditions.
- 3.46 As such, other than maintaining an open and undeveloped agricultural setting to the rear of this Grade II listed building – which has persisted from the time of its construction down to the present day and can most probably be experienced from the windows at the rear of the property looking outwards to the south also – this visual inter-relationship is determined to make just a small contribution to the significance of this asset because it bears little upon our understanding of its form and its function or special interest. The openness of the land within the site is the contributor to the cottage's significance and not any tangible element or feature of the farmland or landscape fabric itself.
- 3.47 The agricultural use of the land *per se* is assessed as making no particular contribution to the significance of the Grade II listed building because (a) it is not a farmhouse, it was not apparently built as a farmhouse and it was not listed as a farmhouse; (b) in the same vein,

it is not a building sited, designed or built to address or interact with agricultural farmland in a pragmatic functional way such as a stable or a barn; and (c) whilst there is evidence for a link between the appeal site and the listed building, it is by virtue of common ownership by the Brookmans Estate and not the occupiers of the cottage(s), who appear to have been agricultural labourers in the 19th century, but are not identified as being engaged with the cultivation of the agricultural farmland within the appeal site boundaries.

Step 3 of GPA3

3.48 The proposals for the appeal site are in **outline** form only, but they are also supported by a number of plans such as the following:

- Proposed Parameters – Schematic Plan [Dwg 17981/1004];
- Storey Height Parameter Plan [Dwg 17981/1008];
- Proposed Illustrative Plan [Dwg 17981/1005]; and
- Landscape Strategy Plan by FPCR [Ref: Figure 1 Rev B].

3.49 Paragraphs 5.24 to 5.30 of EDP's Archaeology and Heritage Assessment [edp6550_r001b] assess the effects of the appeal proposals (whether beneficial or harmful) on the heritage significance of 68 Roestock Lane or on the ability to appreciate it.

3.50 The following paragraphs reproduce that assessment, reviewed, updated and augmented where relevant with additional information gathered in the period since the outline planning application for the development of the appeal site was refused by the two Councils and the Appellant decided to appeal those determinations.

3.51 The proposed development of the site would affect only one element of the listed building's setting, which comprises the openness of the cultivated fields to the rear of its garden that stretch as far as Bullens Green Lane and Fellowes Lane in the east and south.

3.52 The development of the site (although the masterplan is currently only illustrative) would reduce the small contribution that this current sense of agricultural openness makes to the significance of the Grade II listed 68 Roestock Lane.

- 3.53 However, the other (more substantial) contributors to the asset's significance would remain entirely unchanged and unaffected by the implementation of the proposed development. In particular, there would be no impact on the listed building's form and fabric, which make up the majority of its significance and represent the reason for its designation as a listed building in the first place. In the same way, there would be no impact at all on the building's inter-relationships with its garden enclosure or the wider streetscape on Roestock Lane to the north, which represent the two elements of its setting which contribute the most to its significance as a designated heritage asset (NPPF [CD 9.30] Annex 2).
- 3.54 Although the masterplan is illustrative, the extent of development has been limited in the north-western corner to minimise the potential impact upon the listed building. This leaves an undeveloped space amounting to a distance of circa 125m between the northern edge of the nearest dwellings and the Grade II listed building.
- 3.55 This undeveloped space will be appropriately landscaped, particularly along the south edge and in the north-western corner (in the angle of the public footpath and the site boundary), in order to blend in the residential development and soften the visual relationship between the proposed new houses and 68 Roestock Lane in views south from the asset's southern elevation. Although flood attenuation basins are proposed to be included within this space, they will not compromise the sense of openness it retains and, subject to detailed design, could be shaped and landscaped to deliver ecological enhancement in addition to amenity space for the residents of the development.
- 3.56 In order to reflect the wider surroundings of the listed building, the northern (leading) edge of the appeal scheme that is closest to the designated asset would be limited to two storey development and only the central areas of the appeal proposals located in the heart of the appeal site would contain houses of up to 2.5 storeys, based on Dwg 17981-1008, which comprises the Storey Heights Parameter Plan.
- 3.57 At the same time, there are no proposals to upgrade or carry out significant works to FP23, which runs north-south alongside the western fringe of the Grade II listed building's garden enclosure. Thus there would also be no impact on the experience of the designated asset from this location and there would similarly be no harm.
- 3.58 No. 68 Roestock Lane, which comprised a pair of houses from at least the mid-19th century until the middle of the 20th century, was listed on 27 September 1984 as a house and even

with the appeal proposals being implemented would remain legible and appreciable as being a house within its own garden enclosure due to its limited inter-relationship with the farmland landscape within the appeal site and the small amount of significance it derives from that element of its setting.

3.59 In that sense, the appeal site's change from 'agricultural use' in and of itself is not assessed as causing a loss of significance, given that there is no available evidence for there having been a functional inter-relationship between the house or its occupants and the land within the appeal site's boundary. Without such a relationship, the house comprises a house and one where the occupants could be engaged in a wide range of rural activities which equally have nothing to do with the land at the appeal site and which have no bearing on its form, appearance or significance.

3.60 Therefore, whilst there would be a loss of significance from the Grade II listed building, it is considered to be **very small** and derived from the reduction in the contribution made by a peripheral element of its setting. Overall, this would constitute *less than substantial harm*, but clearly at the very lowest end of that broad spectrum and hence requiring assessment against the provisions of Paragraph 196 of the NPPF [**CD 9.30**], in addition to the local plan policies of the two local authorities.

Steps 4 and 5 of GPA3

3.61 Other than those included in the illustrative masterplan, there are no measures that could be incorporated into the appeal proposals to eliminate or otherwise reduce the predicted impact on No.68 Roestock Lane.

3.62 However, of course, the appeal proposals were submitted to the Councils in outline form and so therefore it would clearly be possible for the two Local Authorities to seek and secure additional design measures to address and respond to the setting of the listed building as the reserved matters process moved forward.

Section 4

Policy Review and Conclusions

4.1 My Proof of Evidence responds to and addresses Reason for Refusal (RfR) 5 of the Decision Notice for Outline Planning Application Ref. 6/2020/2248/OUTLINE, which was submitted to Welwyn Hatfield Borough Council (WHBC) on 2 September 2020 and where the Council responded with its Decision Notice [**CD 4.01**] on 2 December 2020.

4.2 RfR 5 was subsequently adopted by the St. Albans City and District Council (SACDC) Planning Referrals Committee meeting, which was held on 18 January 2021 [**CD 4.02**] in also setting out eight reasons why it would refuse the outline planning application.

4.3 Paragraph 1.3 of the Councils' joint Statement of Case [**CD 13.03**] outlines WHBC's reasons for refusal of the planning application, including RfR 5 that:

"The development would cause 'less than substantial' harm to the significance of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm. The proposal would represent a poor standard of design in conflict with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM15 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, the National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990".

4.4 The Councils' case on heritage matters is set out in Paragraphs 5.26 to 5.30 on Page 20 of their joint Statement of Case, where the following headlines are noted:

- 68 Roestock Lane Grade II listed building derives its special interest in part from its setting relative to its open countryside setting to the south (i.e. the appeal site);
- The former agricultural workers' cottages were linked to the fields that the occupants worked and comprise an important element of the setting of the building and are important in understanding the special interest of the building;

- The extent of the “*land*” has diminished over the years and so now the appeal site forms the only coherent link to the building’s original setting;
- The relationship at the rear of the asset is to the agricultural fields comprising the appeal site;
- Views to the south will be curtailed and replaced with a pocket of suburban open land containing the SuDS water feature that would be surrounded on all sides by residential housing;
- The proposals will enclose views to the south with a residential housing estate and remove any connection between the listed building and any agricultural fields; and
- This situation compares unfavourably with the existing open setting providing a relationship between the asset and its rural setting and agricultural fields which once formed part of a common ownership.

4.5 Notwithstanding the above, Paragraph 5.29 states that *less than substantial harm* would result and that harm would be “*low to moderate*” in respect of that spectrum. Following on, Paragraph 5.29 also concludes that:

“Within the scale of less than substantial harm the Councils will show that the level of harm will be low to moderate and in accordance with paragraph 196 NPPF the Councils conclude that the public benefits of providing more housing outweigh that harm”.

4.6 The implication of Paragraph 5.29 is that the harm to 68 Roestock Lane is insufficient to warrant refusal of the appeal proposals when taken in isolation and instead only warrants refusal when combined with other perceived impacts:

“Therefore, if harm to the setting of this asset was the only harm identified it would not justify refusal, but as part of the overall assessment of other harm it weighs against the grant of planning permission in the planning balance”.

4.7 So, it can only reasonably be assumed that, if any or all of the other perceived impacts fall away through the Inquiry, even the low to moderate harm alleged in respect of the Grade II

listed building at 68 Roestock Lane need not preclude planning permission being granted for residential development of the appeal site.

- 4.8 This appears to be a clear acceptance from the Council that the appeal proposals pass the Paragraph 196 balancing exercise in the NPPF [CD 9.30], which is at odds with the stance taken by them in determining to refuse the outline planning application in part due to the effect on the Grade II listed building.
- 4.9 The only question is whether the Council is correct in concluding that the appeal proposals would give rise to a 'low-moderate' degree of less than substantial harm when it weighs the harms and public benefits in completing that exercise.
- 4.10 No. 68 Roestock Lane (List Entry 1172857) is a Grade II listed house which dates from the late 17th century and is positioned on land immediately north of the appeal site boundary and where it is assessed that the majority of its significance (its "*special interest*") is derived from the architectural and historic interest of its built form and fabric. By way of contrast, it is assessed that the listed building's wider setting does contribute to its overall significance, but this is a smaller contribution than is derived from its built form and fabric, i.e. the setting of this building provides a minority of its significance.
- 4.11 When the setting of the Grade II listed building is assessed in the round, the appeal site makes a contribution to its heritage significance, but because of its openness and the availability of reciprocal views to and from the heritage asset and not any specific element or feature of the farmland or landscape fabric itself.
- 4.12 Nevertheless, it is considered that this contribution to this heritage asset's significance is only '**small**' because it bears little upon our understanding or appreciation of the building's historic form and function or for that matter the *special architectural or historic interest* for which it was originally designated.
- 4.13 With reference to the bullet points in Paragraph 4.4 (above), my assessment of the listed building 68 Roestock Lane shows that:
1. The cottage (formerly two cottages in the 19th century and early-mid 20th century) was not *physically* linked to the land within the appeal site and there is no apparent means of access between the two identifiable on the historic maps;

2. Insofar as there is an *historic, functional* link between the cottage(s) and the farmland within the appeal site, it derives from a common ownership by the large and extensive Brookmans Estate and not from an inter-relationship between the cottage(s) and the land within the appeal site boundary;
3. The later 19th and early 20th century census returns indicate that the families occupying the two cottages were agricultural labourers, but the details do not enable us to know whether they laboured on land at the appeal site solely, partly or not at all and, even if they did labour on the appeal site, the contribution of that connection to the significance of 68 Roestock Lane cannot be more than minimal in view of the ephemeral nature of that possible inter-relationship;
4. The “*importance*” of this link to “*understanding the special interest of the building*” has therefore in my judgement been over-stated by the Councils in evaluating the impact of the appeal scheme;
5. My assessment (both for the application and this appeal) clearly shows that the farmland at the appeal site does not form the “*only coherent link to the building’s original setting*” when the listed building is assessed **in the round** and all aspects of its setting are first identified and then their contribution to its significance evaluated;
6. Views to the south will be changed by the implementation of the appeal proposals and the openness of the agricultural fields would be diminished through the construction of residential dwellings, albeit set back away from the listed building and its garden by a separation distance of 125m of open space, which is intended for recreational use and containing two shallow SuDS features; and
7. It is recognised that the appeal proposals ‘compare unfavourably’ with the current open setting behind the listed building and that is why my assessment from the outset has been that the approval and implementation of the appeal proposals would cause harm to its significance as a heritage asset.

4.14 Therefore, whilst there would be a loss of significance from the Grade II listed building, it is considered to be **very small** and derived from the reduction in the contribution made by a peripheral element of its setting.

4.15 Overall, this would constitute *less than substantial harm*, but clearly at the very lowest end of that broad spectrum of impact because of the extent to which the building's significance would remain unchanged by the proposals:

- There would be no change whatsoever to the building's built form and fabric, which makes up the majority of its heritage significance;
- There would be no change whatsoever to the relationship between the building and its private garden enclosure;
- There would be no change whatsoever to the relationship between the building and the adjoining buildings and spaces on Roestock Lane to the north; and
- There would continue to be views of the listed building's rear elevation across an open, undeveloped foreground from the public footpaths located to the south and crossing the north side of the appeal site.

4.16 Therefore, notwithstanding the Councils' own conclusion that the appeal proposals would still positively address the Paragraph 196 balance in terms of "*less than substantial harm*", it is considered that their identification of a *low to moderate* degree of less than substantial harm to the listed building over-states the amount of harm that should be weighed against the public benefits.

4.17 In terms of legislation, case law and national planning policy, there is nothing that would prevent the positive approval of the planning application in respect of the heritage impact and the recognition from the Council that the Paragraph 196 planning balance would be struck positively if weighed in isolation serves to underline that position.

4.18 With regard to Paragraph 5.30 of the Council's Statement of Case [**CD 13.03**], it is quite clear that the appeal proposals do not conflict with Paragraph 193 of the NPPF [**CD 9.30**] or Policy 86 of the St Albans District Local Plan [**CD 5.02**] because (in common with the s66(1) statutory duty which they follow) neither describes parameters or a threshold for acceptability of proposed development and instead focus solely on the role of the decision-maker in applying "*special regard*" or "*great weight*" to the desirability of development

preserving a listed building and its setting. Neither of the policies identifies that a proposal that does not preserve a listed building and its setting is either unacceptable or ought to be refused. The focus is instead placed on the benefits that would flow from its implementation and the fact that the great weight/special regard can be overcome by factors of sufficient weight.

4.19 Whilst I note that Policy D1 of WHBC's adopted Local Plan is cited in respect of the reason for refusal of the appeal proposals in terms of 68 Roestock Lane, it is not clear why, when it does not in itself consider or address heritage or setting matters and when the planning application was submitted for the Councils' evaluation and determination in outline form, with all matters of detailed design reserved. Design matters are for future Reserved Matters Applications and hence it is uncertain why the two Councils believe that the appeal scheme contravenes this policy in terms of the listed building at this early stage.

4.20 The weight to be afforded to *Policy SADM 15 – Heritage* of WHBC's New Local Plan, which remains unadopted, will be addressed by my colleague, Mr Gray, for the appellant in dealing with the relevant planning matters. However, it is observed that Policy SADM 15 adopts a comparable approach to Paragraph 196 of the Framework when it highlights the following approach to effects equating to *less than substantial harm*:

“Proposals that result in less than substantial harm to the significance of a designated heritage asset will also be refused unless the need for, and benefits of, the development in that location significantly outweigh that harm and the desirability of preserving the asset, and all feasible solutions to avoid and mitigate that harm have been fully implemented.”

4.21 In its Statement of Case (Paragraph 5.29), the Council concedes that the public benefits flowing from the approval and implementation of the appeal proposals would outweigh the less than substantial harm to 68 Roestock Lane and so it is also assumed that the same should equally be true of this emerging policy, which is currently untested, in an unadopted Local Plan and should be afforded just limited weight according to my colleague Mr Gray, who provides evidence for the appellant in respect of planning matters.

4.22 Accordingly, it is concluded that there is no reason, in terms of heritage matters, why the appeal proposals should not be treated favourably and approved.



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