

Heritage Assessment

Tessa Wilkie

1 Royal Court, Tring

May 2023



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Project

1 Royal Court, Tring

Client

Tessa Wilkie

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1. Introduction

- 1.1 This Heritage Assessment has been prepared by Smith Jenkins Planning & Heritage & Townscape on behalf of Tessa Wilkie in support of proposals for 1 Royal Court, Tring (hereafter referred to as the 'Site') comprising of minor alterations including addition of dormer window and French sliding door to the rear.
- 1.2 The Site sits within close proximity of the grade II listed building, Royal Hotel, and within the courtyard which forms part of the curtilage of the asset. Despite this, it has been determined that it 1 Royal Court is not regarded as a curtilage listed building.
- 1.3 The Site lies within the administrative jurisdiction of Dacorum Borough Council in the county of Hertfordshire.
- 1.4 Paragraph 194 of the National Planning Policy Framework (NPPF) 2021 sets out the information requirements for determining applications and states that:
- 'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance'.¹*
- 1.5 In response to the NPPF, Section 2 of this report identifies the heritage assets which may be affected by the application proposals. Section 3 provides an overview of the historic development of the wider area and of the Site, and Section 4 provides proportionate statements of significance for the heritage assets identified. These are relative to the scale, nature and effect of the proposals.
- 1.6 Section 5 provides an assessment of the application proposals on the significance of the identified heritage assets based on national, regional and local policy and guidance. The Heritage Planning Policy context for the consideration of these proposals is set out in Appendix A. This includes the statutory duties as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF, regional and local planning policy.



¹NPPF (2021)



2. The Heritage Assets

2.1 A heritage asset is defined by 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).'*¹

Designated Heritage Assets

2.2 A Designated Heritage Asset is described by the NPPF (2021) as:

'A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation'.²

2.3 Such assets are statutorily identified as having a level of heritage (architectural and/or historic) interest to justify designation. There are then particular procedures in planning decisions to ensure that their special interest is preserved or enhanced.

Listed Buildings

2.4 The Site sits within close proximity of the grade II listed Royal Hotel. The asset sits east of the Site and forms part of a courtyard terrace which is attached to the rear of the listed building. The Royal Hotel has been included within this report for assessment due to its visual connection with the Site.

Conservation Areas

2.5 The Site does not lie within any conservation area nor does it sit in close proximity to any conservation area.

2.6 At the outset it must be noted that the setting of conservation areas is not statutorily recognised, and it is only the contribution that the surrounding area makes to the special character and appearance of an area that should be considered.

Non-Designated Heritage Assets

2.7 The NPPF identifies that heritage assets not only include those which are designated (often with statutory protection), but also those assets identified by the local planning authority which could include local listing or buildings of townscape merit. Any such designation, for the purposes of the NPPF, are considered to constitute non-designated heritage assets.

2.8 Whilst Dacorum Borough Council has published a list of non-designated heritage assets, there are no locally listed buildings identified within Tring.

¹ NPPF (2021) Annex 2: Glossary (p.67)

² NPPF (2021) Annex 2: Glossary (p.66)



3. Historic Development

- 3.1 The market town of Tring is situated within the Chilterns Area of Outstanding Natural Beauty, designated for its quality landscape consisting of fields and woodland. The area is likely to have been settled in the prehistoric period indicated by Iron Age barrows.
- 3.2 Settlement began to grow throughout the Roman and Saxon periods becoming one of the dominant settlements in the area and the primary settlement in the Hundred of Tring. First documentary evidence of the town is written in the Domesday Book of 1086 described as having a large settlement and a manor belonging to Count Eustace of Bologne.
- 3.3 Tring sits along an ancient Roman road called Akeman Street, one of the earliest thoroughfares running from London through Watford and towards the Midlands becoming a primary route for trading and travellers. A medieval church is one of the earliest structures in the parish with different phases of development.
- 3.4 Owing to the natural topography and rural character of the area, Tring saw a flourishing agricultural economy based on arable land and cultivation. Mills were also established in the parish from between the 12th to 15th centuries encouraging an industrial element to the farm-based economy. In 1281, a market was established in the parish following the confirmation by a charter of Charles II which saw a weekly market selling straw-plait, corn and other agricultural produce; the existence of a market house suggests that the importance and popularity of the medieval market.
- 3.5 The wider parish of Tring was settled around the parish church and manor house establishing the historic street pattern throughout the medieval period. However, following the success of its market and trade, the 18th century saw the growth and expansion of its built form and the construction of new roads. As such, a more modern layout and street plan was established growing in a T-shaped plan with High Street and Akeman Street as the cross-road dissection (figure 3.1). The civil parish also became a major post town seeing an increase in commercial traffic leading to the addition of inn building.
- 3.6 Industrialisation reached Tring earlier than other parishes following the passing of the London and Birmingham Canal Act of 1792. This led to an extension of the Grand Junction Canal which has a positive impact on Tring sitting along the highest point on the route. The canal saw not only the increase in commercial relations to the town but also the improvement of communications between the large cities of Birmingham and London.



Figure 3.1 Dury and Andrews Map, 1766.



Figure 3.2 OS Map 1877.



Figure 3.3 OS Map 1952.

- 3.7 During the 19th century, industrial and commercial development transformed the former rural parish into a thriving trade and commercial centre. The town was a key agricultural trade centre and housed a varied assortment of occupations including blacksmiths, shoe makers, brick layers, carpenters and butchers amongst others. Given the prosperity of the town, new trades were also established including printing and brewing, the latter of which saw several breweries added mostly on Akeman Street.
- 3.8 Another wave of expansion came with the arrival of the London and Birmingham Railways Company Act and the opening of a new line in 1838, two miles east of the town centre. Added to this, the rise of factories, development and industrial growth led to a rapidly growing population and an increasing need for workers' housing. Cottages were built on Brook Street and much of Akeman Street was built up by the end of the 19th century. Figure 3.2, OS Map 1877 shows the density of housing and the built form of the civil parish, defined by undulating roads and densely grouped buildings; Tring had become a large thriving town as well as a commercial and industrial hub within the region.
- 3.9 Following the Second World War, the northern part of the historic town saw housing development after destruction to its built form. As seen in a comparison of figures 3.2 and figures 3.3, modern residential development began to line north of Station Road, High Street and Aylesbury Road as well as housing estates covering the eastern and western areas of the historic parish core. Further commercial development was added around the parish including schools, sports centre and industrial estate.
- 3.10 By the end of the 20th century, a by-pass (A41) was opened which improved the mobility around the town and traffic. This was later extended to be included on the M25 in 1993. Despite changes to its form over the past years, the civil parish retains much of its historic character, appearance and rural feel.

Site Development

- 3.11 The Site is a dwelling forming part of terraced block situated around two miles east of the historic core of Tring, near Tring railway station.
- 3.12 Figure 3.4 is an 1877 OS plan which shows that the Site formed a U-shaped courtyard block attached to the rear of the Royal Hotel to the right, a former posting house and coaching inn. This block was attached in 1838 and likely to have functioned as a courtyard stables and accommodation for the posting house. The Site is indicated by an outline whilst the extent of the courtyard block is shaded in suggesting the Site had not been constructed by this point.
- 3.13 Figure 3.5 is an 1897 OS plan shows that the previously undeveloped area of the courtyard block on the left side was built up, thus completing the courtyard terraced block. A detached dwelling was further added to the top left side of the courtyard block. As such, it can be assumed that the Site was built at some point in the 1880s or 1890s. The area surrounding the Site had been built up by this time.
- 3.14 At some point in the 20th century, the historic function of the courtyard complex was converted for residential purposes and the block was sub divided into separate dwellings, subject to a change of ownership.

- 3.15 Figure 3.6 shows the form of the Site at the start of the 1950s. There is no evident change to the form of the Site to the area within the site boundary. The aerial image of figure 3.7 displays the site in the form that it exists today, as part of a wider terraced courtyard block attached to the rear of the Royal Hotel with an internal courtyard garden.



Figure 3.4 1877 OS Plan of the Site (indicated in red). Source: National Library of Scotland.



Figure 3.5 1897 OS Plan of the Site (indicated in red). Source: National Library of Scotland.



Figure 3.6 1950 OS Plan of the Site (indicated in red). Source: National Library of Scotland.



Figure 3.7 Aerial view of Site present day.

4. Significance

- 4.1 The significance of a heritage asset is defined within the glossary of the NPPF 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'.¹

- 4.2 Listed buildings are statutorily designated and, for the purposes of the NPPF, are designated heritage assets. Recognising this statutory designation, buildings must hold special architectural or historic interest. The Department of Culture, Media and Sport publish the 'Principles of Selection for Listed Buildings (2010)' which is supported by thematic papers, 'Listing Selection Guides', based on building type, which give more detailed guidance.
- 4.3 Conservation Areas are identified if they are of special architectural or historic interest, the character or appearance of which should be preserved or enhanced. Historic England has published guidance on the designation of Conservation Areas which provides a framework for the identification of those features that form the character and appearance.
- 4.4 The identification of a site as a non-designated heritage asset does not provide any legal protection of such asset, however, for the purposes of the NPPF, they are a material consideration in the determination of applications.
- 4.5 Historic England has published 'Conservation Principles' (2008) which identifies four types of heritage values that a heritage asset (whether it be designated or non-designated) may hold – aesthetic, communal, evidential or historic interest. Conservation Principles (2008) is currently being updated by Historic England after a Consultation Draft was published on 10th November, closing on 2nd February 2018. Historic England has also published Good Practice Advice Notes on the 'Setting of Heritage Assets' (2nd Edition, 2017) and 'Statements of Heritage Significance' (October 2019) which are used to understand the surroundings of a heritage asset which may contribute to the significance of a heritage asset and explore the assessment of significance of heritage assets as part of a staged approach to decision-making in which assessing significance precedes the design of proposals.

Assessment

- 4.6 The following summary statements of significance provide an overview of the identified designated and non-designated heritage assets set out in Section 2, which may be affected by the application proposals. These are proportionate to the importance of the asset and the likely impacts of the proposals.



Figure 4.1 Grade II listed Royal Hotel

¹ NPPF (2021) Annex 2: Glossary (p.71)

The Royal Hotel - grade II

4.7 The Royal Hotel was first included on the statutory list of buildings of special architectural or historic interest at grade II on the 11th February 1982 (list entry no. 1078049).

Architectural Interest

4.8 The architectural interest of the Royal Hotel, formerly Harcourt Arms, is derived from its age and standing as a Georgian style coaching inn. The building was built in 1838 and underwent different phases of alterations with the rebuilding of the rear attached south wing in brick in the 1860's and later modified in 1937.

4.9 The hotel is of three-storeys above cellar with a square plan form, constructed of stuccoed brick and painted brick to west end, with a hipped slate roof and plastered soffits to wide overhangs. Its front elevation is its north face and displays a symmetrical design of three bays front lined as ashlar with corner pilasters and plinth. The simplicity and symmetry of design in the front elevation echoes the Georgian architectural style and contributes to its architectural significance.

4.10 The central bay consists of a portico porch with pilasters and fluted wooded columns, low square bases, plain entablature with moulded cornicing. Above is a simple decorative cast-iron balustrade enclosing small balcony. Each bay comprises of a recessed sash windows with unusual pane division and lower second-storey windows, all with moulded surrounds.

4.11 Side elevations comprise of two sash windows at each level separated by banding with inscription. To each side elevation there is a stuccoed chimney with pots. Attached to the rear is a lower two-storey south wing with ten recessed sash windows and constructed of yellow stock brick.

Historic Interest

4.12 The Royal Hotel was constructed for John Brown, a brewer of Tring, and under arrangement with the London and Birmingham Railway Company. The former coaching inn and hotel was built to serve travellers and traders into and through the town, thus holding communal value to the parish community.

Setting

4.13 The Royal Hotel is situated west of Tring railway station. It is bound by Station Road to the north, car parking to the south-east and a rear attached courtyard complex to the south and west.

The hotel sits at the north-eastern corner of the courtyard and holds a historic relationship to the rear attached courtyard block which was constructed at the same time and for ancillary use of the hotel.

4.14 The attached courtyard block, formerly a stable block, possesses a certain architectural quality and character in line with Victorian with Victorian features including joinery, chimney stacks and materiality particularly to the southern side where the block has seen minimal modern intervention. The western part of the courtyard has been heavily altered with the addition of rooflights, alteration of windows and doors which has impacted the character and significance of the courtyard.

4.15 As shown in the historic mapping of the Site in section 3, the extent of the courtyard complex formed part of the original setting of the hotel, which has seen minimal changes to its form aside from a change of use. The most significant part of the setting is its visual connection to the courtyard complex to which it holds a historic and associative relationship.

4.16 Due to its prominent position on Station Road, the hotel is best experienced along Station Road, in particular from the west and in views from Tring railway station.

Summary of Significance

4.17 The Royal Hotel holds significance due to its Georgian architectural style and historic function as a former coaching inn and hotel for travellers and trade merchants. Its intactness further contributes to its significance as well as its position within the courtyard complex which forms part of its immediate setting.



Figure 4.2 Front elevation of The Royal Hotel.

1 Royal Court

4.18 1 Royal Court is situated within a wider block rear to the Royal Hotel. It is not listed in its own right or situated within any conservation area.

Assessment of Significance

4.19 The significance of the 1 Royal Court is derived from its age and historic connection to the grade II listed The Royal Hotel. The two-storey courtyard block is attached to the rear of the listed building and forms a 'U'-shape plan with a small inner courtyard area. The exterior has been subject to modern intervention including the addition of modern windows, infilled openings and added doorways, though some of the original windows remain on the eastern side of the terraced block. Further changes to materiality is evident with the contrast of yellow stock brick on the eastern side and red brick on the western side.

Contribution to the Royal Hotel

4.20 1 Royal Court is a key part of the setting of grade II listed The Royal Hotel and its historic function as a former coaching inn and hotel. Whilst it forms part of the historic setting and within the same plot of the listed structure, it has seen heavy modern intervention impacting its significance.

4.21 The property has a limited contribution to the setting of The Royal Hotel. Whilst the property forms part of the immediate setting of the listed building, due to alterations over the 20th century it has lost its historic function as a part of a courtyard stables for the building. The building holds only a visual connection to the listed building.

Curtilage Status

4.22 1 Royal Court is an individual dwelling part of a wider courtyard terrace attached to the rear of The Royal Hotel. Whilst some of the courtyard block is considered to be curtilage listed, through an assessment of 1 Royal Court to the west of the Royal Hotel against guidance set out by Historic England in *Historic England Advice Note 10 (HEAN10): Listed Buildings and Curtilage (February 2018)*, 1 Royal Court has been found to be not be part of the curtilage of the listed building.

4.23 The criteria set out within HEAN10 comprises:

The physical layout and location of the building

4.24 1 Royal Court pre-dates 1948 as shown by historic mapping

analysis in section 3. It forms part of a wider historic courtyard block physically attached to the rear of the listed building. Whilst the dwelling is situated in the western half of the courtyard block and connected to the listed building, the western side of the block added at a later date and sits at a distance from the building with only a visual connection.

Their ownership, both historically and at date of listing

4.25 The Planning (Listed Building and Conservation Areas) Act 1990 states that “any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948, shall be treated as part of the [listed] building”. The courtyard terrace was constructed at the same time as The Royal Hotel and was under the same ownership of John Brown according to tithe data in 1840.

4.26 At the date of listing of The Royal Hotel in February 1982, the courtyard terrace was not under the same historic ownership. Following review of a conveyance deed dated 18th January 1981, the property was sold to Ka-aR Construction Limited of Brantwood Ickford Road, Tiddington, Oxfordshire. Therefore, 1 Royal Court does not fully satisfy the criteria for curtilage listing.

The use or function of the relevant buildings, again both historically and at the date of listing

4.27 1 Royal Court was historically part of the historic courtyard terrace to provide accommodation for visitors and staff of The Royal Hotel, a former coaching inn, and also likely had a historic function in relation to horses as a stables for coaches. At the date of listing, the courtyard terrace no longer functioned as a stables and had been sold for residential use with separate dwellings subdivided in the terrace block, as the form exists today. Therefore, 1 Royal Court does not fully satisfy the criteria for curtilage listing.

Conclusion

4.28 Following this curtilage assessment, 1 Royal Court is found not to be part of the curtilage listed building as it does not fit part of the ownership or function criteria as set out above. As such, listed building consent is not required for future alterations to the property.



Figure 4.3 Front elevation of 1 Royal Court.



Figure 4.4 Rear elevation of 1 Royal Court.



5. Assessment of Application Proposals

- 5.1 The heritage legal and planning policy relevant to the consideration of the application proposals set out in Appendix A of this report. This legal and policy context includes the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, national policy set out in the NPPF as well as regional and local policy for the historic environment.
- 5.2 In accordance with paragraph 194 of the NPPF, the significance of the designated and non-designated heritage assets that may be affected by the application proposals have been set out in Section 4 of this report.
- 5.3 The NPPF requires local planning authorities to identify and assess significance of a heritage asset that may be affected by the proposals (paragraph 195). They should take the assessment into account when considering the impact of proposals in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals.
- 5.4 Account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability, and the desirability of the new development making a positive contribution to local character and distinctiveness (paragraph 190).
- 5.5 When considering the impact of proposals on the significance of designated heritage assets, the NPPF requires (paragraph 199) that great weight should be given to their conservation and the more important the asset, the greater the weight should be. This is consistent with recent high court judgements (Barnwell Manor, Forge Fields) where great weight should be attached to the statutory duty.
- 5.6 Where a development proposal causes harm to the significance of designated heritage assets, this should either be treated as less than substantial (paragraph 202), or substantial (paragraph 201). In determining the level of harm, the relative significance of the element affected should be taken into account (paragraph 199). Furthermore, local planning authorities are also encouraged to look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance. According to paragraph 206, proposals that preserve those elements of setting the make a positive contribution to or better reveal the significance of a heritage asset should be treated favourably.

- 5.7 Paragraph 203 of the NPPF concerns the effect of an application on the significance of a non-designated heritage asset and should be taken into account when considering development proposals with a balanced judgement being required to have regard to the scale of any harm or loss against the significance of the asset.

The Proposals

- 5.8 The application proposals comprise the addition of a dormer window and French doors to rear elevation and alteration of two roof lights to front elevation of 1 Royal Court.

Impact of Application Proposals

1 Royal Court - Direct Impact

- 5.9 The addition of a dormer window to the rear elevation will cause a partial loss of fabric. However, as the placement of the window is to the rear, the dormer window will not be visible from within the courtyard complex and will not change the appearance. The proposed ridge height of the dormer window is subservient to the principle ridge height of the roof and therefore will not be visible from the front elevation resulting in no impact on the character of the wider area.
- 5.10 As part of the rear alterations, the proposals include a French door which will extend the width of the existing door and window opening. The existence of a door and window opening to the rear means that the proposed addition will not cause any loss of fabric to the property. The addition of the French door will preserve the existing character of the property and have the potential to enhance the building through the sustainable materiality of double glazing.
- 5.11 The current placement of the two existing rooflights on the front elevation will be decreased in size and moved from centre left and right to both rooflights centre right. The front elevation alterations will at a minimum preserve the buildings present appearance and will not be out of character within the historic courtyard.
- 5.12 Overall, the proposals have benefits as they will increase natural light into the property, helping to retain its optimal viable use and will improve the energy efficiency of the building due to the insertion of modern double glazing on dormer, French doors and rooflights.

The Royal Hotel - Indirect Impact

- 5.13 The majority of the proposals will be attached to the rear and not visible from the entrance to the historic courtyard or the listed building The Royal Hotel. The property is also situated at a distance from the listed building and therefore, the setting and significance of the listed building will be preserved.

Summary of Impact

- 5.14 The application proposals have been carefully considered with appropriate design and materiality to the listed building. The addition of a rear dormer window, rear French doors and movement of front rooflights will not impact the setting or significance of the listed building nor historic courtyard. The alterations are in-keeping with similar additions and alterations within the courtyard and are not out of character of the wider area. The minimal alterations will also have no impact on the setting of the listed building due to lack of visibility and in-keeping with the existing character and appearance of the wider area.

Considerations against Legislation and Policy

Statutory Duties

- 5.15 The Planning (Listed Buildings and Conservation Areas) Act 1990 places duty upon the decision maker in determining applications for planning permission to have special regard to the desirability of preserving the character and appearance of conservation areas.
- 5.16 This statement has identified the significance of the designated heritage assets which could be affected by the application proposals and concludes that the proposals will preserve the significance of the listed building of The Royal Hotel and the historic courtyard complex within which the Site in question is found.

NPPF (2021)

- 5.17 The significance of the heritage assets (both designated and non-designated), as required by paragraph 194 of the NPPF, has been set out in Section 3 of this report. In accordance with paragraph 197 of the NPPF, the application proposals will preserve the significance of setting of the listed building.
- 5.18 The conservation of heritage assets has, in line with paragraph 199 of the NPPF, been given great weight and provides an opportunity for new development to better reveal the significance of the surrounding heritage assets (paragraph 206). According, the application proposals are in accordance with the NPPF.

Local Policy

- 5.19 As demonstrated in this report, the proposals have been developed in line with an understanding on the significance of the listed building. The proposals will preserve the significance and setting of the listed buildings as well as the character and appearance of the historic courtyard. As such, the proposals are in accordance with Policy CS27 Quality of Historic Environment (Core Strategy) and Policy 119 Development affecting Listed Buildings.
- 5.20 These alterations will preserve the setting of the listed building and the character of the historic courtyard will not be impacted by the proposals.



6. Conclusions

- 6.1 In accordance with the requirements of the NPPF (2021), the heritage asset that will be affected by the application proposals has been identified. Consequently, a clear understanding of the significance of The Royal Hotel and its setting has closely informed the proposals
- 6.2 Overall, the proposals for the external alterations of 1 Royal Court have been informed by a thorough understanding of the significance of the listed building and it is considered that, on balance, the proposals would preserve the significance of The Royal Hotel as well as the character of the rear attached courtyard complex in which the Site is located.
- 6.3 To conclude, the application proposals are in accordance the with the statutory duties as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, national policy set out in the NPPF (2021) and relevant regional and local policy and guidance, including the Core Strategy (2013) and Saved Local Plan Policies (2004).



Appendix A: Heritage Planning Policy Context

Legislation

Planning (Listed Building and Conservation Areas) Act 1990

Legislation regarding buildings and areas of special architectural and historic interest is contained within the Planning (Listed Buildings and Conservation Areas) Act 1990.

The relevant legislation in this case extends from Section 16 of the 1990 Act which states that in considering applications for listed building consent, the local planning authority shall have special regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses.

Section 66 further states that special regard must be given by the authority in the exercise of planning functions to the desirability of preserving or enhancing Listed Buildings and their setting.

According to Section 69 of the Act a Conservation Area is an “area of special architectural or historic interest the character and the appearance of which is desirable to preserve or enhance”. It is the duty of Local Authorities to designate such areas and to use their legal powers to safeguard and enhance the special qualities of these areas within the framework of controlled and positive management of change.

Section 69 further states that it shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly. Adding, The Secretary of State may from time to time determine that any part of a local planning authority’s area which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.

Further to this Section 72 of the 1990 Act states that in exercising all planning functions, local planning authorities must have special regard to the desirability of preserving or enhancing the character and appearance of Conservation Areas. Further provisions are detailed in Section 74 of the Act.

Recent case law¹ has confirmed that Parliament’s intention in enacting Section 66 (1) was that decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings, where “preserve” means “to do no harm”. This duty must be borne in mind when considering any harm that may accrue and the balancing of such harm against

public benefits as required by national planning policy. This can also logically be applied to the statutory tests in respect of conservation areas. Similarly, it has also been proven that weight must also be given to heritage benefits.

National Planning Policy

National Planning Policy Framework (NPPF) July 2021

The National Planning Policy Framework (NPPF) was published on 20th of July 2021 and sets out the Government’s planning policies for England and how these are expected to be applied. It has purposefully been created to provide a framework within which local people and Local Planning Authorities (LPAs) can produce their own distinctive Local and Neighbourhood Plans which reflect the needs and priorities of their communities.

When determining Planning Applications, the NPPF directs LPAs to apply the approach of presumption in favour of sustainable development; the ‘golden thread’ which is expected to run through the plan-making and decision-taking activities. It should be noted however, that this is expected to apply except where this conflicts with other policies combined within the NPPF, inclusive of those covering the protection of designated heritage assets , as set out in paragraph 11 of the NPPF. Within section 12 of the NPPF, ‘Achieving well-designed places’, Paragraphs 126 to 136, reinforce the importance of good design in achieving sustainable development by ensuring the creation of inclusive and high-quality places. This section of the NPPF affirms the need for new design to function well and add to the quality of the area in which it is built; establish a strong sense of place; and respond to local character and history, reflecting the built identity of the surrounding area.

Section 16, ‘Conserving and Enhancing the Historic Environment’, Paragraphs 189-208, relate to developments that have an effect upon the historic environment. These paragraphs provide the guidance to which local authorities need to refer when setting out a strategy for the conservation and enjoyment of the historic environment in their Local Plans. This should be a positive strategy for the conservation and enjoyment of the historic environment and should include heritage assets which are most at risk through neglect, decay or other threats. It is also noted that heritage assets should be conserved in a manner appropriate to their significance .

The NPPF advises local authorities to take into account the following points when drawing up strategies for the conservation and enjoyment of the historic environment. These considerations should be taken into account when determining planning applications:

- The desirability of sustaining and enhancing the significance of heritage assets and preserving them in a viable use consistent with their conservation;
- The wider social, cultural, economic and environmental benefits that

the conservation of the historic environment can bring;

- The desirability of new development in making a positive contribution to local character and distinctiveness;
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

Paragraph 191 of the NPPF states that when considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

In order to determine applications for development, Paragraph 194 of the NPPF states that LPAs should require applicants to describe the significance of the heritage assets affected and the contribution made by their setting . Adding that the level of detail provided should be proportionate to the significance of the asset and sufficient to understand the impact of the proposal on this significance.

According to Paragraph 195, LPAs should also identify and assess the significance of a heritage asset that may be affected by a proposal and should take this assessment into account when considering the impact upon the heritage asset.

Paragraph 196 adds that where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

Paragraphs 199 to 204 consider the impact of a proposed development upon the significance of a heritage asset . Paragraph 199 emphasises that when a new development is proposed, great weight should be given to the asset’s conservation and that the more important the asset, the greater this weight should be. It is noted within this paragraph that significance can be harmed or lost through the alteration or destruction of the heritage asset or by development within its setting.

Paragraph 202 advises that where a development will cause 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 securing its optimum viable use.

Paragraph 203 notes that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Adding, that in weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 204 stipulates that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to

¹ Barnwell Manor Wind Energy Limited and (1) East Northamptonshire District Council (2) Historic England (3) National Trust (4) The Secretary of State for Communities and Local Governments, Case No: C1/2013/0843, 18th February 2014

ensure the new development will proceed after the loss has occurred.

In addition, Paragraph 206 notes that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Adding, proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 207 importantly clarifies that not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Adding, loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

The NPPF therefore continues the philosophy of that upheld in PPS5 in moving away from narrow or prescriptive attitudes towards development within the historic environment, towards intelligent, imaginative and sustainable approaches to managing change. English Heritage (now Historic England) defined this new approach, now reflected in the NPPF, as 'constructive conservation'. This is defined as 'a positive and collaborative approach to conservation that focuses on actively managing change...the aim is to recognise and reinforce the historic significance of places, while accommodating the changes necessary to ensure their continued use and enjoyment.' (Constructive Conservation in Practice, English Heritage, 2009).

National Guidance

Planning Practice Guidance (NPPG) 2019

Planning Practice Guidance (PPG) was introduced by the Government as a web-based resource on 6th March 2014 and is updated regularly, with the most recent update on 23rd July 2019. The PPG is intended to provide more detailed guidance and information with regard to the implementation of national policy set out in the NPPF.

It reiterates that conservation of heritage assets in a manner appropriate to their significance is a core planning principle. It also states, conservation is an active process of maintenance and managing change, requiring a flexible and thoughtful approach. Furthermore, it highlights that neglect and decay of heritage assets is best addressed through ensuring they remain in active use that is consistent with their conservation.

Importantly, the guidance states that if complete, or partial loss of a heritage asset is justified, the aim should then be to capture and record the evidence of the asset's significance and make the interpretation publicly available.

Key elements of the guidance relate to assessing harm. It states, an important consideration should be whether the proposed works adversely affect a key element of the heritage asset's special architectural or historic interest. Adding, it is the degree of harm, rather than the scale of development that is to be assessed. The level of 'substantial harm' is stated to be a high bar that may not arise in many cases. Essentially, whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the NPPF.

Importantly, it is stated harm may arise from works to the asset or from development within its setting. Setting is defined as the surroundings in which an asset is experienced and may be more extensive than the curtilage. A thorough assessment of the impact of proposals upon setting needs to take into account, and be proportionate to, the significance of the heritage asset and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

The PPG makes clear that the delivery of development within the setting of heritage assets has the potential to make a positive contribution to, or better reveal, the significance of that asset.

Finally, the PPG provides in depth guidance on the importance of World Heritage Sites, why they are important and the contribution setting makes to their Outstanding Universal Value. The PPG also provides guidance on the approaches that should be taken to assess the impact of development on the Outstanding Universal Value of World Heritage Sites.

Historic England Guidance - Overview

On the 25th March 2015 Historic England (formerly English Heritage) withdrew the PPS5 Practice Guide. This document has been replaced with three Good Practice Advice in Planning Notes (GPAs), 'GPA1: Local Plan Making' (Published 25th March 2015), 'GPA2: Managing significance in Decision-Taking in the historic Environment' (Published 27th March 2015) and 'GPA3: The Setting of Heritage Assets' (December 2017).

The GPAs provide supporting guidance relating to good conservation practice. The documents particularly focus on the how good practice can be achieved through the principles included within national policy and guidance. As such, the GPAs provide information on good practice to assist LPAs, planning and other consultants, owners, applicants and other interested parties when implementing policy found within the NPPF and PPG relating to the historic environment.

In addition to these documents, Historic England has published several core Advice Notes (HEAs) which provide detailed and practical advice on how national policy and guidance is implemented. These documents include; 'HEAN1: Conservation Area Appraisal, Designation and Management (Second Edition, February 2019)', 'HEAN2: Making Changes to Heritage Assets' (25th February 2016) and 'HEAN3: The Historic Environment and Site Allocations in

Local Plans' (30th October 2015). In addition to these 'HEAN4: Tall Buildings' (December 2015), 'HEA:#N7: Local Heritage Listing: Identifying and Conserving Local Heritage (Second Edition, January 2021)', 'HEAN10: Listed Buildings and Curtilage' (21st February 2018) and, 'HEAN12: Statements of Heritage Significance' (October 2019). Collectively, these Advice Notes provide further information and guidance in respect of managing the historic environment and development within it.

Historic England Good Practice Advice Note 1 (GPA1): The Historic Environment in Local Plans (March 2015)

This document stresses the importance of formulating Local Plans that are based on up-to-date and relevant evidence in relation to the economic, social and environmental characteristics and prospects of an area, including the historic environment, as set out by the NPPF. The document provides advice on how information in respect of the local historic environment can be gathered, emphasising the importance of not only setting out known sites, but in understanding their value (i.e. significance). This evidence should be used to define a positive strategy for the historic environment and the formulation of a plan for the maintenance and use of heritage assets and for the delivery of development, including within their setting, that will afford appropriate protection for the asset(s) and make a positive contribution to local character and distinctiveness.

Furthermore, the Local Plan can assist in ensuring that site allocations avoid harming the significance of heritage assets and their settings, whilst providing the opportunity to 'inform the nature of allocations so development responds and reflects local character'.

Further information is given relating to cumulative impact, 106 agreements, stating 'to support the delivery of the Plan's heritage strategy it may be considered appropriate to include reference to the role of Section 106 agreements in relation to heritage assets, particularly those at risk.' It also advises on how the heritage policies within Local Plans should identify areas that are appropriate for development as well as defining specific Development Management Policies for the historic environment. It also suggests that a heritage Supplementary Planning Document (SPD) can be a useful tool to amplify and elaborate on the delivery of the positive heritage strategy in the Local Plan.

Historic England Good Practice Advice Note 2 (GPA2): Managing Significance in Decision-Taking in the Historic Environment (March 2015)

This document provides advice on the numerous ways in which decision-taking in the historic environment can be undertaken, emphasising that the first step for all applicants is to understand the significance of any affected heritage asset and the contribution of its setting to its significance. In line with the NPPF and PPG, this document states that early engagement and expert advice in considering and assessing the significance of heritage assets is encouraged, stating that 'development proposals that affect the historic environment are much more

likely to gain the necessary permissions and create successful places if they are designed with the knowledge and understanding of the significance of the heritage assets they may affect.’

The advice suggests a structured staged approach to the assembly and analysis of relevant information, this is as follows:

1. Understand the significance of the affected assets;
2. Understand the impact of the proposal on that significance;
3. Avoid, minimise and mitigate impact in a way that meets the objectives of the NPPF;
4. Look for opportunities to better reveal or enhance significance;
5. Justify any harmful impacts in terms of the sustainable development objective of conserving significance and the need for change; and
6. Offset negative impacts on aspects of significance by enhancing others through recording, disseminating and archiving archaeological and historical interest of the important elements of the heritage assets affected.

The advice reiterates that heritage assets may be affected by direct physical change or by change in their setting. Assessment of the nature, extent and importance of the significance of a heritage asset and the contribution of its setting at an early stage can assist the planning process resulting in informed decision-taking.

This document sets out the recommended steps for assessing significance and the impact of development proposals upon a heritage asset, including examining the asset and its setting and analysing local policies and information sources. In assessing the impact of a development proposal on the significance of a heritage asset the document emphasises that the cumulative impact of incremental small-scale changes may have as great an effect on the significance of a heritage asset as a larger scale change.

Crucially, the nature and importance of the significance that is affected will dictate the proportionate response to assessing that change, its justification, mitigation and any recording which may be necessary. This document also provides guidance in respect of neglect and unauthorised works.

Historic England Good Practice Advice Note (GPA3): The Setting of Heritage Assets (December 2017)

This is used to understand the surroundings of a heritage asset which may contribute to its significance. It aids practitioners with the implementation of national policies and guidance relating to the historic environment found within the NPPF and PPG, once again advocating a stepped approach to assessment.

It amalgamates ‘Seeing the History in the View’ (2011) and ‘Setting of Heritage Assets’ (2015) forming one succinct document which focuses on the management of change within the setting of heritage assets.

The guidance is largely a continuation of the philosophy and approach of the previous documents, albeit now with a greater emphasis on the contribution that views to and from heritage assets make to their significance. It reaffirms that setting should be understood as the way in which an asset is experienced.

The guidance emphasises that setting is not a heritage asset, nor a heritage designation, and that its importance lies in what it contributes to the significance of the heritage asset. It also states that elements of setting may make a positive, negative or neutral contribution to the significance of the heritage asset.

While setting is largely a visual term, with views considered to be an important consideration in any assessment of the contribution that setting makes to the significance of an asset, setting, and thus the way in which an asset is experienced, can also be affected by other environmental factors including noise, vibration and odour, while setting may also incorporate perceptual and associational attributes pertaining to the asset’s surroundings.

This document provides guidance on practical and proportionate decision making with regards to the management of proposed development and the setting of heritage assets. It identifies that the protection of the setting of a heritage asset need not prevent change and that decisions relating to such issues need to be based on the nature, extent and level of the significance of a heritage asset, as well as further weighing up the potential public benefits associated with the proposals. It clarifies that changes within the setting of a heritage asset may have positive or neutral effects.

It highlights that the contribution made to the significance of heritage assets by their settings will vary depending on the nature of the heritage asset and its setting and that different heritage assets may have different abilities to accommodate change within their settings without harming the significance of the asset and therefore setting should be assessed on a case-by-case basis. Although not prescriptive in setting out how this assessment should be carried out, noting that any approach should be demonstrably compliant with legislation, national policies and objectives, Historic England recommend using a ‘5-step process’ in order to assess the potential impact of a proposed development on the setting and significance of a heritage asset, with this 5-step process similar to that utilised in earlier guidance:

Step 1: Identify which heritage assets and their settings are affected

Step 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

Step 3: Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it

Step 4: Explore ways to maximise enhancement and avoid or minimise harm

Step 5: Make and document the decision and monitor outcomes

Historic England Advice Note 2 (HEAN2): Making Changes to Heritage Assets (February 2016)

The purpose of this document is to provide information in respect of the repair, restoration and alterations to heritage assets. It promotes guidance for both LPAs, consultants, owners, applicants and other interested parties in order to promote well-informed and collaborative conservation.

The best way to conserve a building is to keep it in use, or to find an appropriate new use. This document states that ‘an unreasonable, inflexible approach will prevent action that could give a building new life...A reasonable proportionate approach to owners’ needs is therefore essential’. Whilst this is the case, the limits imposed by the significance of individual elements are an important consideration, especially when considering an asset’s compatibility with Building Regulations and the Equality Act. As such, it is good practice for LPAs to consider imaginative ways of avoiding such conflict.

This document provides information relating to proposed change to a heritage asset, which are characterised as:

- Repair;
- Restoration;
- Addition and alteration, either singly or in combination; and
- Works for research alone.

Historic England Advice Note 3 (HEAN3): The Historic Environment and Site Allocations in Local Plans (October 2015)

This document provides information for those involved in the site allocation process, particularly when implementing historic environment legislation, relevant policy within the NPPF and related guidance found within the Planning Practice Guidance (PPG).

The inclusion of sites within a Local Plan can provide the opportunity to ensure that new development will avoid harming the significance of both designated and non-designated heritage assets, including effects on their setting. Furthermore, this document highlights the ways in which the process of site allocation may present opportunities to better reveal the historic environment. It sets out a five-step methodology which can assist in appropriate site selection:

Step 1: Identify which heritage assets are affected by the potential site allocation;

Step 2: Understand what contribution the site (in its current form) makes to the

significance of heritage asset(s);

Step 3: Identify what impacts the allocation might have on that significance;

Step 4: Consider maximising enhancements and avoiding harm; and

Step 5: Determine whether the proposed site allocation is appropriate in light of the NPPF's tests of soundness.

Historic England Advice Note 7 (HEAN7): Local Heritage Listing: Identifying and Conserving Local Heritage (Second Edition, January 2021)

First published by English Heritage in 2012 under the title 'Good Practice Guide for Local Heritage Listing', HEAN7: Local Heritage Listing: Identifying and Conserving Local Heritage supersedes the first edition of the published guidance; Historic England Advice Note 7: Local Heritage Listing (2016), reflecting the changes made to the Planning Practice Guidance in 2019.

The updated advice seeks to support communities and local authorities in the introduction of a local heritage list in their area or for those wishing to make changes to an existing list which may have already been adopted. It observes the value of a local heritage list and seeks to adopt a consistent and accountable approach to the identification and management of heritage assets at a local level.

Historic England notes that inclusion on a local heritage list based on sound evidence and criteria delivers a consistent and accountable way of recognising non-designated heritage assets, no matter how they are identified, to the benefits of good planning for the area and of owners, developers and others wishing to understand local context fully. By providing clear and up-to-date information, backed by policy set out in the NPPF (2019), a local heritage list which has been available on the website of a local planning authority and via the Historic Environment Record (HER) provides clarity on the location and identification of non-designated heritage assets.

Regarding the identification of non-designated heritage assets, Historic England builds on the guidance set out in Planning Practice Guidance (2019) in defining a non-designated heritage asset, highlighting that they can be identified in several ways, including:

- Local Heritage Lists;
- Local and Neighbourhood Plans;
- Conservation Area Appraisals and Reviews;
- Decision-making on planning applications.

Whilst the advice notes that planning protections for non-designated heritage assets are not as strong as those for designated heritage assets, it highlights

that they are still important, referring to the importance of paragraph 197 of the NPPF (2019), which requires local planning authorities to take into account the desirability of sustaining and enhancing the significance of such heritage assets.

This document draws on good practice across the country in developing a new local heritage list or making improvements to an existing one. Importantly, this advice should be seen as a starting point. In order to remain flexible enough to respond to local needs, decisions on the ways in which assets are identified, and the system adopted for managing the local heritage list, are matters for local planning authorities and their communities. This advice does, however, set out methods for setting up and managing a local list to provide ideas on how this might be done, including providing a clear criterion setting commonly applied selection criteria for assessing the suitability of assets for inclusion in a local heritage list.

Historic England Advice Note 10 (HEAN10): Listed Buildings and Curtilage (February 2018)

HE10: Listed Buildings and Curtilage provides advice on assessing whether a building has a curtilage and what that curtilage might/may include. It provides hypothetical examples to assist in that assessment and is based on current legislative provisions in the Planning (Listed Building and Conservation Areas) Act 1990 and consideration of listed buildings and curtilage in legal cases.

In general terms, the guidance defines the curtilage of a building (the principal listed building) as any area of land and other buildings that are around and associated with that principal building. It sets out that the courts have stated that there are three key factors to be taken into account in assessing whether a structure, building or object falls within the curtilage of a listed building:

- The physical layout of the listed building and structure;
- Their ownership, both historically and at the date of listing;
- The use or function of the relevant buildings, again both historically and at the date of listing.

It is important to note that the law (Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990) states that listed buildings identified on the National Heritage List for England also includes any ancillary objects or structures within the curtilage of the building, which forms part of the land and has done so since before 1st July 1948. Ultimately, it will be for the Local Planning Authority to reach a conclusion as to whether or not buildings are within a particular curtilage, and ultimately a matter for the courts to determine if that decision is thought unreasonable.

Historic England Advice Note 12 (HEA12): Statements of Heritage Significance (October 2019)

HEA12: Statements of Heritage Significance covers the National Planning

Policy Framework requirement for applicants for heritage and other consents to describe heritage significance to help local planning authorities to make decisions on the impact of proposals for change to heritage assets.

The document states that understanding the significance of heritage assets, in advance of developing proposals for their buildings and sites, enables owners and applicants to receive effective, consistent and timely decisions. It explores the assessment of significance of heritage assets as part of a staged approach to decision-making in which assessing significance precedes designing the proposal(s).

Historic England Advice Note 16 (HEAN 16): Listed Building Consent

HE16: Listed Building Consent provides advice on how to judge whether proposals require listed building consent and how to make informed applications for this. It also advises on what works are likely to need listed building consent or not, and provides guidance on submitting successful applications.

The note emphasises the importance of understanding the significance of a listed building and where it gains its special interest, and recommends the assistance of heritage professionals to increase the likelihood of a successful listed building consent application, as well as utilising contractors who have experience with historic buildings to carry out works.

It provides a reminder of the relevant policies that are laid out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (in particular sections 7,8 and 9), the NPPF and the PPG. The note's 'Annex 1' provides examples of common scenarios involving proposals of works to a listed building, and advises as to whether or not these would require listed building consent. Additionally, a table of potential proposed works is laid out with guidance as to what would not require an application for listed building consent and what exceptions there are likely to be.

Conservation Principles, Policies and Guidance (English Heritage, 2008)

Conservation Principles outlines English Heritage's approach to the sustainable management of the historic environment. While primarily intended to ensure consistency in English Heritage's own advice and guidance through the planning process, the document is commended to local authorities to ensure that all decisions about change affecting the historic environment are informed and sustainable.

This document was published in line with the philosophy of PPS5 and is currently in the process of being updated. Nevertheless, it remains relevant to the current policy regime in that emphasis is placed upon the importance of understanding significance as a means to properly assess the effects of change to heritage assets. The guidance describes a range of heritage values which enable the significance of assets to be established systematically, with the four main 'heritage values' being: evidential, historical, aesthetic and communal. The Principles emphasise that 'considered change offers the potential to enhance

and add value to places...it is the means by which each generation aspires to enrich the historic environment' (paragraph 25).

Strategic Policy

Core Strategy (2013)

Adopted in September 2013, the Core Strategy sets out guidance for change in the Borough of Dacorum until 2031. The document should be read alongside other plans and strategies including the Saved Local Plan Policies (2004).

The policies within the Core Strategy (2013) which concern development within the historic environment are as follows:

Policy CS27 Quality of Historic Environment

All development will favour the conservation of heritage assets.

The integrity, setting and distinctiveness of designated and non-designated heritage assets will be protected, conserved and if appropriate enhanced.

Development will positively conserve and enhance the appearance and character of conservation areas. Negative features and problems identified in conservation area appraisals will be ameliorated or removed.

Features of known or potential archaeological interest will be surveyed, recorded and wherever possible retained.

Supplementary planning documents will provide further guidance.

Saved Local Plan Policies (2004)

Policy 119 Development Affecting Listed Buildings

This policy outlines the preservation of listed buildings, taking into account their significance when considering applications for listed building consent. The policy further sets out the requirements and measures for changes of use and the need for them must be compatible with the fabric, interior and setting of the listed building.

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