

CASTLEFIELD INTERNATIONAL LTD

**LAND AT TEVERSHAM ROAD,
FULBOURN
SOUTH CAMBRIDGESHIRE**

HERITAGE STATEMENT

January 2017

CONTENTS

<u>Section</u>		<u>Page No.</u>
	Executive Summary	
1.0	Introduction	
2.0	Background To This Application	
3.0	Legislative and Planning Policy Framework	
4.0	Historical Development	
5.0	Assessment of Heritage Assets	
6.0	The Contribution Made By The Conservation Area's Setting To Its Significance	
7.0	Assessment of Proposals	
8.0	Conclusion	

APPENDICES

1.0	Decision Notice for planning application ref. S/2273/14/OL (August 2015)	
2.0	Heritage Statement by CGMS submitted with previous application (S/2273/14/OL) (September 2014)	
3.0	Appeal Decision Report (Ref. APP/A0530/W/15/3139730) (November 2016)	
4.0	<i>Barnwell v East Northamptonshire District Council</i> [2014] EWCA Civ 137	
5.0	<i>Palmer v Herefordshire Council & ANR</i> [2016] EWCA Civ 1061	
6.0	Historic Map Regression	
7.0	Maps of the Fulbourn Conservation Area	
8.0	Site Context Photographs	

EXECUTIVE SUMMARY

Montagu Evans LLP have been instructed by Castlefield International Ltd to produce this Heritage Statement in support of the application for outline planning permission for the land at Teversham Road, Fulbourn.

The applicant seeks to develop up to 110 homes with associated landscaping and infrastructure on a 6.85ha plot, which is currently open grassland in the western part of the village.

The Application Site is bounded by Cow Lane to the south which forms the boundary of the Fulbourn Conservation Area. A small part of the Site is include within the Conservation Area (CA) designation. This report has been produced to assess the impact of the proposed development on the special interest of the CA.

Fulbourn Conservation Area

Fulbourn Conservation Area is formed of four parts which were designated separately. The primary significance of the CA lies with the first part, the historic core, which comprises the eastern part of the CA. The CA was later extended to include a non-contiguous parcel of land associated with the village's historic water supply to the west of the village. Pierce Lane was later designated to link these two parts. The site of the Victorian hospital at Cambridge Road is also included in the designation, but remains disconnected from the other three parts of the CA.

The waterworks, Pierce Lane, and hospital parts of the CA each have their own special interest, relative to the significance of the historic core. The Application Site is located adjacent to the waterworks part of the CA, and it is the impact on the setting and significance of this part of the CA which is considered.

The significance of the waterworks part of the CA lies in the historic association with water supply (which dates back to a medieval well), and the built form of the former Victorian Pump House, cooling pond and garden. We conclude that the open field of the Application Site does not contribute to an appreciation of the special interest of this part of the CA, and there is no functional or historic relationship between the two.

There has been substantial later development surrounding this part of the CA, including large areas of post-war residential housing and a railway line. The historic rural setting has been lost and this part of the CA is appreciated in a suburban context.

Recent Appeal

The development proposed in this application is substantially similar to a previous scheme submitted by Castlefield International Ltd in September 2014. This application was refused by the local planning authority in August 2015, and the applicant appealed the decision. The Appeal was dismissed in November 2016 because of the lack of a planning obligations S106 Agreement. On the substantive points, the Inspector found with the Appellant, including on heritage matters, where he concluded that the setting effects on the Fulbourn Conservation Area were acceptable, resulting in a very limited adverse impact, at the bottom end of the 'less

than substantial harm' range. The Inspector found that the effect of the restoration of the Pump House garden would be a modest enhancement to the CA.

It was agreed by all parties at the Appeal that no harm was alleged to other nearby designated and non-designated heritage assets. It is for this reason that this report is concerned with the impact on the CA only.

Conclusions

In light of the recent Appeal, we find that it is reasonable to conclude that the proposals, being substantively similar in all respects to the previous application, are acceptable.

The small section of the Application Site is located within the CA boundary will not be subject of any development, and will benefit from landscaping proposals to restore and maintain the former Pump House garden. This will enhance the special interest of the CA.

The Application Site makes no contribution to the setting or significance of the waterworks part of the CA. The development of the Application Site outside the CA will, therefore, cause no harm to its special interest, character or appearance as a result of the change to the existing setting of the CA in this location.

The positive features of the design, notably the landscape proposals for the former Pump House garden in particular but also the potential for new housing in a characteristic style, are an enhancement. The design and layout of the new development will be complementary in nature to surrounding parts of the CA. We therefore find the proposed development to be compliant with the legislative framework (in particular Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990), and local policies Policy ST/k (built and natural heritage) of the development plan, Policy CH/5 of the development control DPD (Conservation Areas), and the guidance provided in the Council's conservation areas SPD. For the same reasons the relevant provisions of the NPPF are met, including paragraphs 132 and 137.

1.0 INTRODUCTION

1.1 Montagu Evans LLP have been instructed by Castlefield International Ltd (hereafter “the Client”) to produce this Heritage Statement in support of the application for outline planning permission to develop up to 110 houses and associated infrastructure east of Teversham Road, Fulbourn (hereafter “the Application Site”).

1.2 The description of development is as follows:

“Outline application including consideration of access points, for high quality residential development of up to 110 dwellings with areas of landscaping and public open space and associated infrastructure works.”

The Site

1.3 The Application Site comprises a 6.85ha plot of flat, open grassland in the western part of the village of Fulbourn. Fulbourn is a village of located approximately 4.5 miles east of Cambridge. The Site falls within the administrative boundary of South Cambridgeshire District Council (hereafter “the Council”), who are the local planning authority.

1.4 The Site is bounded by the Ipswich to Cambridge railway line to north, Cow Lane to the south, Teversham Road to the west, and Cox’s Drove *cul de sac* to the east. For all except the northern boundary there has been later residential development around the Site.

1.5 There is a former Victorian waterworks adjacent to the south west corner of the Application Site, which consists of the former Pump House (the engine house for a water extraction system, now an office building with associated car parking), cooling ponds and ornamental garden. The building is not listed, but is identified as a Positive Building in the Fulbourn Conservation Area Appraisal. The cooling pond and ornamental garden fall within the Site boundary at its southern edge.

1.6 The former cooling pond and ornamental garden area is the only part of the Site which falls within the boundary of the Fulbourn Conservation Area. The remainder of the Conservation Area (CA), which abuts the Application Site, extends to the east along Pierce Lane towards the historic core of the village. The Application Site is considered to form part of the setting of the CA. No built development is proposed in the Conservation Area.

Proposals

1.7 Full details of the proposed development is provided in the Design and Access Statement by Barton Willmore. In summary, the proposed development is presented in outline and comprises:

- Up to 110 high quality residential dwellings;

- Areas of landscaping;
- Areas of public open space including an outdoor play space;
- Creation of a new access point at Teversham Road; and
- Associated infrastructure works.

1.8 This scheme largely replicates a previous application for outline planning application which was refused in August 2015. The applicant, our client, appealed the decision, which was dismissed in November 2016 after a seven-day hearing. Full details on the Appeal are provide at **Section 2.0**.

1.9 That Appeal was dismissed for the lack of a planning obligation S106 agreement. On the substantive points the Inspector found with the Appellant and in particular, on heritage matters, concluded that the effects on the Fulbourn Conservation Area were acceptable, resulting in a very limited impact. The new proposals have been formulated mindful of the Appeal proposals.

Structure of this report

1.10 This report is structured as follows:

- At **Section 2.0** we set out detailed background information on the refused scheme and the consideration of heritage during the Appeal.
- **Section 3.0** sets out the legislative and planning policy framework as it applies to the proposed development.
- At **Section 4.0** we provide an account of the historical development of the Application Site, which is used to inform the assessment of the Fulbourn Conservation Area in **Section 5.0** and **Section 6.0**.
- Given the focus of this report on the impact of the proposals on the setting of the Fulbourn Conservation Area, **Section 6.0** refers specifically to the contribution that setting makes to the significance of the Conservation Area.
- At **Section 7.0** the impact of the proposed development on the heritage assets is assessed, and the performance of the proposed development in terms of legislation and policy.
- We present a summary of our findings in the conclusion at **Section 8.0**.

2.0 BACKGROUND TO THIS APPLICATION

- 2.1 The proposed development is based upon a previous scheme which was submitted by our client as an application for outline planning permission in September 2014.
- 2.2 The previous application proposed a high quality residential development of the land at Teversham Road (the current Application Site) of up to 110 dwellings with areas of landscaping, public open space, and associated infrastructure works and access (planning ref. S/2273/14/OL). The Council refused the application on 12th August 2015.
- 2.3 The Council provided three reasons for refusal in their Decision Letter dated 12th August 2015 (**Appendix 1.0**). The reasons relating to heritage considerations were as follows:
- “1. The collective adverse impact of the development on the landscape character, setting of Fulbourn Conservation Area, village character and ecological interests results in demonstrable and significant harm which, on balance, outweighs the benefits which arise from delivering up to 110 new dwellings (30% of which will be affordable at a 50/50 rented to shared ownership split) in a village which is well served by facilities and services and has good access to public transport links. For this reason the proposal does not represent sustainable development and conflicts with the requirements of the NPPF.”*
- 2.4 This reason for refusal cast a link between the setting of the Fulbourn Conservation Area, the landscape character and the village character. It is for this reason that we have had regard to the landscape and visual impact study (LVIA). We will, therefore, refer to aspects of the landscape proposals in this assessment. It is notable, too, that three topic areas – landscape, village character and conservation – were bundled together in one reason and during the last Appeal the Council accepted these reasons were cumulative.
- 2.5 The applicant, our client, appealed the decision, and a Public Inquiry was held over a period of seven days between the 13th and 22nd September 2016 (Appeal ref. APP/W0530/W/15/313970).
- 2.6 Montagu Evans were approached by our client at the end of 2015 to act as expert witness for heritage matters. In preparation for the Inquiry, a review of the Heritage Statement submitted with the refused application was undertaken. This Heritage Statement was prepared by CGMS, and is attached at **Appendix 2.0**.
- 2.7 The CGMS report provides useful background information, although we disagree with CGMS’ overall findings.
- 2.8 The Appeal was dismissed because of a lack of planning obligations S106 agreement, and in light of development plan policies DP/4 and SF10 dealing with infrastructure, and outdoor play space and informal open space (see the Appeal Decision at

Appendix 3.0). The Inspector found that the Appeal proposals were in conflict with these policies and, “*despite favourable findings on many of the main issues, the deficiencies with the UU meant that I cannot have any certainty that the appeal proposals would result in acceptable development for future residents to live in*”.

2.9 It is notable that heritage was one of the issues which resulted in ‘favourable findings’. A summary of the Inspector’s findings as they relate to heritage are set out below:

- The Inspector recognised that no harm was alleged by either party to the CA itself, and that the focus was on the indirect effect the proposals on the setting of the CA, and that effect on its significance (paragraph 43). As such, this report will focus on the contribution setting makes to the significance of the CA, and the impact of the proposals on the setting of the CA north of Cow Lane.
- The Inspector justified the potential effect on setting because of the physical proximity between the Appeal Site and the CA, and the potential for glimpsed views of the proposed development from the CA (paragraph 49).
- A key characteristic of the CA identified in its Appraisal is that the fields surrounding the village contribute to its strong rural character, and separation from Cambridge via Cherry Hinton. The Inspector found that the Appeal proposals would not make Fulbourn any less of a ‘separate place’. He furthermore found that development could take place on the Appeal Site which would be in keeping with the character of the village (paragraphs 45 and 46).
- The Inspector was of the opinion that the location of the waterworks was chosen because it was the most appropriate location close to the source of well water. He did not agree (with the Council) that the waterworks were purposefully located in a remote location separate from the village because of anti-social aspects arising from its operation (paragraph 47).
- There is no historical link between the waterworks and the Appeal Site, possibly with the exception of water discharge via a drain which was once operational on the southern boundary of the Site (paragraph 47). The Inspector acknowledged that if the drain connection still exists, then it would not be affected by the proposals, and neither would the proposals affect an understanding of the special interest of the Pump House in this regard (ibid).
- The Inspector expands this view when he states at paragraph 48 that there is, in fact, a greater functional relationship between the waterworks and the built up settlement to the south and east, than with the rural north.
- The Inspector noted that, in a version of the scheme seen by English Heritage (EH) an outdoor Local Equipped Play Area (LEAP) was proposed in part of the Pump House garden. EH were of the opinion that the LEAP would fit awkwardly in the historic context of the Pump House, and also that 2.5 storey development at the edge of the village was inappropriate (paragraph 50). The likely scale of harm was found to be limited by EH, however, and could be mitigated by revising the layout and location of the LEAP, and imposing a condition on building heights (paragraph 50/51). During determination of the initial

application, the LEAP was relocated to a central area of the Site out of the demise of the CA. The LEAP remains in the revised location in the application that is now brought forward.

- With these points in mind, the Inspector concluded that there would be only a very minor adverse impact on the setting and significance of the CA, which he placed “at the bottom end of the ‘less than substantial harm’ range” (paragraph 52).
- The Inspector found there to be benefits arising from the proposed restoration and opening of the Pump House garden, as this would allow better appreciation of this part of the CA. The proposals therefore represent a modest enhancement to the CA (paragraph 53).

2.10 In paragraph 46, the Inspector restates his view that the Appeal Site is suitable for development which would be in keeping with the existing village character. This is consistent with earlier comments made by Local Plan Inspector for the 2004 Local Plan, when the site was considered for housing. The Site was identified as site 162 in the SHLAA Site Assessment Pro Forma (call for sites 2011, Land between Teversham Road and Cow Lane).

2.11 The Local Plan Inspector wrote:

‘it would be possible to develop this large site with only limited visual impact, subject to careful design at the boundaries with the Conservation Area. In addition, I note that the land has been actively considered as a candidate for development at a number of stages in the past including at the last Local Plan Inquiry (paragraph 31.20)’.

2.12 At the time there was no published Conservation Area Appraisal (CAA) as there is now, but there is nothing in that which would change the Inspector’s judgment and observations about design. In any event, the proposals take care to address any visual impacts arising from the scheme.

Summary

2.13 The recent Inspectors decision on a similar scheme is a material consideration of great weight to this application. We find that it is reasonable to conclude that the proposals, being substantively similar in all respects to the previous application, are acceptable, subject to a S106 Agreement.

3.0 LEGISLATIVE AND PLANNING POLICY FRAMEWORK

3.1 This section sets out the statutory provision and planning policy context for the proposals for the land at Teversham Road. An assessment of the proposals in light of these provisions is provided in **Section 7.0** of this report.

Legislation

The Planning and Compulsory Purchase Act 2004

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 Act requires the decision maker to determine applications in accordance with the statutory development plan for the area, unless material considerations indicate otherwise. The statutory development plan in this case is as follows:

- South Cambridge District Council Core Strategy (January 2007); and
- South Cambridge District Council Development Control Policies Development Plan Document (July 2007).

Town and Country Planning (Listed Buildings and Conservations Areas) Act 1990

3.3 The Planning (Listed Buildings and Conservation Areas) Act 1990 (hereafter “the 1990 Act”) sets out the legislative duties of the decision maker in this case. The relevant provision to this application is as follows:

- **Section 72(1)** *In the exercise, with respect to any buildings or other land in a General duty as conservation area, of any powers under any of the provisions mentioned respects in subsection (2), special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.*

3.4 In this context ‘to preserve’ means ‘to cause no harm’, the principle established in *South Lakeland District Council v Secretary of State for the Environment and another* [1992] 1 ALL ER 573.

3.5 Recent case law (Barnwell, see **Appendix 4.0**) also establishes the strong presumption in law against harm to designated heritage assets which applies to the S72 duty (since part of the Application Site is in the CA) and to policies that flow from that provision (see paragraph 132 of the Framework, containing the so-called ‘great weight’ provision). The corollary of this is that any enhancement to designated heritage assets is a matter of considerable importance and weight in the planning balance.

3.6 Recent case law also clarifies that if a development proposal has some aspects that harm heritage interest and others that enhance it, the judgement on ‘less than substantial harm’ in paragraph 134 of the Framework should only apply if there is residual harm, once all harm and benefits are taken into account (Palmer versus Herefordshire et al, **Appendix 5.0**). Palmer is relevant in this case because the Appeal Inspector concluded that the proposals to restore the Pump House garden provide a

modest enhancement, while the effect on the setting of the CA is only very minor adverse, and low on the scale of less than substantial harm.

- 3.7 The larger part of the development falls outside the CA but within its setting, with a small part of the Application Site included with the CA boundary, where the Application Site takes in an area of land to the east of the former Pump House.
- 3.8 There is no statutory requirement to preserve or enhance the setting of a CA, but by parity of reasoning on the basis of the statutory protection given to the setting of listed buildings, as designated heritage assets, policy provisions (paragraph 132 notably), and recent case law a decision maker should also take into account impacts outside a CA which might affect its character or appearance and give those impacts great weight where they are either positive or negative.

Development Plan

South Cambridgeshire District Council Core Strategy (January 2007)

- 3.9 South Cambridgeshire adopted the Core Strategy in January 2007. In this development plan document, heritage is considered in Strategic Policy ST/k, which deals with all “built and natural heritage” in the District, to ensure that new development protects and enhances “*cherished townscape assets of local urban design, cultural, and conservation importance, and character of the landscape*”.

South Cambridgeshire District Council Development Control Policies Development Plan Document (July 2007)

- 3.10 More detailed heritage policy is provided at Chapter 8 of the Council’s Development Control Policies Development Plan Document (DPD) which was adopted in July 2007.
- 3.11 Policy CH/5 (Conservation Areas) of the DPD seeks the protection of conservation areas. The policy does not discourage new development in conservation areas, but states that proposals ought to:

provide a level of visual interest equivalent to that of the existing buildings in the Conservation Area. The choice of materials and detailed design are vital elements in achieving new buildings worthy of the small-scale village context which typifies South Cambridgeshire’s Conservation Areas.

Emerging South Cambridgeshire Local Plan 2011-2031

- 3.12 We have also had regard to emerging policy. The South Cambridgeshire Local Plan 2011-2031 was submitted to the Secretary of State on 28th March 2014. The Planning Inspectorate responded with comments in May 2015, which have since been addressed by the Council and subject to public consultation.
- 3.13 The public consultation closed in January 2016. The consultation responses, evidence base documents, and associated proposed modifications were submitted to PINS for consideration on the 31st March 2016.

- 3.14 In the draft Local Plan, Policy NH/14 in Chapter 6 deals with Heritage Assets. The policy is broadly consistent with the NPPF, requiring development proposals to sustain and enhance the special character and interest of the historic environment, including the setting of heritage assets.

Material Considerations

National Planning Policy Framework (NPPF) (March 2012) (CDA1) and the Government's Planning Objectives

- 3.15 The National Planning Policy Framework (NPPF) was published on the 27th March 2012 and supersedes previous national planning guidance contained in various Planning Policy Guidance and Planning Policy Statements. The NPPF sets out the government's approach to planning matters, and is a material consideration in the determination of planning applications.
- 3.16 Paragraphs 132-134 establish the policy principles. This group of policies, which need to be read together and in light of statutory provisions, expressly contemplate the situation where development causes harm to heritage interest, but nevertheless may be allowed where a decision maker concludes there is clear and convincing justification for that harm.
- 3.17 Although we do not find that the proposals are harmful, the Appeal Decision concluded that some elements of the Appeal proposals resulted in 'a very minor adverse effect' on the setting and significance of the CA, but that this was at the 'bottom end of the "less than substantial harm" range' (para 52), so we include reference to the policies here. The Inspector also concluded that the restoration of the pumping station garden would be a modest enhancement to the CA (para 53).
- 3.18 In Paragraph 132, the NPPF requires the use of an integrated approach to establish the overall significance of a heritage asset, whether designated or not, to ensure that planning decisions are based on the nature, extent and level of an asset's significance. Here, proportionality is emphasised: the more significant a heritage asset, the more information that is required to understand its significance and the greater the presumption in favour of its preservation.
- 3.19 Significance is defined in the NPPF Glossary as "*The value of a heritage asset to this and future generations because of its heritage interest*", where heritage interest is based upon the special archaeological, architectural, artistic or historic value of an asset.
- 3.20 The NPPF makes it clear that setting can also contribute to significance, and that development within the setting of a heritage asset can constitute harm, even substantial harm (see paragraphs 128, 129 and 132 and the definition in the Annex).
- 3.21 The presumption in favour of preservation is, however, rebuttable in certain circumstances on the basis of benefits and a balance to be applied proportionally, mindful of the particular sensitivity of an asset. This is what policy means when it

requires the decision maker and developers to consider the 'particular' value of any asset.

- 3.22 Having established significance and proportionality, paragraph 132 considers the harm caused by a proposed development. Where harm is considered to be substantial to a designated heritage asset, proposals should be wholly avoided, unless provisions in paragraph 133 can be satisfied. Paragraph 134, on the other hand, refers to harm which is considered less than substantial.
- 3.23 Paragraph 134 specifically contemplates the situation where consent is granted even if a particular proposal causes harm to an asset, and mindful of the provisions of 132. Thus, in simple terms, the Framework allows the grant of a consent which causes harm to the significance of a designated asset, provided there are countervailing benefits.
- 3.24 In applying paragraph 134, one looks first to see whether there are any heritage benefits in kind, and then apportioned that in order to reach a net conclusion on harm versus benefit. This is the internal 'heritage balance'.
- 3.25 As the recent Palmer decision has clarified, one only goes on to look to set land use planning benefits into the balance once that first judgment is made. If the net effect on the first balance is neutral, then land use planning benefits become additional reasons to grant consent. If not, then they have to be balanced against residual harm, again always mindful of the provisions of 132.
- 3.26 Paragraph 137 of the Framework states that LPAs should look for opportunities for new development in CAs to enhance or better reveal their significance, and that proposals that preserve the setting of CA or make a positive contribution should be treated favourably. This is relevant because the Appeal Inspector identified that the restoration of the Pump House Garden would enhance the Fulbourn CA.

Setting

- 3.27 The NPPF defines setting in the Annexe as:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”
[my emphasis]

- 3.28 The highlighted text makes the critical point. It allows one to carry out an assessment that may be expressed in this way: 'If the development is completed, will it reduce someone's ability to appreciate what is special about the asset'. If not, there is no heritage objection.
- 3.29 There is a lot of debate as to how one construes 'appreciate'. Do we understand it to mean 'to see or experience directly' or does it mean something more nebulous, such

as 'to understand intellectually' including in memory, in other words in more abstract terms.

- 3.30 The guidance is clear that visual perception matters a great deal. It is, after all, an objective measure. Impacts on intellectual understanding will vary and are usually less objective but of course they may apply on the facts of any particular case. In this case, the assessment has not identified any associational connection between the Application Site and the adjoining part of the CA, still less to the CA as a whole. That ultimately is why we find no harm in this case.
- 3.31 It is notably that a change to the setting of a heritage asset can have a positive, negative or neutral impact on its significance. Change to the setting of an asset, such as Fulbourn CA, does not necessarily result in harm.

District Design Guide: High Quality and Sustainable Development in South Cambridgeshire SPD (March 2010)

- 3.32 The District Design SPD was adopted in March 2010. It supplements the policies set out in the Development Plan Document (July 2007) by providing advice on local context (Part I), design principles and criteria (Part II), and procedures and applications (Part III). Discussed below are those parts of the SPD which are relevant to this application.
- 3.33 In Part I, Fulbourn is identified within the Chalklands landscape character area. The Chalklands are characterised by a "gently undulating chalk plateau" which hosts a "mostly largely-scale arable landscape". Settlements in the Chalklands generally have a strong, linear form which has, in many cases, been augmented by later estate development.
- 3.34 Based on the assessment of the Chalklands, the principles for design include maintaining the area's settlement pattern and being consistent with prevailing scale and materials.
- 3.35 In Part II, the SPD considers urban extensions, which we consider the proposed development to be. Urban extensions are defined as follows:

"Urban extensions are the addition to the outer edge of an existing settlement, of a new neighbourhood, district or township ... Urban extensions will be of sufficient size to be able to establish their own identity and character and provide a focus for the building group. The extensions should, however, relate to the existing urban areas with which they share a common boundary."

- 3.36 Where an urban extension seeks to reinforce a distinctive pattern of development found within an adjoining CA, then that development is reinforcing the local distinctiveness of a designated asset, and that ultimately is beneficial to the way the area is appreciated.
- 3.37 The guidance states that urban extensions should be sympathetic to the character of the settlement they are proposed for, as well as relating to the rural context.

- 3.38 The SPD refers the reader to the Conservation Area SPD (below) and Conservation Area Appraisal when dealing with new design in conservation areas.

Development Affecting Conservation Areas Supplementary Planning Document (SPD) (January 2009)

- 3.39 The SPD relating to development affecting conservation areas was adopted in January 2009.
- 3.40 A small part of the Application Site is located within the Fulbourn Conservation Area, although no built development is proposed here. The character of this part of the Site will remain as green space in the proposals, and there are positive proposals for the enhancement of this piece of landscape.
- 3.41 The remaining part of the Application Site falls within the setting of the CA, and at Paragraph 1.10 of this guidance it is stated that:

“Development affecting Conservation Areas includes any development proposal outside the Conservation Area that would affect its setting, or views into or out of the area. The guidance contained in this SPD should be applied equally to any such development proposals.”

- 3.42 The guidance goes on to describe that new development which affects a CA should respect the scale, form, mass, and detailing of existing built form and, where possible, employ traditional skills and materials. It should be proportionate to the size of the village. This advice ties together CA and more general design matters in a way which the NPPF encourages.

Fulbourn Conservation Area Appraisal (2008)

- 3.43 There is an adopted Conservation Area Appraisal (CAA) which is a material consideration of weight in this case. The CAA was adopted on 16th January 2008.
- 3.44 In terms of policy, broadly speaking the CAA states that development within the Conservation Area should respect the scale, pattern, materials, and boundaries of the existing settlement. The Appraisal identifies opportunities for enhancement, which include the reintroduction of thatched roofs and other historic features, the reduction of traffic, and removal of unsightly additions to the Conservation Area such as the sheds and building materials at no. 2 Teversham Road.
- 3.45 The CA does not refer to the setting north of the CA, although it does comment on the quality of the rural setting to the east and south.

Other Material Considerations

National Planning Practice Guidance (March 2014)

- 3.46 The NPPF is supported by the National Planning Policy Guidance (“NPPG”) which was published on 6 March 2014 as a web-based resource. In terms of heritage assets, it is stated in Paragraph 003 (Reference ID: 18a-003-20140306) that:

‘the risks of neglect and decay of heritage assets are best addressed through ensuring that they remain in active use that is consistent with their conservation. Ensuring such heritage assets remain used and valued is likely to require sympathetic changes to be made from time to time.’

- 3.47 This is relevant to the proposed restoration of the former Pump House Garden which will be made available for public use.

Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015) (CDA3)

- 3.48 Historic England published its guidance for *Managing Significance in Decision-Taking in the Historic Environment* in March 2015.

- 3.49 The note emphasises the importance of understanding the significance of any heritage asset likely to be affected by development proposals, and the contribution (if any) that setting makes to that significance. It states that this understanding is important in the conception and design of a successful development, and in enabling local planning authorities to make decisions in line with legal requirements, the requirements of the development plan and those of the NPPF.

- 3.50 The note provides guidance on understanding the nature, extent, and level of significance, and sets out a structured approach for assessing development proposals likely to affect the significance of heritage assets.

Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Historic England, July 2015) (CDA4)

- 3.51 Historic England published its *Historic Environment Good Practice Advice in Planning, Note 3, The Setting of Heritage Assets*, in April 2015. This document replaces English Heritage’s previous guidance note ‘*The Setting of Heritage Assets*’. The note complements GPA 2.

- 3.52 The document accepts the NPPF’s definition of the ‘setting of a heritage asset’ as: ‘*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve*’.

- 3.53 At paragraph 12 of the guidance note, Historic England recommends a broad, five-step approach to assessing the impact of development upon the setting of heritage assets. It makes clear that the setting of a heritage asset is not an asset in its own right, nor a heritage designation, and that the importance of setting lies in what it contributes to the significance of the asset, which depends on a range of elements.

4.0 HISTORICAL DEVELOPMENT

4.1 This section sets out a brief summary of the historical development of Fulbourn, taking into account the constituent parts of the Conservation Area designation. This account has been informed by the Victoria County History publication on Cambridgeshire, the Conservation Area Appraisal, and historic maps.

Early history

4.2 Fulbourn is a village approximately 4.5 miles south east of Cambridge. It stands at the meeting point of several roads which connect the village to the surrounding area. Fulbourn has Saxon origins, at which time it consisted of two parishes, St Vigor's and All Saints. All Saints Church collapsed in 1766, leaving St Vigor's as the main religious establishment.

4.3 The historic core of Fulbourn was laid out by 1200, and the village gradually expanded during the 13th and 14th Centuries. A notable event in the early history of the village was the creation of the Poor's Well, which is believed to have been in use by 1335.

4.4 During the medieval period, there were two principal manors owned by the Zouche and Manner families. The Zouches acquired the Manners land by 1360 and consolidated the estates.

4.5 By 1647, the Fulbourn estate was in the ownership of the Daltons who built the current Fulbourn Manor to the south east of the church. The Manor passed to the Townleys in the early 19th Century who rebuilt the Manor in an Arts and Crafts style in 1910.

4.6 By the late 18th Century, the population of the village had increased to 166 households, the majority of which were clustered around the church. At this time, the surrounding land was mostly used for common pasture and arable farming. An illustrative map of Fulbourn in 1800 is reproduced at **Appendix 6.0** from the Victoria County History.

4.7 The 1800 map shows that land to the north west of the village centre, in which the Application Site is located, was fenland and common land pasturage, very different to the hedged and drained landscape which was the product of early C19 enclosure. This fundamentally altered the rural context for the former well. See below.

Development from the 19th century

4.8 Under the 1806 Enclosure Act the arable land was divided and a system of drainage channels was created to convert the northern fens into smaller parcels. The fen to the east was preserved, and is now managed by The Wildlife Trust.

4.9 The railway arrived in Fulbourn in 1848 when the Newmarket Railway Company constructed a section of line to the south of the village. A station was built at Balsham Road. The line was closed in 1851, and formally abandoned in 1858 in favour of a new Cambridge to Newmarket line to the north of the village.

- 4.10 A new station was built by 1852 at Hay Street (now Station Road), but was closed in 1967 and demolished in 1973. The Cambridge to Newmarket line remains active however, and forms the northern boundary of Fulbourn. This element completes the site's containment on the north side. Notwithstanding his otherwise favourable findings, the Inspector noted that the railway line's vegetated state made it possible, when inactive, to be mistaken for a hedged boundary. Spatially, however, the railway as a matter of fact separates the land from the fenland to the north, and provides a boundary too to the Green Belt which stops north of the railway bund.
- 4.11 In 1858 a lunatic asylum opened on a 59-acre site to the north of Fulbourn. It was designed by Fowler Jones of York in an Elizabethan style. Patient numbers steadily increased throughout the 19th Century, and it was renamed the Fulbourn Mental Hospital in 1917 (now Fulbourn Hospital). In 1966, the Ida Darwin Hospital for children with learning difficulties was laid out next to the original asylum complex.
- 4.12 In 1886-7 there was a typhoid epidemic attributed to poor drainage and infected water from wells. The village received water through standpipes which partly made up for the drying up of wells, including Poor's Well. Notwithstanding this, the Cambridge Waterworks Company opened a Pump House in Cow Lane in 1891.
- 4.13 The Pump House is located to the south west of the Application Site. It was designed by Thomas Hawksley (1807-1893) who was well known for his work with the Health of Towns Association. His design was typical of a pump house of the period, making use of an adjacent cooling pond. The Pump House is not statutorily listed, but is identified as a Positive Building in the CAA and is considered a non-designated heritage asset.
- 4.14 As a result of the railway and improved water management, the number of inhabited dwellings rose from 164 in 1830, to 310 in 1900.
- 4.15 In order to prevent further water contamination arising from the increase in population, a new Pump House was built in 1912 at Fleam Dyke, 1.5 miles to the south east of the village. By 1925, this meant that the Pump House at Poor's Well was redundant. It has since been converted to office use. The cooling pond survives and has been landscaped as a garden. The Fleam Dyke Pump House was closed in 1989 and the site has been redeveloped for residential use.
- 4.16 The next major expansion took place in the mid-20th Century following the arrival of mains drainage. Residential development took place to the south and south west of the village's historic core with 280+ new properties constructed by 1961. By 1980, a further 500 houses had been built. Since then there has been some later infill, but no major developments.

5.0 ASSESSMENT OF HERITAGE ASSETS

- 5.1 In this section, we set out an assessment of the significance of the heritage assets relevant to this application.
- 5.2 The relevant heritage asset to this application is the Fulbourn Conservation Area. At the recent Appeal it was agreed by all parties that the impact on the CA was the primary consideration, and that no harm was alleged on other nearby designated and non-designated heritage assets. It is for this reason that the other heritage assets within the vicinity of the Application Site are not assessed in this report.
- 5.3 A description of the other heritage assets is, however, provided in the CGMS study at **Appendix 2.0**.
- 5.4 The Glossary of the NPPF provides a definition of significance in terms of heritage interest. The heritage interest of a heritage asset may be archaeological, architectural, artistic, or historic.
- 5.5 Setting is defined as the surroundings in which a heritage asset is experienced. The NPPF states that its extent is not fixed, and may change. Setting may make a positive or negative contribution to the significance of the asset.
- 5.6 In forming this assessment, due regard has been given to the Historic England guidance provided in the Good Practice Advice in Planning Notes 2 (significance) and 3 (setting).

Fulbourn Conservation Area

- 5.7 South Cambridgeshire Council first designated a conservation area at Fulbourn in 1975. This designation covered the historic core of the village.
- 5.8 In 1992, the Conservation Area was extended to include the site of the former Fulbourn Waterworks. The Waterworks area, approximately 620m west of the Church, was non-contiguous to the original designation. This area abuts the Application Site to the south.
- 5.9 The Conservation Area also includes a parcel of land 1.25 miles west of the village which was formerly the Fulbourn Hospital (established in 1858). It is not clear when this element was designated.
- 5.10 Maps of each part of the Conservation Area are reproduced at **Appendix 7.0**. It is unusual for a conservation area to be formed of non-contiguous parts.
- 5.11 In January 2008, Pierce Lane was included within the CA designation, which conjoined the historic core and waterworks elements. This was on the recommendation of consultants appointed by the Council.
- 5.12 According to the CAA Pierce Lane was designated in order to:

“...[unite] the village centre and the waterworks conservation areas, and [bring] within this unified and enlarged conservation area a part of the village that is integral to the historical development of the village and that has some architecturally and historically important buildings.”

- 5.13 The Hospital part of the CA remains, however, a separate element west of the village. It is wholly unaffected by the development proposals as it is completely divorced from the Application Site just as it the historic core of the CA. There is also no relationship to the connecting part added in 2008. In consequence, only limited reference is made to the hospital sub-area of the CA in this report.
- 5.14 On the basis of the designation history and assessment of the significance of the CA, the effect of the development is limited geographically to the discrete element which is the waterworks part.
- 5.15 As for the historic core, this is unaffected by the proposals by virtue of the distance between the areas and the extensive C20 residential development that has already taken place in the south west quarter of Fulbourn. Nevertheless, the core is assessed because it provides the reason for the designation and is clearly the most sensitive and important part of the asset.

Character and significance

- 5.16 The Fulbourn CA has been subject to 3 phases of designation. Each phase can be considered as a distinct character area which recognises a part of the village's history:
- Phase 1 (designated 1975) – The historic core of the village
 - Phase 2 (designated 1992) – The Waterworks
 - Phase 3 (designated 2008) – Pierce Lane
- 5.17 The date that the hospital sub-area was designated is unknown.
- 5.18 This assessment of the character and significance of the CA is undertaken in accordance with these phases. It is concluded that the primary significance of the CA is the historic core, followed by the Waterworks and Pierce Lane. This understanding of the CA will inform the assessment of the proposals in **Section 7.0**.

Phase 1 – The historic core of the village

- 5.19 The primary significance of the CA lies in the original 1975 designation of the village's historic core. It is the oldest part of the conservation area and contains the majority of the area's important buildings, including designated and non-designated heritage assets.
- 5.20 The retention of the medieval street pattern is key to this significance. The village has a linear character, with ribbon development along the main historic routes into the

village. The historic centre of Fulbourn is marked by the junction near to the Church, between High Street, Church Lane, School Lane, and Manor Walk.

- 5.21 In this area, there are a number of pre-1800 buildings constructed of a traditional timber frame and thatched roofs. The building height does not exceed 2 storeys, with some of the later roofs at a steeper pitch. The dominant buildings are the Church and the Manor. The Church is situated on higher ground, and its tower is the tallest element in the townscape. The tower is, however, largely obscured from views from the south by tree canopies. From the Church, there are attractive views south of the Manor complex.
- 5.22 The historic map regression at **Appendix 7.0** shows that Fulbourn was a dispersed settlement. Smaller centres of activity are even given names on the OS map of 1902: Home End, Broad Green, and Mill Hill to the south, and Highfield to the north. These may denote the major farmsteads, or smaller hamlets which were subsumed into the village.
- 5.23 As a result of the dispersal, there has been the opportunity for significant post-war infill development. This includes the large residential estate to the south west of the historic core, and development amongst the older properties in the core itself.
- 5.24 This infill has meant that the townscape consists of a mix of historic and later properties and, therefore, the historic character of the village is not intact. The rural character of the village has been eroded by the substantial later development, which has taken place on former fields which would have supported the local agriculture.
- 5.25 The CAA notes that the *“to the south and east of the village, the low density of development is still very rural in character and contributes to the gentle transition from village to open countryside which is more abrupt at the western end”*. The land south and east end, which are far removed from the Application Site, retain open rural character in close proximity to the history core, and so reinforce the antiquity of this part of the settlement which relied, as most rural ones did, on agriculture.
- 5.26 The infill does, but to a degree only, respect the character and appearance of the older buildings using either exposed brick, or white painted render. Wide roads and verges have been retained in the historic core, and trees are an important feature of the townscape, which reinforce the rural setting.
- 5.27 The CAA notes that fields and greens within and without the historic core contribute to the significance and character of the Conservation Area. There has been a considerable reduction in the extent of open fields to the west and north in comparison to the east and south, which is indicative of the relative quality of the landscape in these areas. The greens occur at road junctions, softening the townscape by creating islands of grass.
- 5.28 The CA does not identify the Application Site as making a positive contribution to rural character.

5.29 The CAA Map identifies a number of 'Important Views' although does not discuss them in the main body of the document. The majority of the Important Views are granted on a north-south axis, as determined by the roads. The Church is visible in vistas from School Lane and Manor Walk in particular. There are no views of the Application Site from the historic core, and neither is there a significant view between the core and Pierce Lane, where the bend in the road terminates the view after a short distance.

Phases 2 and 3 – Waterworks and Pierce Lane character area

5.30 The western part of the Conservation Area comprises the former Waterworks, and Pierce Lane. These areas were designated in 1992 and 2008 respectively.

5.31 The Waterworks and Pierce Lane both owe some of their historical interest to the medieval well located on Cow Lane. The well, known as Poor's Well, was in use by at least 1335, and Pierce Lane is named in documents from 1500 as a back lane leading to the Well.

5.32 In terms of the significance of the Conservation Area as a whole, the Waterworks site has secondary significance relative to the historic core, with Pierce Lane as a tertiary device that has been used to unite the CA as set out above.

5.33 The area surrounding the Well, including the Application Site and the land to the north, was fenland, until draining and enclosure in the 19th Century. On the 1800 map produced by Victoria County History, this area is known as Frog Fen, also referred to as Frog End. It has, therefore, historically been regarded as distinct from the village centre to the east. The village and Frog End were connected by Pierce Lane.

5.34 By 1800 there was a cluster of development at the village centre to the east, and approximately 50 buildings on Pierce Lane, some of which survive today. The surviving early properties contribute to the significance of Pierce Lane.

5.35 The Pump House was erected in 1891 and is a feature on the 1902 OS Map. The character of the area is predominantly rural. There are some orchards, farmsteads, and a villa set in large gardens (Mulberry Villa, now demolished).

5.36 In this character area, the buildings orientate to the street and are suburban in character. Although the surrounding land would once have been open countryside, the connection to the rural landscape has been broken by the extensive and quite ordinary post-war and recent developments to the north and south.

5.37 The 1981 OS Map shows the large residential estate on the fields south of the Waterworks, and the later development on Teversham Road, Pierce Lane, Cox Lane, and Cox's Drive.

5.38 The significance of the Waterworks phase of the Conservation Area lies in its historical function as the main water source for the village, which dates back to the use of the medieval well. The Victorian Pump House and lodge have architectural merit,

contributing to the significance of this part of the CA. The Pump House faces the village, and a stand pipe/pump served the village's local needs along with a cart washing shed. The site itself was enclosed by a landscape scheme for reasons of neighbourliness. A pump house was, after all, a piece of industrial infrastructure. Thus this element, whilst it had a functional relationship to the village (not the rural hinterland), also always had a self-contained quality.

5.39 The pond was a functional part of the pumping station, and landscaped accordingly, and the pair were served by a lodge to the SW of the site, near the junction. Later development has eroded the functional integrity of the site as a whole, reducing its value as an historic townscape element to a degree.

5.40 The significance of Pierce Lane is derived from its historic value as the route which connected the village to the Well, and the few surviving historic buildings. The majority of the historic buildings are located on the south side of the lane, which have been eclipsed by post-war residential development in a way which is typical of many scattered settlements in the southern part of England. The extent of later development dilutes the historic quality of the Pierce Lane, which is why it is considered of minor interest to the significance of the CA as a whole.

5.41 In many cases the older properties are set back or oblique to the road frontage, further preventing an appreciation of the historic character of the route. Finally, the Conservation Area Appraisal notes the trees in Pierce Lane area which are remnant from the gardens to Mulberry Villa, although this legacy is not obvious to an observer.

5.42 Furthermore, there are no important views within the Waterworks/Pierce Lane part of the CA.

Summary of significance

5.43 The primary significance of the Fulbourn Conservation Area lies with the village's historic core, the centre of which is demarcated by the crossroads near to the Church. The extent of post-war infill has diluted the historic interest of the village to the west and north. Its ancient character is more intact around the church and manor, and to the east and south. To the north and west the settlement appears quite ordinary, and there are parts of the CA which are merely ordinary. Around the Application Site in particular there is development of little interest, within which are short runs of more interesting, older buildings. These do not, however, set the character. There are some 40+ buildings which pre-date 1800 which contribute to the significance of the CA. These are listed. None are near to the Application Site, or sufficient to give rise to any setting concern.

5.44 The low-density development to the south and east of the village centre benefits from the relative proximity of open rural land, and there is a transition to more, picturesque landscape to the south, and another to the east. The appearance of the historic core from the south possesses the greatest heritage interest along with the short axis east west, comprising church and manor house.

- 5.45 The Waterworks character area has secondary significance. The special interest of this area is related to its historical function as the village's water supply, which dates back to the medieval period. There are some historic buildings, but only one is statutorily designated. Pierce Lane has only tertiary significance. Whilst there are some historic building, Pierce Lane has been extensively developed with later infill which has diluted the historic quality. Pierce Lane was primarily designated as a means to unify the village core with the outlying development.
- 5.46 The pumping station building in its grounds, with associated features highlighted above, may be described as a non-designated heritage asset.

6.0 THE CONTRIBUTION MADE BY THE CONSERVATION AREA'S SETTING TO ITS SIGNIFICANCE

6.1 In this section the contribution of setting made to the significance of the Conservation Area is assessed. This assessment is based on the good practice, the historical context, and site visits. The assessment is used to consider to what extent the Application Site contributes to the setting of the CA.

Setting of Fulbourn Conservation Area

6.2 The CAA says very little about the setting of the Conservation Area, other than to recognise the surrounding high quality landscape which contributes to the village's rural character. That land is, as noted previously, to the east and south and the Appraisal makes no mention of the setting north of this part of the CA, which part is a discrete element.

6.3 The quality and contribution of the landscape setting varies.

6.4 To the south and east, countryside does form a part of the character of the historic core of the CA and does make a positive contribution special interest, reinforcing the historic character of the older settlement. To a degree this relied, as most villages did, on agriculture for its livelihood. The survival of fenland, noted already, further reinforces this contribution.

6.5 The railway to the north of the settlement, and the CA, provides a strong, man-made boundary. The railway also forms the northern boundary of the Site. The mixed character of the CA, which here is generated principally by modern development not historic development, further reduces the scope for any meaningful contribution. The railway, as noted, forms the boundary to the Green Belt on the northern side.

6.6 No views from the surrounding landscape have been identified which communicate the historic character of the development, even around its core, and there are none from the north that enable an appreciation of the history or architecture interest of the CA. even of the historic core.

6.7 From the north, the west end of the Conservation Area is approached from Teversham Road, which includes a railway crossing. It is not possible to view or appreciate the Waterworks from this location given the interposing belts of trees which screen the west end of the village.

6.8 There is a definite change from open countryside to settlement at the railway crossing. After this man-made threshold, the CA has the character of a recent settlement. This sudden transition is different to the transition between countryside and the village one finds to the south and particularly the east.

6.9 To the south of the Waterworks, the setting of the CA is the C20 housing estate, which features in views from Cambridge Road and Shelford Road. This part of the CA is no

longer appreciated in the context of Pierce Lane, being a back lane to the village's outlying water source, and now consists of residential urban expansion.

- 6.10 The setting of the CA to the west is appreciated in the context of Cambridge's suburbs. The rural setting of Fulbourn has been eroded by the expansion of Cherry Hinton and the development of the Ida Darwin Hospital.

Contribution of the Application Site to the setting of the Conservation Area

- 6.11 To ascertain what, if anything, the Application Site contributes to the special interest of the CA, the interpretive criteria advised in GPA3 have been applied where relevant to this application. We have applied these criteria as applicable and in a discursive way.
- 6.12 The Application Site consists of 6.85 hectares of undeveloped land which is adjacent to the Waterworks part of the CA. A small part of the Application Site falls within the CA boundary. The Site is distant from the historic core, which is the most sensitive element to the CA, and there is a considerable amount of interposing development between the two, much of it fairly recent.
- 6.13 Any impact can only be localised to the part of the CA which adjoins the Site, which has a varied character and comprises many buildings of more recent date and no real architectural value.
- 6.14 There is also no relationship between the Application Site and Pierce Lane which is nearer. The purpose of Pierce Lane was to connect the village to the water supply, not to any fields beyond.
- 6.15 To recap, the Waterworks character area is significant for its historical function as the village's water supply, which dates back to the medieval period. There are some historic buildings in the area, but only two are statutorily listed and removed from the Application Site.
- 6.16 There is no meaningful historical connection between the Application Site land and the Waterworks or well, and in any event the once rural setting documented in older maps has been eroded very significantly by C20 development to the south, west, east and north (including where one finds industrial buildings), where of course there is the raised bed of the railway. The Site is extremely well contained and cut off from the wider landscape to the north. This part of the CA was never an historic rural village and it has no rural setting in any event. This part of the CA has a suburban character.
- 6.17 The Application Site is, therefore, an isolated area of open space which is disconnected from a wider rural context. There has been infill development which has altered the pattern of field boundaries, including a boundary being removed in the south east quarter of the Application Site.
- 6.18 The CA does not have a tranquil character, and the openness of the Application Site adds nothing to its suburban character.

- 6.19 At the Appeal, the Council identified a functional connection between the waterworks and the fields to the north, and asserted that this comprised outfall drains discharging into the ditches north, east and west of the station. The Inspector did not accept this evidence had any weight, the connection between the station and the drains and ditches being merely expedient and in no way special. Hence, the Application Site does not contribute to an understanding of the Waterworks neither does it enable an appreciation of the medieval history of the well and its role in drawing the lane out from the core.
- 6.20 Visually, there is existing screening which limits views from the CA into the Application Site. One is aware of the open character of the land, but the proposals retain an open landscape buffer at this point, and in any event the glimpsed views do not contribute to the particular interest of this part of the CA. The Inspector also took this view in paragraphs 22-27 in his Appeal report (**Appendix 3.0**).
- 6.21 There are no distant views where the Application Site and the CA can be seen together. This point is illustrated by the Site context photos 5, 6 and 7 (reproduced at **Appendix 8.0**).
- 6.22 In conclusion, the Application Site does not materially contribute to the special architectural or historic interest of the CA. Its open character can be appreciated in some glimpsed views, but those do not go to the reason why the CA was extended here. And it is noteworthy that the recently adopted – and very detailed – CA appraisal does not identify any specific contribution either.

7.0 ASSESSMENT OF THE PROPOSALS

- 7.1 This section of the report assesses the impact of the proposals on the significance of heritage assets identified in **Section 5.0** in light of the statutory provisions and planning policy context set out in **Section 3.0**.
- 7.2 The Design and Access Statement prepared by Barton Willmore provides a description of the proposals and their design rationale, and this assessment should be read alongside that report.
- 7.3 The proposed development involves:
- Up to 110 high quality residential dwellings;
 - Areas of landscaping;
 - Areas of public open space including an outdoor play space;
 - A new access point at Teversham Road; and
 - Associated infrastructure works.
- 7.4 The relevant heritage asset to this application is the Fulbourn Conservation Area. At the recent Appeal, it was agreed by all parties that the impact on the CA was the primary consideration, and no harm was alleged on other nearby designated and non-designated heritage assets. It is for this reason that the impact of the proposals on other designated and non-designated heritage assets is not assessed.

Direct effects on the Fulbourn Conservation Area

- 7.5 The Application Site includes a small area of land which is included in the boundary of the Fulbourn Conservation Area, which comprises the former garden to the Victorian Pump House.
- 7.6 The current proposals for the Pump House garden replicate, to a large extent, the previous application. In the response to the previous scheme at the Inquiry, the Council did not identify any direct harm to the CA. By not alleging harm, the Council accepted that the proposals preserved the special interest of the Conservation Area, and we agree with this position.
- 7.7 The proposed works will, in fact, enhance the character of this part of the CA by:
- Restoring the former cooling pond which is an aspect of the CA's historic interest and a potentially attractive feature.
 - Landscape works which will involve selective removal of poor quality trees to reduce shading and create a more pleasant environment.
 - Create a new pedestrian route into the garden from Cow Lane. This would increase public access to and appreciation of the Pump House and its garden.

The garden would be linked into the new development, too, contributing to its local distinctiveness.

- The garden would fall within the development's scheme of management, ensuring its appropriate care and continuing amenity value. There is already a scheme of interpretation and the landscape proposals which, subject to a condition, could refresh or extend that.

7.8 In his Appeal report, the Inspector noted comments provided by English Heritage regarding the location of an outdoor LEAP in the Pump House garden. This was seen to “fit awkwardly in this historic context” (**Appendix 3.0**, paragraph 50). However, the Inspector concluded that overall the restoration of the former Pump House garden would constitute a ‘modest enhancement’ of this part of the CA (**Appendix 3.0**, paragraph 53). Following on from those comments, the then applicant offered to restrict building heights along this southern boundary, and any reserved matters application pursuant to an outline consent, should that be forthcoming, would naturally pay particular attention to this boundary condition, both in its landscaping and the detailed design of the buildings proposed for it.

7.9 In the proposed scheme subject of this application, the LEAP has been relocated to a more appropriate and less sensitive location in the east field, nearer to areas of proposed housing. It has been removed entirely from the Pump House garden thereby not affecting the existing historic context.

Summary of direct effects

7.10 The proposals to restore the Pump House garden will enhance the character and appearance of the CA, and will contribute to the public access to and appreciation of the history of this part of the settlement because the pond was associated with the former Pump House.

7.11 In the recent Appeal decision, the Inspector found a ‘modest enhancement’ arising from the Pump House garden proposals. We concur with those findings.

7.12 As a direct benefit to the CA, this aspect of the proposals attracts particular weight. This is through the operation of the Section 72(1) provision and consequent policy. In thinking of the weight to be afforded to this benefit, it is material that the published Appraisal identifies the Pond as making a positive contribution to the CA for historic and amenity reasons.

Effect on the setting of Fulbourn Conservation Area

7.13 It is proposed to develop up to 110 high quality residential dwellings on land to the east of Teversham Road. The new housing will be a maximum of two storeys in height. The development will also include areas of landscaping, public open space including an outdoor play space, a new access point and associated infrastructure works.

- 7.14 The Application Site is located immediately north of the former Pump House at Cow Lane, and falls within the setting of the waterworks part of the Fulbourn Conservation Area. The setting of the CA will change as a result of new built form and landscaping between Cow Lane and the railway line to the north.
- 7.15 The effect on setting is limited to a localised area of the western part CA which was designated to recognise the village's historic water supply and the Victorian waterworks. Given the distance and interposing development between the Application Site and the remaining parts of the CA, there will be no setting impacts on the historic core or Pierce Lane, the former being the most sensitive part of the CA.
- 7.16 The primary significance of the waterworks part of the CA is focussed on the former Pump House building and associated cooling pond and ornamental garden. The proposed development will not challenge the appreciation of the Pump House, or distort in any way its relationship to the garden. It is described above how the proposed improvements to the Pump House garden will enhance the CA, and enable better public access and appreciation of the CA.
- 7.17 The potential setting effects will occur on a part of the CA which is less sensitive to change, given the secondary significance of the waterworks part as described at **Section 5.0**, and the extensive later development which already exists in the area. The proposed residential development will not be an incongruous addition to the setting of the CA which is already characterised by a mix of houses of varying dates, styles, and layout.
- 7.18 The experience of this part of the CA will not be affected by the new housing. The transition from countryside to urban is not as important as in the south and east parts of the village, and there is already an abrupt change from open to developed in this part of the CA.
- 7.19 The dense mature vegetation in the garden will also screen the new housing from view of the Pump House (see Site context photos 3 and 4) and views from Cow Lane (photos 1, 2 and 3). The density of the vegetation will filter views even more during the summer months.
- 7.20 Photo 1 is the most open view, looking north up Cox's Drive and out of the CA. Here, the proposed development will be visible in a gap between an existing post-war house and the trees. The proposed development will be seen in the context of existing post-war development of unremarkable quality. This does not represent a change in the setting of the CA, where one already sees houses of varying dates and styles. Glimpsed views of later development in themselves are not, therefore, alien to the CA.
- 7.21 At the recent Appeal the Inspector also took this view, noting at paragraph 24 that:

“a little more may be seen of the appeal site from Cow Lane during winter months, when the tree foliage would be thinner, although I consider that these

views could still only be described as glimpsed. Whilst such views do give the impression of open, undeveloped land to the north of Cow Lane the extent of these views is very limited and [...] I am not persuaded that the appeal site contributes anything particularly meaningful to the rural character of the village in views from these aforementioned roads."

7.22 The extent one will see the development looking out from the CA will result in housing set in a well-defined landscape structure, which is not intrusive in these circumstances. Local people would of course know it is there, but its presence will not detract from an appreciation of what is special about this part of the CA (the historic water supply and associated buildings).

7.23 As an outline application the detailed design is a reserved matter, but the illustrative masterplans shows how the development is being designed in a way that reflects local characteristics as follows:

- The adjoining part of the CA features a significant amount of modern residential development with a suburban character. The form of development proposed on the Application Site will be similar to the existing context of the CA to complement its character and appearance.
- In terms of layout, the new housing is proposed set back from the Site boundary which will create a landscape buffer to soften the impact of the new development on the existing context. This will preserve part of the character of the existing setting of the CA.
- The existing landscape structure provides a pleasant, verdant edge to the CA. This is primarily achieved by the existing trees and planting at the northern boundary of the CA, which will be retained and maintained in the proposals. Thus, the greenery one sees from the adjoining publicly accessible places in the CA will be retained, preserving the appearance of the CA.
- The CA is also characterised by a good degree of openness, where buildings are set in large gardens. In the illustrative masterplan, approximately half of the Application Site is proposed to be left open, and the development integrated into a well-defined landscape structure.
- A contextual approach has been taken to the design, where the scale, massing, and palette of materials reflect the prevailing character of the village and existing development in the CA.

Summary

7.24 Overall we conclude that the indirect setting effects on the CA are limited and certainly not harmful. The proposed development does not reduce any aspect of the special interest of the CA as a result of a change to its setting, or the ability to appreciate its special interest.

- 7.25 The design, layout, landscaping, and access will improve the way this part of the village both appears and functions, and will preserve the pleasant landscape qualities at the edge of the CA. The existing planting will be maintained as part of the development's management, which will ensure the long term preservation of these landscape features where there is presently no mechanism to do so.
- 7.26 The landscape structure, layout, and detailed design mean that the proposed development will integrate into the existing settlement, which accords with conservation objectives.

Conclusion on impact on significance of CA

- 7.27 As a result, then the proposals enhance part of the CA, a benefit of particular weight in the planning balance. The grant of consent would satisfy the statutory requirement as set out in Section 72(1) of the Planning (LBCA) Act 1990. It follows, then, that consequent development plan policy and other material considerations are likewise satisfied.
- 7.28 The larger part of the development in the setting of the CA has no harmful impact on its significance of the CA, and, accordingly, development plan policies and other material considerations, notably as comprised by the Framework, are satisfied.

8.0 CONCLUSION

- 8.1 Montagu Evans LLP have been instructed by Castlefield International Ltd to prepare this Heritage Statement in support of the application for outline planning permission to develop up to 110 houses on the land at Teversham Road, Fulbourn.
- 8.2 Full details of the proposed development is provided in the Design and Access Statement prepared by Barton Willmore. In summary, the proposed development is presented in outline and comprises:
- Up to 110 high quality residential dwellings;
 - Areas of landscaping;
 - Areas of public open space including an outdoor play space;
 - Creation of a new access point at Teversham Road; and
 - Associated infrastructure works.
- 8.3 The proposed development is substantially similar to a previous scheme which was submitted by our client in September 2014 (ref. S/2273/14/OL). The Council refused this application in August 2015 and our client appealed the decision.
- 8.4 The Appeal was held in September 2016 and was dismissed because of the lack of a planning obligations S106 Agreement (ref. APP/W0530/W/15/313970). On the substantive points, the Inspector found with the Appellant and, in particular on heritage matters, he concluded that the setting effects on the Fulbourn Conservation Area were acceptable, resulting in a very limited adverse impact, at the bottom end of the 'less than substantial harm' range. The Inspector found that the effect of the restoration of the Pump House garden would be a modest enhancement to the CA.
- 8.5 The primary significance of the Fulbourn Conservation Area lies with its historic core which comprises the eastern part of the CA. The CA designation also covers a parcel of land associated with the village's historic water supply to the west of the village, the route which connects the village with the water supply (Pierce Lane), and also the site of a Victorian hospital. The hospital is not contiguous with the remaining parts of the CA.
- 8.6 The waterworks, Pierce Lane, and hospital parts of the CA each have their own special interest, relative to the significance of the historic core. The Application Site is located adjacent to the waterworks part of the CA, and it is the impact on the setting and significance of this part of the CA that we have considered.
- 8.7 At the recent Appeal it was agreed by all parties that the impact on the CA was the primary consideration. No harm was alleged on other nearby designated and non-designated heritage assets. It is for this reason that the impact of the proposed development on heritage assets other than the CA have not been considered in this assessment.

- 8.8 The significance of the waterworks part of the CA lies in the historic association with water supply (which dates back to a medieval well), and the built form of the former Victorian Pump House, cooling pond and garden. We conclude that the open field of the Application Site does not contribute to an appreciation of the special interest of this part of the CA, and there is no functional or historic relationship between the two.
- 8.9 There has been substantial later development surrounding this part of the CA, including large areas of post-war residential housing and a railway line. The historic rural setting has been lost and this part of the CA is appreciated in a suburban context.
- 8.10 A small section of the Application Site is located within the CA boundary, and here the landscape proposals for the former Pump House garden will deliver benefits to the CA by restoring the pond, landscaping, public access, and the provision of ongoing maintenance.
- 8.11 Development of the Application Site outside the CA will cause no harm to its special interest, character or appearance as a result of the change to the existing setting of the CA in this location.
- 8.12 Notwithstanding this view, if the Council takes a different view, the harm would be very limited and at the bottom end of the 'less than substantial harm' range; this would be more than outweighed by the heritage benefits of restoring and providing public access to the Pump House garden and the substantial public benefits of the scheme which will deliver 110 new homes and a new children's play space for the village.
- 8.13 The positive features of the design – the landscape proposals for the former Pump House garden in particular, but also the potential for new housing in a characteristic style – are an enhancement. The new development will be complementary in nature to surrounding parts of the CA. The proposed development is therefore compliant with strategic Policy ST/k (built and natural heritage) of the development plan, Policy CH/5 of the development control DPD (Conservation Areas), and the guidance provided in the Council's conservation areas SPD. For the same reasons the relevant provisions of the NPPF are met, including paragraphs 132 and 137.
- 8.14 We conclude that the proposed development accords with the statutory requirement set out in Section 72(1) of the Planning (LBCA) Act 1990, which requires that development should preserve or enhance the character of a CA. We conclude that the proposals for Pump House Garden will enhance the character and appearance of the CA.

Appendix 1.0
Decision Notice for planning application ref. S/2273/14/OL
(August 2015)

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION

Decision Date: 12 August 2015

Miss Justine Bailey,
Barton Willmore LLP
St Andrews House
St Andrews Road
Cambridge
Cambridgeshire
CB4 1WB

The Council hereby refuses permission for Outline application including consideration of access points, for high quality residential development of up to 110 dwellings with areas of landscaping and public open space and associated infrastructure works

At: Land at Teversham Road, Fulbourn
For: Mr Daniel Coulson, Castlefield International Limited

In accordance with your application dated 19 September 2014

for the following reasons:-

1. The collective adverse impact of the development on the landscape character, setting of Fulbourn Conservation Area, village character and ecological interests results in demonstrable and significant harm which, on balance, outweighs the benefits which arise from delivering up to 110 dwellings (30% of which will be affordable at a 50/50 rented to shared ownership split) in a village which is well served by services and facilities and has good access to public transport links. For this reason the proposal does not represent sustainable development and conflicts with the requirements of the NPPF.
2. The site is proposed to be designated a 'Local Green Space'. The NPPF and policy NH/12 of the emerging Local Plan seek to protect such sites from development unless there are very special circumstances. In accordance with paragraph 216 of the NPPF and taking into account the sites close proximity to the community of Fulbourn, and demonstrable special significance arising from its beauty, recreational value, tranquillity and richness of wildlife, notable weight can be afforded this proposed designation. No very special circumstances have been demonstrated to outweigh this harm.
3. Paragraph 14 of the NPPF states there is a presumption in favour of sustainable development, it says that where relevant policies are out of date, planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where specific policies in the NPPF indicate development should be restricted. Paragraph 49 of the NPPF states that adopted policies 'for the supply of housing' cannot be considered up to date where there is not a five year housing land supply. It follows on from this that where councils are unable to demonstrate a five year supply of housing, as is the case with South Cambridgeshire, that planning applications for new housing development are required to demonstrate the new houses can be delivered within 5 years. Taking into account the technical complexities in delivering the houses on this site and outline nature of the development proposal it is not considered the applicants have provided sufficient evidence to demonstrate the houses will be delivered within 5 years.

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION

Decision Date: 12 August 2015

General

1. Statement as to how the Local Planning Authority (LPA) has worked with the applicant in a positive and proactive manner on seeking solutions

The LPA positively encourages pre-application discussions. Details of this advice service can be found on the Planning pages of the Council's website www.scambs.gov.uk. If a proposed development requires revisions to make it acceptable the LPA will provide an opinion as to how this might be achieved. The LPA will work with the applicant to advise on what information is necessary for the submission of an application and what additional information might help to minimise the need for planning conditions. When an application is acceptable, but requires further details, conditions will be used to make a development acceptable. Joint Listed Building and Planning decisions will be issued together. Where applications are refused clear reasons for refusal will identify why a development is unacceptable and will help the applicant to determine whether and how the proposal might be revised to make it acceptable.

In relation to this application, it was considered and the process managed in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

2. A delegation report or committee report, setting out the basis of this decision, is available on the Council's website.

To help us enhance our service to you please click on the link and complete the customer service questionnaire: www.surveymonkey.com/s/2S522FZ

Jane Green
Head of New Communities

South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA

SEE NOTES OVERLEAF

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION

Decision Date: 12 August 2015

NOTES

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so using a form which you can get from the Customer Support Unit, Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN.

Alternatively, an online appeals service is available through the Appeals area of the Planning Portal - see www.planningportal.gov.uk/pcs. The Planning Inspectorate will publish details of your appeal on the internet. This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information you are happy will be made available to others in this way, including personal information belonging to you. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

Fully completed appeal forms must be received by the Planning Inspectorate within six months of the date of this decision notice except where the property is subject to an enforcement notice, where an appeal must be received within 28 days.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving the notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix 2.0
Heritage Statement by CGMS submitted with previous application
(September 2104)



Planning • Heritage
Specialist & Independent Advisors to the Property Industry

Heritage Statement

Land at Teversham Road

Fulbourn

Cambridgeshire CB21 5HB

Castlefield International Limited

September 2014

Author:

Sam Jackson BSc (Hons), PGDip, MRICS

Approved by:

Jason Clemons BA (Hons), DipUD, MA, MSc, MRTPI, IHBC

Report Status:

FINAL

Issue Date:

September 2014

CgMs Ref:

SJ/JC/17289

© CgMs Limited

No part of this report is to be copied in any way without prior written consent.

Every effort is made to provide detailed and accurate information, however, CgMs Limited cannot be held responsible for errors or inaccuracies within this report.

© Ordnance Survey maps reproduced with the sanction of the controller of HM Stationery Office.

Licence No: AL 100014723

CONTENTS

Pages

1.0	Introduction	3
2.0	Legislative and Planning Policy Framework	
2.1	Legislation, National Planning Policy and Guidance	4
2.2	Local Planning Policy	6
3.0	Architectural and Historic Appraisal	
3.1	Historic Development of locality	7
3.2	Historic Development of Site and Historic Map Progression	9
3.3	Site Assessment	10
3.4	Assessment of Heritage Assets: Listed Buildings	13
4.0	Proposals and Assessment of Impact	
4.1	Proposals	22
4.2	Assessment of Impact	23
5.0	Summary	26

Appendices

Appendix A: Statutory List Descriptions

LAND AT TEVERSHAM ROAD, FULBOURN, CAMBRIDGESHIRE

1.0 INTRODUCTION

This Heritage Statement has been prepared by CgMs Consulting on behalf of Castlefield International Limited to accompany their outline planning application for a medium density residential scheme on land to the east of Teversham Road, Fulbourn, Cambridgeshire ('The Site') (see **Figs. 2 and 3**). Please see **Figure 1** which provides some context and Section 3.3 for a detailed assessment of the Site.

The village of Fulbourn lies within the county of Cambridgeshire approximately 3km to the east of the outskirts of Cambridge. It lies approximately 6km to the north-east of Great Shelford, approximately 5km to the north of Babraham, approximately 3.5km to the south of Stoke Cum Quy and approximately 3km to the west of Little and Greater Wilbraham. In the wider context it lies approximately 8km south-west of Newmarket, approximately 4.5km to the south of the A14, approximately 4km to the north-west of the A11 and approximately 7km to the east of the M11. The village has no train station. The Site lies immediately to the north of the village centre and immediately adjacent to, and in parts includes, part of the Fulbourn Conservation Area (see **Figure 32**). The Site is broadly framed by railway tracks to the north of the Site, Teversham Road to the west, to the south by the rear curtilage boundary of properties on the north side of Cow Lane and to the east by Cox's Drive.

The Site principally comprises two undeveloped, non-agricultural fields. In the south-west corner of the Site is a pond and landscaped area formerly associated with a former pumping station. In the south-east corner is a very small parcel of land fronting onto Cow Lane which is detached from the main body of the Site.

The Site contains a small section of the Conservation Area, which constitutes a designated heritage asset. No other designated or non-designated heritage assets lie within the Site. The remainder of the Conservation Area lies predominantly to the south and east of the Site and sections of it fall within the setting of the Site. The Site does lie within the setting of a number of listed buildings and locally listed buildings. Accordingly its significance and the potential impact of the proposed development will be discussed in detail in Section 4.2. The following listed buildings within Conservation Area require further assessment: Rose Cottage (34 Cow Lane), 29 Hinton Road, 28 Cow Lane and 63 & 65 Pierce Lane. All are Grade II listed. The following locally listed buildings also require further assessment: The former pumping station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge (Teversham Road).

There is a requirement under the National Planning Policy Framework (NPPF) for the applicant to explain the significance of any heritage assets affected and assess the impact that a proposal will have upon that significance and explain how this impact will be mitigated. This report will present a summary of the relevant legislative framework and planning policy at national, strategic and local levels, with special regard to policies that relate to development affecting the setting of designated heritage assets including listed buildings and conservation areas. It will also provide an assessment of the history and the significance of the Site and its surroundings, as well as an assessment of any potential impact of the scheme proposals.

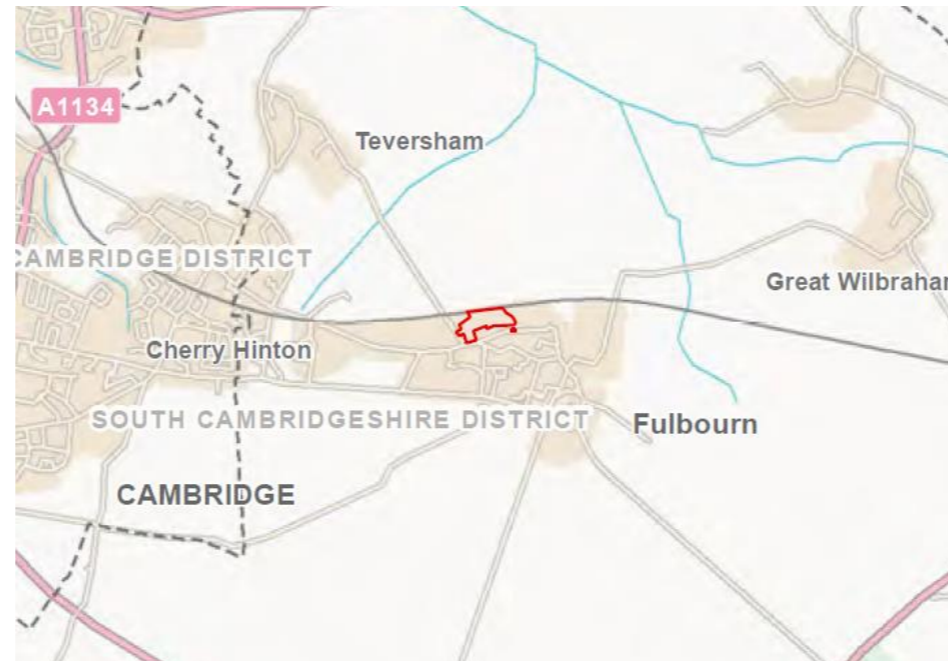


Figure 1: Map showing the location of Fulbourn in the context of the surrounding area.



Figure 3: Photograph showing view looking south-east across the western section of the Site.



Figure 2: Site boundary plan showing the boundary of the Site in red.

2.0 LEGISLATIVE AND PLANNING POLICY FRAMEWORK

2.1 LEGISLATION, NATIONAL PLANNING POLICY AND GUIDANCE

Where any development may affect designated or non designated heritage assets, there is a legislative framework to ensure that proposals are developed and considered with due regard to their impact on the historic environment.

Legislation

Legislation relating to buildings and areas of special architectural and historic interest is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. The relevant legislation in this case extends from Sections 66 and 72 of the 1990 Act, which state 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, and conservation areas and their setting respectively.

National Planning Policy

National Planning Policy Framework ('NPPF') (March 2012)

In March 2012, the government published the National Planning Policy Framework (NPPF), which immediately replaced the existing policy regime, including the design and heritage policies (*Planning Policy Statement 1: Delivering Sustainable Development (PPS1)*), and *Planning Policy Statement 5: Planning for the Historic Environment (PPS5)*.

The national policy framework encourages intelligent, imaginative and sustainable approaches to managing change. English Heritage has defined this approach as 'constructive conservation', promoting a positive and collaborative approach to conservation that focuses on actively managing change. It aims 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).

The NPPF promotes sustainable development as a fundamental theme in planning. It encourages local authorities, in their plan-making, to positively seek opportunities to meet the development needs of their area (Paragraph 14). The NPPF further provides a series of 'Core Planning Principles' (Paragraph 17) of sustainable development, which highlight that planning should be a creative exercise in finding ways to enhance and improve the places in which people live their lives; that it should secure high quality design and a good standard of amenity; and that heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

The NPPF directs local planning authorities (LPAs) to apply the presumption in favour of sustainable development: the 'golden thread' which is expected to run through their plan-making and decision making. It must be noted, however, that this is only expected to apply where this does not conflict with other policies contained within the NPPF, including those relating to the

protection of designation of heritage assets (Paragraph 14).

Section 7, 'Requiring Good Design' reinforces 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, in Paragraph 58, 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.

The guidance contained within Section 12, 'Conserving and enhancing the historic environment', Paragraphs 126-141, relate to the historic environment, and developments which may have an effect upon it. These policies provide the framework 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.

In order to determine applications for development, Paragraph 128 states that LPAs should require applicants to describe the significance of the heritage assets affected and the contribution made by their setting. 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 129, LPAs should also identify and assess the significance of an heritage asset that may be affected by a proposal and should take this assessment into account when considering any impact upon the heritage asset.

Paragraphs 132 to 136 consider the impact of a proposed development upon the significance of a heritage asset. Paragraph 132 emphasises the need for proportionality in decision making, and identifies that when a new development is proposed, the weight given to the conservation of a heritage asset should be proportionate to its importance, with greater weight given to those assets of higher importance.

Paragraph 137 encourages LPAs to look for new development opportunities within the setting of heritage assets (as well as Conservation Areas and World Heritage Sites), and states that proposed developments which make a positive contribution to or better reveal or enhance the significance of a heritage asset and its setting, will be looked upon favourably.

The NPPF follows the philosophy of 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 has defined this new approach, now reflected in NPPF, as 'constructive conservation': 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 Planning Practice Guidance (2014) (NPPG)

Guidance has recently been adopted in order to support the NPPF. This does not supersede PPS 5: Historic Environment Planning Practice Guide (DCLG, DCMS, English Heritage, 2010). 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 publically 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.

Barnwell Manor Wind Energy Limited (2014)

Recent case law has added clarification to the interpretation of Section 66 of the Listed Building and Conservation Areas Act 1990. Section 66 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. A particularly appropriate example of upholding a S66 is in the case of West Coast Energy's proposal for five wind turbines to be installed within the setting of the Grade I listed Barnwell Manor, Northamptonshire. The National Trust advocated that the proposals would have an adverse impact upon the heritage asset's setting and, reinforced by local opposition, the proposal was rejected by East Northamptonshire District Council in 2010. The developers won an appeal for four turbines, however, this was overturned at the High Court who said the decision was legally flawed. A subsequent Appeal to overturn the High Court ruling in was also dismissed in February 2014.

2.0 LEGISLATIVE AND PLANNING POLICY FRAMEWORK

2.1 LEGISLATION, NATIONAL PLANNING POLICY AND GUIDANCE

PPS 5: Historic Environment Planning Practice Guide (DCLG, DCMS, English Heritage, 2010)

As aforementioned, the above NPPG has been adopted in order to support the NPPF. However, this does not supersede PPS 5: Historic Environment Planning Practice Guide, issued by the Department of Communities and Local Government in collaboration with English Heritage and DCMS in 2010. Until the Good Practice Advice document is published by English Heritage (in conjunction with the Historic Environment Forum) sometime in the second half of 2014, the PPS5 Practice Guide will remain valid and therefore provides important guidelines on the interpretation of policy and the management of the historic environment. In particular, the Practice Guide identifies the issues which ought to be considered to achieve successful good design with new development in sensitive areas:

- The significance of nearby assets and the contribution of their setting;
- The general character and distinctiveness of the local buildings, spaces, public realm and landscape;
- Landmarks and other features that are key to a sense of place;
- The diversity or uniformity in style, construction, materials, detailing, decoration and period of existing buildings and spaces;
- The topography;
- Views into and from the site and its surroundings; and
- The current and historic uses in the area and the urban grain.

National Guidance

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, yet remains relevant with that of the current policy regime in the emphasis 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).

The Setting of Heritage Assets (English Heritage, October 2011)

English Heritage's guidance on the management of change within the setting of heritage assets seeks to provide a definition for the term of 'setting' itself, as well as guidance to allow councils and applicants to assess the impact of developments upon the settings of heritage assets.

The document defines setting as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.' Setting is also described as being a separate term to curtilage, character and context; while it is largely a visual term, setting, and thus the way in which an asset is experienced, can also be affected by noise, vibration, odour and other factors.

Although English Heritage's document was published prior to the NPPF, it still provides useful guidance on practical and proportionate decision making with regards to the management of proposed developments and the setting of heritage assets. It is stated 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, further weighing up the potential public benefits associated with the proposals. It is further stated that changes within the setting of a heritage asset may have positive or neutral effects.

2.2 LOCAL & STRATEGIC PLANNING POLICY

The Development Plan

The Local Planning Authority for the Site is South Cambridgeshire District Council. The Development Plan comprises, amongst other things: the Core Strategy (2007), Development Control Policies DPD (2007), Local Development Framework Site Specific Policies DPD (2010) and the Development Affecting Conservation Areas SPD (2009).

DEVELOPMENT CONTROL POLICIES DPD ADOPTED (JULY 2007)

POLICY CH/3 Listed Buildings

This policy states:

“Applications for planning permission and Listed Building Consent (including applications for alterations, extensions, change of use or demolition of Listed Buildings) will be determined in accordance with legislative provisions and national policy (currently in PPG15). In assessing such applications the District Council will adopt a presumption in favour of the retention and preservation of local materials and details on Listed Buildings in the district”.

POLICY CH/4 Development Within the Curtilage or Setting of a Listed Building

This policy states:

“Planning permission will not be granted for development which would adversely affect the curtilage or wider setting of a Listed Building. Proposals must provide clear illustrative and technical material to allow that impact to be properly assessed”.

POLICY CH/5 Conservation Areas

This policy states:

“Planning applications for development proposals (including applications for Conservation Area Consent for demolitions) in or affecting Conservation Areas will be determined in accordance with legislative provisions and national policy (currently in PPG15) and guidance contained in specific Conservation Area Appraisals (where they exist) and the District Design Guide”.

POLICY CH/6 Protected Village Amenity Areas

This policy states:

“Development will not be permitted within or adjacent to Protected Village Amenity Areas if it would have an adverse impact on the character, amenity, tranquillity or function of the village”.

DEVELOPMENT AFFECTING CONSERVATION AREAS SPD ADOPTED (2009)

Chapter 2—New Development in Conservation Areas

Infill Sites

The policy states:

“Many villages include gap sites that are physically large enough to accommodate infill development. In considering proposals for such sites the District Council will consider their value as open ground and the contribution they make to Conservation Areas and their wider setting. Gap sites frequently afford views through the area, sometimes to a key building (such as the church) or to open countryside beyond the village framework.

It may also be desirable to retain a gap site in order to preserve the pattern and rhythm of development in the village. Thus, on the edge of a village the pattern of development may be for the buildings to be sited further apart, set in larger plots. The inclusion of a new infill dwelling could disturb this established pattern.

Where a character appraisal has been prepared, this will assist in the identification of key vistas and views and also assist in defining the pattern and rhythm of development within the Conservation Area. The District Council is likely to refuse applications for infill development on sites that make an important contribution to a Conservation Area, either by affording key views or ensuring the pattern and rhythm of development is retained. The District Council will encourage appropriate development / redevelopment on sites that are identified in Conservation Area character appraisals as detracting from the character or appearance of that Conservation Area.

Some gap sites are located adjacent to a Listed Building and development of that site may impact on the setting of the Listed Building. In considering an application to develop such a site the District Council will take into consideration the impact that that development will have of the setting and wellbeing of the adjacent Listed Building.

The District Council is likely to refuse applications for infill development where that development would harm the setting or wellbeing of an adjacent Listed Building”.

Scale, massing, form and detaining

This policy states:

“It is important for the overall scale of any new development to be proportionate to the size of village in which it is to be located and for the scale of individual buildings within a development to reflect the predominant scale of buildings found adjacent, and / or across a particular Conservation Area. The District Council is likely to refuse planning permission for developments that fail to reflect the scale of buildings within a Conservation Area.

It is also important for new structures to have an appropriate mass and form. Many traditional cottages located in the Conservation Areas of South Cambridgeshire are wide frontage and have a narrow plan depth. Modern housing frequently adopts a deeper plan form, with semi-detached or terraced housing often having narrow frontages onto the street. Such house types may be inappropriate for use in Conservation Areas. The expectation is that individual house types will be developed that will result in a built form that relates positively to the predominant, traditional built form in the vicinity of the site or the wider Conservation Area.

Where a design seeks to replicate traditional built forms of the area it is important that this is extended down into the construction details. All too frequently standard

modern details can weaken the architectural impact of a new development. For instance, the location of window frames in walls needs to be carefully considered; in brickwork it is traditional for the window to be set back from the front face of the wall, whereas in a timber frame structure the frame is generally set flush with the front face. Other details, such as eaves, verges, chimneys, dormers etc., are equally important”.

3.0 ARCHITECTURAL AND HISTORIC APPRAISAL

3.1 HISTORIC DEVELOPMENT OF FULBOURN

Etymology

'Fugleburn' derives from the Anglo-Saxon 'stream frequented by waterfowl', perhaps reflecting the Ancient Monument of Fleam Dyke, south-east of the settlement.

Pre 17th Century History

The village has little notable history prior to the 17th century. Historically the village once comprised two ecclesiastical parishes, served by two churches residing within a single churchyard. The Church of All Saints is believed to have arrived first, founded after 1066 and belonging to Fulbourn Manor.

Due to the proximity of parishes with similar names, Fulbourn has occasionally been referred to as 'Fulbourn Magna' and 'Fulbourn Parva'.

By 1200 the village core was laid out and comprised High Street, Manor Walk, Ludlow Lane and School Lane, Home End (originally Holm Street) and Church Lane (later corrupted to Hay Street). In the 13th-century Cow Lane (originally Fen Lane) and Pierce Lane (Frog End) appear. In the 14th century Nether Street came into being linking the west of the village to Poor's Well (see later). Apthorpe Street is first mentioned in 1506.

17th and 18th Centuries History

In 1647 the manor house was acquired by Michael Dalston, through his wife's name. Dalston went on to build the extant house on the estate, Fulbourn Manor.

The Church of All Saints collapsed in May 1766 when the church tower fell onto the nave and chancel. Ten years later it was deemed irreparable and taken down by order of an Act of Parliament.

By the 1790s the population of the village had increased from approximately 90 households in 1086 (the highest of all South Cambridgeshire villages) to 166, with much of the land still employed for common pasture and arable use.

19th Century History

The early 19th century brought much change to the area with perhaps the Act of Enclosure in 1806 being the most significant. These changes are still visible, through the division of arable lands, building of the watermill and the field drainage system.

The Cambridge Waterworks Company established a pumping station on Cow Lane in 1885 which commenced operations in 1891 (see later).

As is common in rural parish histories, the village's development was aided greatly by the arrival of the railway (in 1852). Fulbourn station was built where Wilbraham Road (now Station Road) and the existing railway tracks intersect one another but was later demolished in 1973. The number of inhabited dwellings rose from 164 (prior 1830) to 310 by 1900.

20th Century History

The village experienced another episode of major expansion during the 1950s following the arrival of mains drainage. This expansion took place to the west and south-west of the centre, with over 280 new properties having been built by 1961, bringing the population to 1,400 by the second half of the century. Further to this another 500 arrived by 1980 and continued to gradually rise into the 21st century, with a population of approximately 5,000 by 2007.

Detailed History of Poor's Well and the Former Pumping Station

The south-western area of the Site, accommodates a village well, known as Poor's Well. From the 14th century this well was used as a water source and was set up as a horse well at the time of the Inclosure award in the early 1800s.

The Cambridge Waterworks Company chose a bordering site, west of the well, to install a pumping station to supply Cambridge.

The Former Pumping Station opened in 1891 at the junction of Teversham Road and Cow Lane. It was designed in 1885 by Thomas Hawksley (1807-1893), who was acclaimed for his work with the Health of Towns Association, and consultancy regarding a number of water supply schemes across Britain. The design is typical of a pumping station from this period, making use of an adjacent cooling pond.

The installation of the pumping station resulted in local ponds and wells drying up and becoming polluted. In an attempt to combat the spread of water based diseases. The Cambridge Waterworks Company fitted a number of standpipes throughout the village. One of these still stands to the east of the Horses' Well on the north side of Cow Lane.

The Former Pumping Station was built to accommodate two 15 horse-power, steam driven engines which extracted water from a well, which was then cooled in an outdoor pond. The building was designed in a chapel-like form of gault brick with stone detailing, in a Gothic Revival style.

By 1925 the pumping station became redundant and the building today is an office. The surviving Cooling Pond and landscaped setting remain as

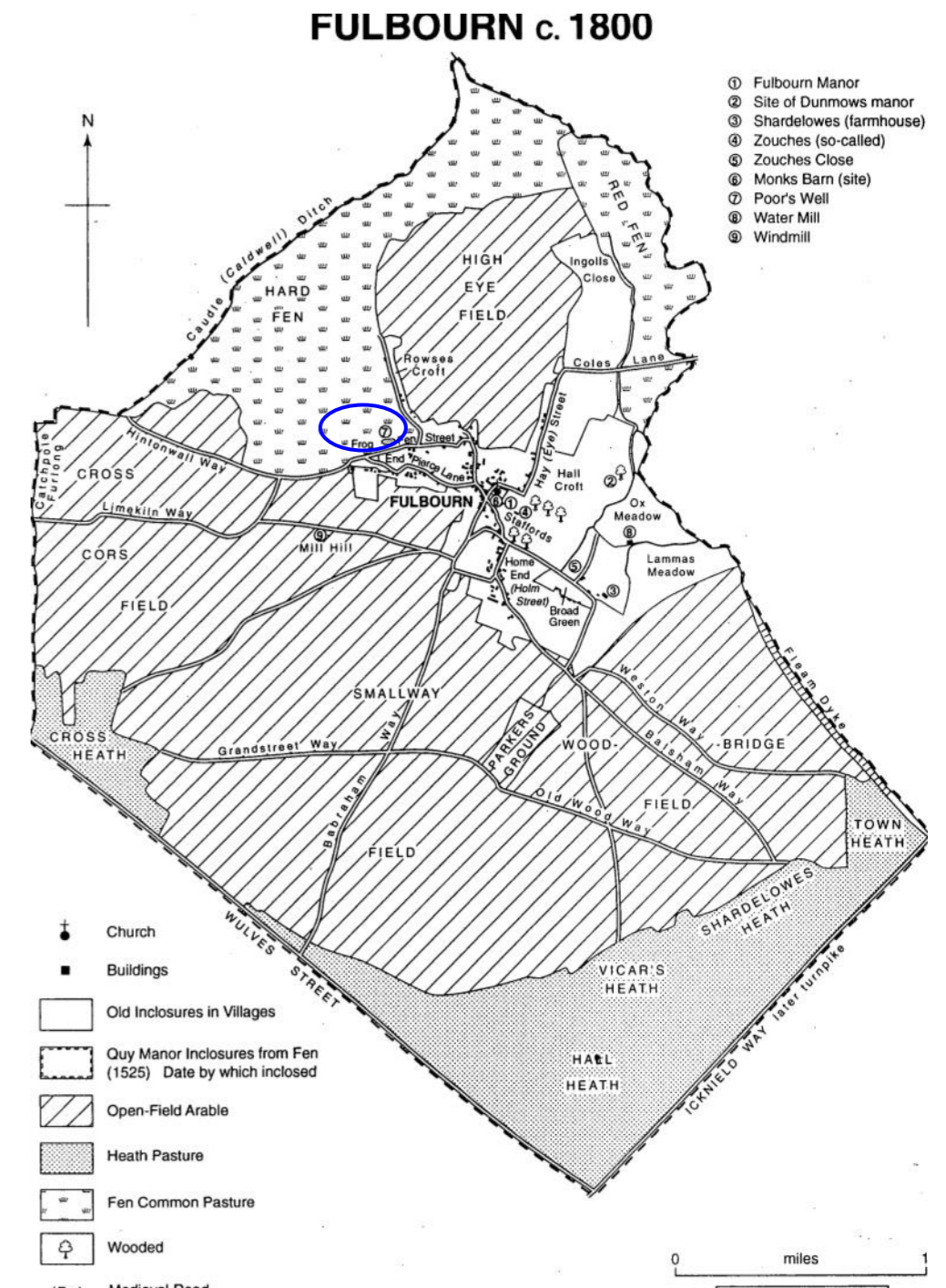


Figure 4: plan showing Fulbourn in c. 1800 (Source: British History online). Note at this point the Site is categorised as 'Fen Common Pasture'. Approximate location of the Site added as an annotation in blue.

3.0 ARCHITECTURAL AND HISTORIC APPRAISAL

3.1 HISTORIC DEVELOPMENT OF FULBOURN

an open garden. This Site also accommodated a cart wash to the east (the Horses' Well), which consists of a hard standing brick base with a standpipe used for filling the carts.

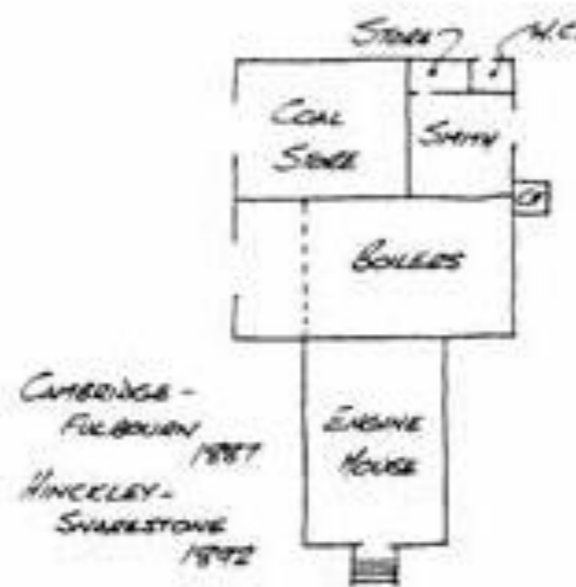
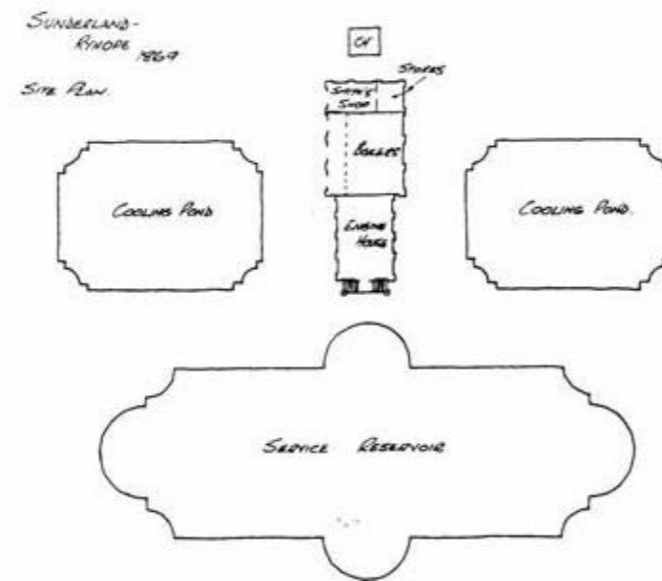


Figure 5 (Top): Sketched indicative plan of a typical pumping station in the Victorian period. Figure 6 (Bottom): Sketch of the floor plan of Fulbourn's Former Pumping station. Source: Peter Ellis (2014)

3.2 HISTORY OF SITE AND HISTORIC MAP PROGRESSION

Prior to the 19th century the Site is likely to have been largely water logged due to the fen like nature of the area and the high water table. Drainage ditches in the early 19th century allowed for the cultivation of areas where such cultivation had previously not been possible.

The earliest detailed map shown below is an 1808 OS map extract showing the Site as undeveloped (see Figure 7).

In Figure 8 the 1886 OS map shows the formation of additional field boundaries but otherwise shows the Site still as undeveloped grass land. An east-west drainage ditch is also visible across the Site.

In Figure 9 the 1903 OS map indicates that the Cooling Pond has been established to the west of the Former Pumping Station in the south-western corner of the Site.

Between 1903 and today the Site has undergone no notable change and still comprises undeveloped, non-agricultural grassland.



Figure 7 1808 OS map with the Site outlined in red.

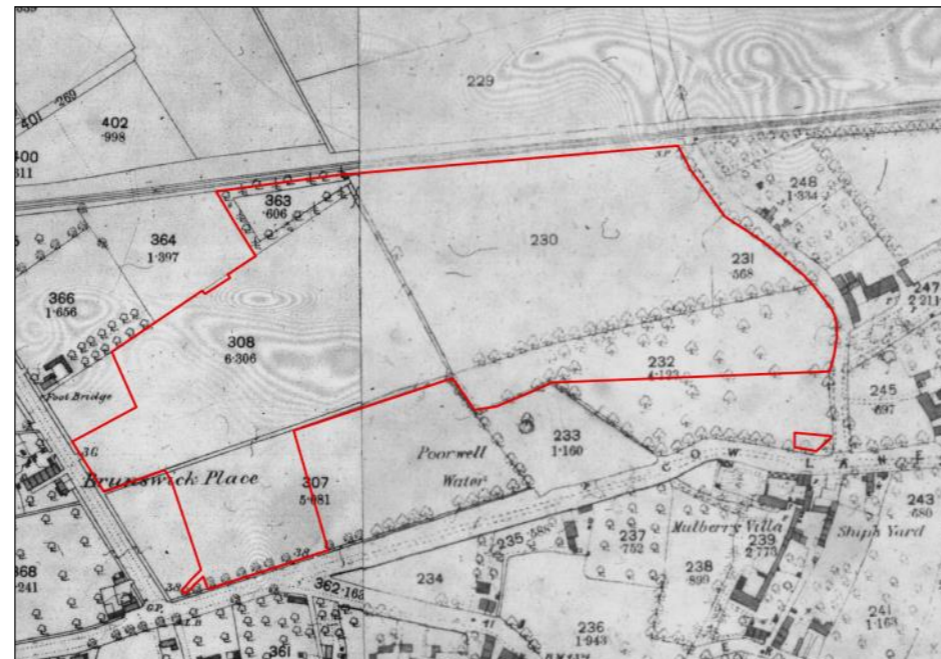


Figure 8: 1886 OS map with Site outlined in red.

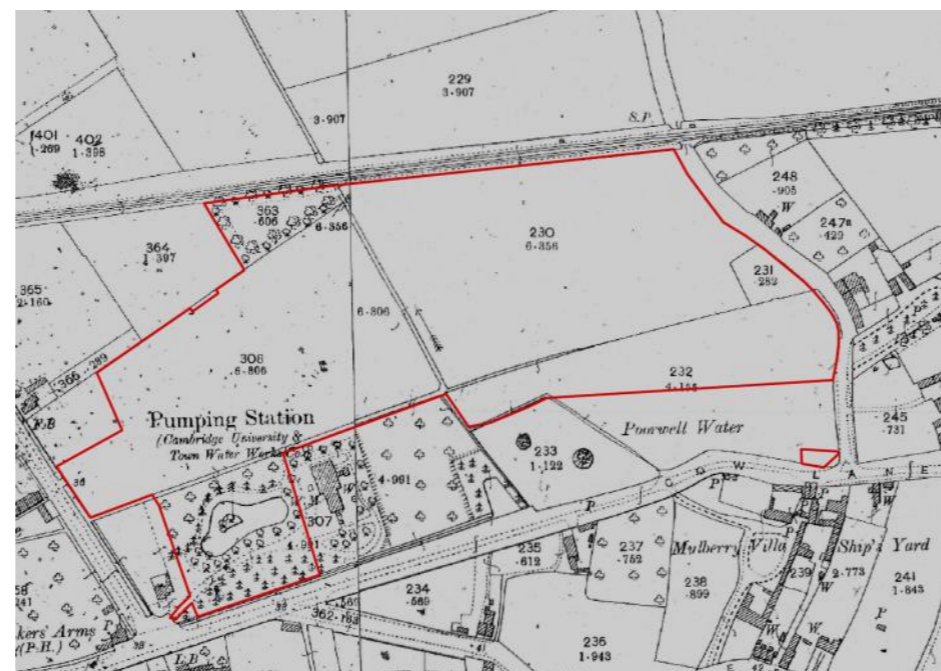


Figure 9 1903 OS map with Site outlined in red.

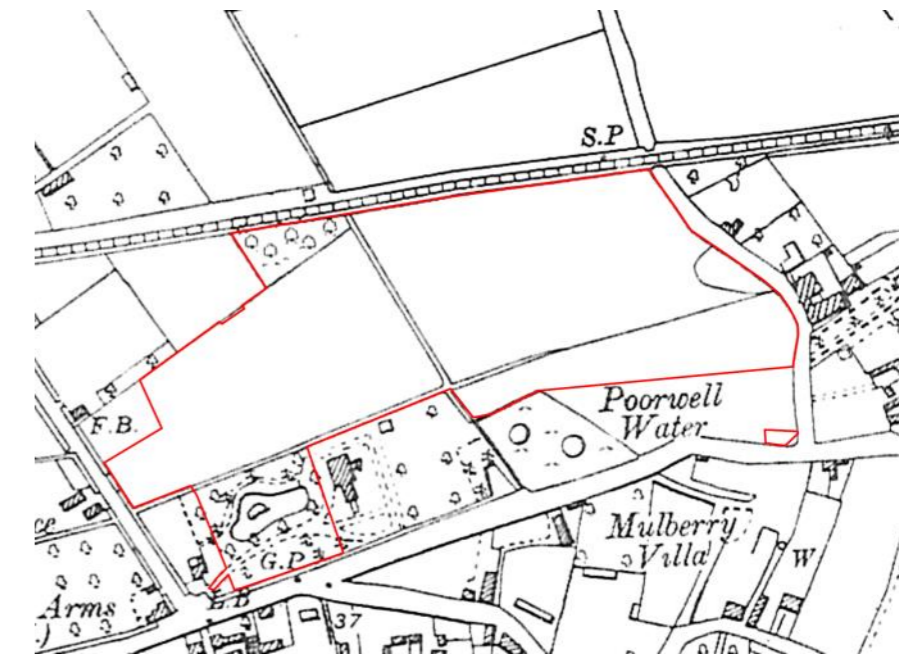


Figure 10: 1960 OS map with the Site outlined in red.

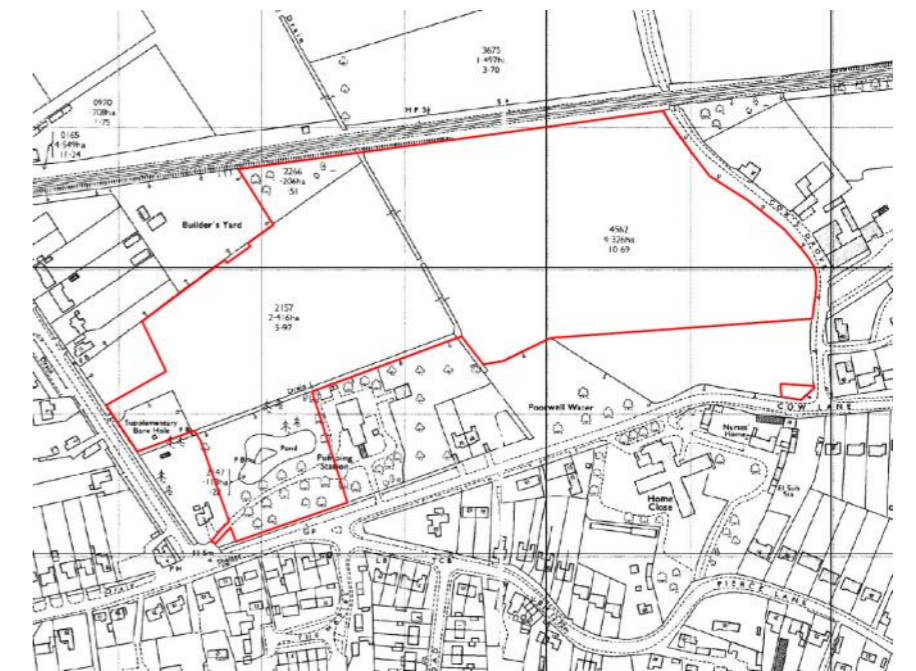


Figure 11: 1972 OS plan of the Site with outline marked in red.

3.3 SITE ASSESSMENT

As aforementioned the Site principally comprises two undeveloped non-agricultural fields (see **Fig.s 17 and 18**). In the south-east corner is a very small parcel of land fronting onto Cow Lane which is detached from the main body of the Site. This section contains no heritage assets and does not lie within the Conservation Area. This latter area does not form part of the development proposals for the Site and has therefore not been included in this assessment.

The Site lies immediately to the north of the village centre and immediately adjacent to, and in parts includes, part of the Fulbourn Conservation Area (see **Figure 32**). The Site is broadly framed by railway tracks to the north of the Site, Teversham Road to the west (see **Figure 12**), to the south by the rear curtilage boundaries of properties on the north side of Cow Lane and Cox's Drove to the east.

The Site boundaries (see **Figure 16**) can be described as follows:

- The northern boundary comprises the following:

From the north-western corner the boundary heads east along the southern boundary of 8 Teversham Road (see **Figure 14**). At this point there are partial views into the Site from this property although the property is of no heritage value and does not lie within the Conservation Area. The boundary then heads north along the eastern boundary of 8-10 Teversham Road turning east along the boundary of the builders' yard adjacent to the railway line (see **Figure 15**). The border in this section contains very tall tree growth and entirely shields the Site from views into the builders' yard. The latter is of no heritage value.

At the builders' yard eastern extreme the boundary juts northwards for a short section to include in a dense thicket. It then heads due east along the railway line until the boundary with Cox's Drove. This boundary similarly contains very dense tree growth and shields views between the Site and the railway line. The railway tracks contains no buildings or structures of any heritage value.

The eastern boundary comprises the following. The boundary extends from the western side of Cox's Drove heading south. At this point Cox's Drove contains a small number of industrial units constructed in the past 20 years. There are reasonable levels of visibility into the Site from these units and from the houses lying immediately to their north. At the point where the northern most house on the western side of Cox's Drove meets Cox's Drove the boundary then heads westwards.

- The southern boundary can be described as follows. At the point where the northern most house on the western side of Cox's Drove meets Cox's Drove the boundary follows the northern curtilage



(Top) **Figures 12 (Left)**: view looking along Teversham Road from the western edge of the Site. **Figure 13 (Right)**: View looking east along Cow Lane at the junction of Teversham Road and Hinton Road.

(Bottom) **Figures 14 (Left)**: showing the view into the Site from Teversham Road at the proposed access point for the scheme **Figure 15 (Right)**: view looking north-east along the north-western boundary of the Site with the shared boundary with the builders' yard.



Figure 16 plan showing the Site boundary marked in red.



Figure 17: view looking south-east across the Site towards the tree line along the southern boundary of the Site. The Pines lie to the right hand side of these trees.



Figure 18: Aerial photograph of the Site (Source: Google Earth).

3.3 SITE ASSESSMENT

boundary of the properties on the north side of Cow Lane. At this point the Site boundary contains only sporadic tree growth allowing views into the Site from a wider range. However, the adjoining properties are of no heritage value (see **Figure 19**) and do not lie within the Conservation Area.

The boundary continues due west to the north of the green thicket and semi-formal lawns surrounding the standpipe and Poor's Well. The semi formal lawns and standpipe are shown in **Figures 23 and 24**. This section of the Site adjoins the Conservation Area and again is largely shielded from views into the Conservation Area due to extant dense tree growth (see **Figure 25**), excepting for very occasional views where mature trees have been lost previously. Further west the boundary juts out to the north for a short section along one of the field drains to the north of the Horses' Well. Views here are similarly shielded. The Horses' Well is shown in **Figure 20**.

The boundary then heads westwards along the northern boundary of The Pines and the Former Pumping Station. This section also lies adjacent to the Conservation Area to the south but is entirely shielded by dense tree growth.

The following sub-section lies within the Conservation Area. At the western extreme of the Former Pumping Station the boundary heads south between the Former Pumping Station and its adjoining former Cooling Pond to the west. The views to the north from the Cooling Pond are shielded by trees along the east-west ditch across the Site. At Cow Lane the Site boundary turns westwards and follows the northern boundary of the road (see **Figure 26**). This Site boundary is visible at this point from the Conservation Area areas lying to the west and larger areas to the east and south (e.g. Pierce Lane—see **Fig.s 21 and 22**). However, no built form is proposed for this section of the Site.

At the entrance drive to the Gate Lodge to the west of the Former Pumping Station the Site shares a right of access from the gateway at the junction of Teversham Road and Cow Lane.

- The western boundary runs along the eastern boundary of the Gate Lodge and 4 & 6 Teversham Road. At this point the Site boundary loops westwards to include a 'supplementary bore hole' including following a short section of Teversham Road. This is the location for the proposed vehicular access within the scheme. In all sections of the western Site boundary views are shielded by dense tree growth.



(Top) Figures 19 (Left): View looking west along Cow Lane towards the Horses' Well. **Figure 20 (Right):** View looking north-west towards the Horses' Well from Cow Lane.

(Bottom) Figures 21 (Left): view looking west along Pierce Lane towards the junction of Cow Lane. **Figure 22 (Right):** View looking west along Pierce Lane showing the junction with Cow Lane.



Figure 24: showing the standpipe on the northern side of Cow Lane to the east of the Horses' Well.



Figure 23: View looking east along Cow Lane immediately to the east of the standpipe.



Figure 25: View looking north from adjacent to the standpipe on Cow Lane towards the Site.

3.3 SITE ASSESSMENT

The Site comprises the following:

Undeveloped, open grassland

The Site comprises undeveloped, non-agricultural land with slight undulations across the Site (see **Fig.s 15, 17 and 18**). The Site contains two principal drainage ditches, one orientated east-west and the other north-south. These were installed in the early 1800s and today are densely lined with tree growth effectively splitting the Site either side of each ditch.

The Site contains a small section of the Conservation Area, which constitutes a designated heritage asset. No other designated or non-designated heritage assets lie within the Site. The remainder of the Conservation Area lies predominantly to the south and east of the Site and sections of it fall within the setting of the Site.



Figures 26 (Left): View looking west along Cow Lane adjacent to The Pines.



Figure 27: View looking west through the grassed area surrounding the Cooling Pond, both lying to the west of the Former Pumping Station. This area lies within the Conservation Area.

3.4 ASSESSMENT OF HERITAGE ASSETS: LISTED BUILDINGS

As aforementioned the Site contains a small section of the Conservation Area which constitutes a designated heritage asset. No other designated or non-designated heritage assets lie within the Site. The remainder of the Conservation Area lies predominantly to the south and east of the Site and sections of it fall within the setting of the Site.

Heritage Assets with No visibility and considered outside setting of the Site

A number of listed buildings have been identified that, while located within the Study Area, have been assessed as being sufficiently well concealed from the Site in term of visual, traffic, emissions and noise impacts ensuring that they are unlikely to experience any significant effects as a result of the Development. Accordingly they will not be discussed in the remainder of this report. These include the following:

1 Manor Walk, 5 Apthorpe Walk, St. Martin's Cottage 36 Apthorpe Street, 1 High Street and rear, 6 & 8 High Street, Six Bells public house (9 High Street), Barretts Yard and Yew Lodge (1 & 3 Pierce Lane), Highfield House (11 Apthorpe Street) (Grade II* listed). All are Grade II listed unless stated otherwise.

Heritage Assets within the Conservation Area capable of group assessment with the Conservation Area

The following designated heritage assets will be assessed as part of the group assessment: 48 Pierce Lane, Croft House (35 Pierce Lane), 23 Pierce Lane, Inglenook (21 Pierce Lane) and the Fulbourn Conservation Area. All listed buildings are Grade II listed unless stated otherwise.

There are no non-designated heritage assets within the Site. However, the following locally listed buildings are located in the search area identified above: 41 Cow Lane, Nurses' Home (Cow Lane), 1-4 Town Close, 11 Pierce Lane, 12 Pierce Lane, 13 Pierce Lane, 14 Pierce Lane, 15 Pierce Lane, 16 Pierce Lane, 17 Pierce Lane, 23 Pierce Lane, 27 Pierce Lane, 29 Pierce Lane, 37 Pierce Lane, 41 Pierce Lane, 43 Pierce Lane, 45 Pierce Lane, 47 Pierce Lane, 49 Pierce Lane, 51 Pierce Lane, 53 Pierce Lane, 55 Pierce Lane, 57 Pierce Lane, 59 Pierce Lane, 61 Pierce Lane, 76 Pierce Lane, 78 Pierce Lane, 80 Pierce Lane, 82 Pierce Lane, 84 Pierce Lane, 86 Pierce Lane, 88 Pierce Lane, and 90 Pierce Lane.

Heritage Assets within the Conservation Area requiring additional analysis

Rose Cottage (34 Cow Lane), 29 Hinton Road, 28 Cow Lane and 63 & 65 Pierce Lane. All are Grade II listed. In addition the following non-designated heritage assets require additional assessment: The Former Pumping Station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge, Teversham Road.

Heritage Assets outside the Conservation Area and within setting of the Site

None.

From the heritage assets outlined above the analysis will be carried out as follows:

The Conservation Area including all listed buildings and locally listed buildings unless otherwise stated.

The following listed building within Conservation Area requiring further assessment: Rose Cottage (34 Cow Lane), 29 Hinton Road, 28 Cow Lane and 63 & 65 Pierce Lane. All are Grade II listed.

Locally listed buildings requiring further assessment: The Former Pumping Station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge (Teversham Road).

3.4 ASSESSMENT OF HERITAGE ASSETS: LISTED BUILDINGS

ASSESSMENT OF LISTED BUILDINGS

The following listed buildings have been identified as requiring detailed assessment under this section. Where a description is given below all items are to be understood as historic fabric unless otherwise stated.

ROSE COTTAGE, 34 COW LANE, FULBOURN (GRADE II LISTED) (SEE FIGURE 28)

A timber framed cottage from the 17th century principally in a linear plan orientated east-west. The cottage is three bays wide and two storeys in height. It is of timber framed construction, rendered and painted white. The roof contains long eaves and is thatched.

The southern elevation (main) comprises the following. At ground floor the elevation contains three 2-light casements with timber architraves, small hoods, sills and aprons. In the centre-left of the elevation is the front entrance to the cottage. The front door is a vernacular, boarded door (ledged and braced) with a vertical and central letter box, bronze doorknocker and door handle. At first floor the fenestration is noticeably smaller. The windows are formed by horizontally sliding sash windows of '4 over 4' with the window heads flush with the roof eaves above. The roof is steeply pitched and covered with Norfolk Reed. At the roof ridge latticed liggers are visible, including on the ridge/gable peaks. To the centre-right is an axial brick chimneystack with corniced apex. Access was not available for the western, eastern and northern elevations.

The primary significance of the house is as a well-preserved example of a farmhouse from the 17th century. Its secondary significance is that the building represents a very rare example of pre-20th century building in Cow Lane and therefore is a remnant of its past before the area became densely developed in the 20th century. Its secondary significance is its communal and evidential value to the local community. The farmhouse would have at one time employed many local people over many centuries to help manage nearby land. Today the original setting of the farmhouse has been redeveloped on all sides. The land the farm once managed has also likely been redeveloped. From the historic map progressions there is no contextual link between the Site and the cottage. This is further explained by the fact that the Site at the time of the construction of the cottage (until the early 19th century), was used as Common Pasture as it regularly became waterlogged. The building can be assessed as possessing architectural merit at a moderate level and an historical, evidential and social significance at moderate level.

The setting includes Cow Lane directly to the south of the house. This road is a quiet roadway within Fulbourn and doesn't carry any transitory traffic. As such it has a neutral impact on the setting of the cottage. To the north-east of the cottage is 28 Cow Lane which dates from a similar period to Rose Cottage. This contributes positively to its setting and is likely to form the historic,

aesthetic and original setting of the cottage. Otherwise in all other directions indifferently designed, mid 20th century housing has transformed the area surrounding the cottage into a typical suburban neighbourhood. These aspects of the setting are strongly detrimental to the setting of the listed building. The only item that is positive to the setting of the cottage is 28 Cow Lane (Grade II listed—see below).

There are no views of the Site from the cottage or its curtilage due to buildings built to its north-west and west blocking views into the Site. Nor would the scheme intervene physically into the plot in which the listed building lies. Indeed, the listed building has been assessed as being sufficiently well concealed from the Site in terms of visual, traffic, emissions and noise impacts ensuring that it is unlikely to experience any significant effects. Moreover, the scheme would not detrimentally affect the significance of the listed building. The effect of the proposed development on the listed building has therefore been assessed as neutral.

29 HINTON ROAD, FULBOURN (GRADE II LISTED) (FIGURE 29)

The building comprises a humble worker's cottage dating from c. 1841. It is two storeys and two bays wide, of brick construction with painted render. It is topped with modern red pantiles.

The northern elevation (main) comprises the following. The ground floor comprises a central entrance doorway including a moulded timber architrave, a 4-panelled door with brass door furniture and either side is a '2 over 2' vertically sliding sash window with sash horns. At first floor the fenestration is vertically aligned with those on the ground floor. The windows are '4 over' horizontally sliding sash windows with similarly moulded architraves. The heads continue to eaves level. The roof is a shallow roof, likely originally tiled with grey slate, but today is covered with red clay pantiles. At both the western and eastern extreme is a brick external chimneystack.

To the east of the house is a small side extension. The extension has undergone recent conservation including new weatherboarding and window surrounds and it is not apparent from an external inspection (from the roadway) whether this aspect of the building is original (see Appendix). The extension is lean-to under a mono-sloped roof covered with red clay pantiles. To its rear is a smaller brick chimneystack. The building contributes strongly to the Conservation Area.

The primary significance of the listed building is that it retains a high degree of historic fabric externally and appears well-preserved. It is a good example of a humble workers' cottage built in the 1840s. The building can be assessed as possessing architectural merit at a low level.

The house lies within the Conservation Area. To the north and west of the listed building Hinton Road is laid out with a succession of poorly conceived 20th century houses from a variety of periods. These combine to detrimentally harm the setting of the listed building almost entirely. This is compounded by the 1970s housing developments along The Maples to the south-east and Chery Orchard to the south.



Figure 28: view looking north to Rose Cottage from Cow Lane.



Figure 29: View looking south-west towards 29 Hinton Road adjacent to the junction with Teversham Road/Cow Lane/Hinton Road.

3.4 ASSESSMENT OF HERITAGE ASSETS: LISTED BUILDINGS

The only items that contribute positively are the Bakers Arms public house (locally listed) and the Gate Lodge (locally listed) both lying to the north-east of the listed building. These two buildings form the original, historic and aesthetic setting of the listed building.

The Site is visible from the eastern and northern elevations of the listed building and given its close proximity to the Site the impact of the proposed development on the listed building will be discussed in Section 4.2 of this report to assess whether it impacts the setting of the heritage asset.

28 COW LANE, FULBOURN (GRADE II LISTED) (SEE FIGURE 30)

The cottage is an L-plan cottage with the main range being north-south and a cross wing orientated east-west. The former likely dates from the 17th century while the latter likely dates from the late 18th century or 19th century. The mode of construction is not immediately apparent. The English Heritage listing notes: *“Pebbledash clunch on brick and stone plinth, possibly originally timber framed”*. The walls are painted white.

The north-south range is single storey and one bay in width set under a steeply pitched roof covered with long straw thatch. It is one storey in height. The western elevation comprises one 2-light casement and a planked door with bronze door furniture. At first floor level is a pronounced gabled dormer with thatched roof (including overhang). The dormer contains a 2-light casement. The roof itself is steeply pitched gabled roof and covered with long straw thatch including roof ridge dressing and liggers to the roof ridge, barges and eaves. There is a brick axial chimneystack to the centre-left of this range.

The cross wing, is later and extends over two storeys under a gabled roof and covered with long straw thatch. The same thatch detailing is seen with this range. The southern elevation was not inspected but this range appears to extend to four bays. The western elevation of this range abuts the north-south range at its southern most point. The elevation contains one 2-light casement at ground and the same on the first floor in vertical alignment. To the east of the north-south range is a 20th century outshut extension.

The interior was not inspected however please see Appendix A for details within the English Heritage listing entry.

The primary significance of the house is as a well-preserved example of a cottage which has been extended very sympathetically over time from the late 17th century or late 18th century onwards. The building represents a very rare example of pre-20th century building in Cow Lane and therefore is a remnant of its past before the area became densely developed in the 20th century. Today the original setting of the former cottage has been redeveloped on all sides. The building can be assessed as possessing architectural merit at a moderate level.

The setting includes Cow Lane directly to the south of the house. This road is

a quiet roadway within Fulbourn and doesn't carry any transitory traffic and as such has a neutral impact on the setting of the house. To the north-east of the cottage is Rose Cottage which dates from a similar period to 28 Cow Lane. This contributes positively to its setting and is likely to form the historic, aesthetic and original setting of the cottage. Otherwise in all other directions indifferently designed, mid 20th century housing has transformed the area surrounding the cottage into a typical suburban neighbourhood.

The Site is not visible from the listed building. However due to the potential impact of the proposed scheme on its setting, the potential impact will be discussed in Section 4.2 of this report to assess whether it impacts the setting of the heritage asset.

63 & 65 PIERCE LANE, FULBOURN (GRADE II LISTED) (FIGURE 31)

The listed building dates from the late 17th century or early 18th century with the southern most section adjoining Pierce Lane being rebuilt or extended in the early 19th century. Sections are of different periods but all in a vernacular style using locally materials. Today the cottages form two cottages. The cottages are both timber framed.

The main north-south section of the cottages form three principle sections. The southern most of these is a later 19th century extension. It is single storey with a single 20th century casement to the eastern side and a blocked utilitarian doorway to the northern elevation. On the same elevation is a fixed casement set within a slight reveal. Above is a 2-light casement with '6 over 6' horizontally sliding sash windows in the gable end. This section is timber framed, rendered and painted set under a steeply pitched roof with red plain tiles. To the south is the main section of this range. It is two bays in width, one storey in height, timber framed, rendered and painted. To the eastern elevation is a 20th century gabled porch and a single '6 over 6' horizontally sliding sash. At first floor are two swept dormers with 2-light casements. The roof is steeply pitched and covered with wheat reed thatch. To the northern roof extreme and in the ridge middle are two axial brick chimneystacks. To the south is a single storey extension of brick construction with red pantiles above.

The east-west range was not inspected but is believed to be of timber frame construction, rendered and painted. From inspection the roof covering was seen to be red plain tiles, with two half hipped dormers in the north and south roof slopes. The building contributes strongly to the Conservation Area.

The primary significance of the cottages is as a typical example of the adaptation and extension of vernacular buildings over time and the use of local materials.

The setting includes Pierce Lane immediately to the north. The road is very quiet and doesn't carry any transitory traffic. It maintains its meandering layout and forms part of the historic, original and historic setting of the cottages. It can therefore be said to have a positive impact on the setting of the listed building. The extant buildings on Pierce Lane contain a high proportion of locally listed and listed building laid out in a medium density, ribbon development manner. These buildings



Figure 30: view looking east on a backland site lying to the north of Cow Lane showing 28 Cow Lane.



Figure 31: view looking south towards 63 and 65 Pierce Lane from the north side of Pierce Lane.

3.4 ASSESSMENT OF HERITAGE ASSETS: LISTED BUILDINGS

lie within the Conservation which predominantly lies to the north, west and east. The positive impact these heritage assets have on the setting of the listed building outweighs any detrimental impact any indifferently designed 20th century buildings might have on the setting of the listed buildings. Therefore the surrounding Conservation Area can be assessed as having a positive impact on the setting of the listed building. To the south of the listed building are the poorly designed 1970s houses along Bird Farm Road. These have a strongly detrimental impact on the setting of the listed building.

The proposed scheme does not intervene physically into the plot in which the listed building lies. Nor would the scheme detrimentally affect the significance of the listed building. Further, there are no views of the Site from the cottages or within their curtilage due to buildings built on the corner of Pierce Lane and Cow Lane blocking views into the Site. Moreover, even if views were available between the listed building and the Site, this would hypothetically only be possible where the botanical gardens are proposed which would be assessed as having a neutral impact in their own right. Indeed, the listed building has been assessed as being sufficiently well concealed from the Site in terms of visual, traffic, emissions and noise impacts ensuring that it is unlikely to experience any significant effects. The effect of the proposed development on the listed building has therefore been assessed as neutral.

3.4 ASSESSMENT OF HERITAGE ASSETS: CONSERVATION AREA

FULBOURN CONSERVATION AREA (SEE FIGURE 32)

This section deals with the value placed upon the Fulbourn Conservation Area. It includes the identification of key features that significantly contribute to the area's valued character and appearance.

Boundaries

The Conservation Area boundary (see **Figure 32**) comprises the following:

- The northern boundary comprises the following. From the north-western corner of the Conservation Area the boundary runs immediate north of the Bakers Arms public house at the junction of Teversham Road and Cow Lane. It crosses east behind 4 Teversham Road and along the southern boundary of the Site adjoining the Former Pumping Station. The boundary continues eastwards along the northern boundary of Poor's Well then cuts south towards Cow Lane and runs along the northern edge of Cow Lane adjacent to the nursing home. The boundary continues eastwards until north of Town Close where it changes direction southwards along the eastern boundary of these properties until the rear of 38 Pierce Lane. The boundary then heads east along the rear curtilage boundary of those properties on the northern side of Pierce Lane until the junction with Apthorpe Street. At the junction of Apthorpe Street and Pierce Lane similarly the boundary runs along the western curtilage boundary of those properties on the western side of Apthorpe Road heading north. At the junction of Apthorpe Street and Cow Lane the boundary splays to include the number of properties on this curved junction. The boundary then loops back and heads southwards along the eastern side of Apthorpe Street. The boundary continues southwards until No. 18 Apthorpe Street whereupon it heads east along the rear (north) of Northfields and Chantry until connecting with Station Road to the east.
- The eastern boundary comprises the following. The boundary broadly heads southwards from the Station Road/School Lane junction around the eastern perimeter of Fulbourn Manor. It then continues south along the eastern edge of Manor Walk. The boundary then continues along the eastern rear curtilage boundary of Home End. The boundary then splays at its most southerly point to include elements of Impett's Lane and Sanders Lane.
- The southern boundary of the Conservation Area comprises the following. From Sanders Lane the boundary follows the western curtilage boundary of Home End until its junction with Manor Walk. It then heads due west to include Ludlow Lane. The boundary then heads north along the western curtilage boundary of High Street until its junction with Pierce Lane. From that point it heads west along the southern roadway edge of Pierce Lane until adjacent with 11 Pierce Lane where it juts south to run along the south curtilage boundary of Pierce Lane until adjacent with 63 & 65 Pierce Lane. At this point it heads north and the skirts the southern boundary of Pierce Lane and then heads west along Cow Lane.

- The western boundary of the Conservation Area is very short and entails looping around 29 Hinton Road and then heading north behind the Bakers Arms public house.

FULBOURN CONSERVATION AREA APPRAISALS (2007)

Key Views

From reviewing the Conversation Appraisal Map the following are detailed as key views within the Conservation Area within the setting of the Site:

- Views from the east and west where Apthorpe Street and Cow Lane meet;
- View looking west along Pierce Lane from Apthorpe Street; and
- Views looking south from High Street near the junction with Pierce Lane and School Lane.

Key Appraisal paragraphs

- *"Fulbourn's historic development can still be read in its street patterns and buildings, with an older core around the church and manor and ribbon development along the tracks and roads that meet at the centre of the village. The manor and park look timeless but are a relatively recent addition to the village, dating from the 17th century when the manor relocated here and groups of clunch-built cottages located south of the church were cleared to create the park. Even so, the park and the paddocks that reach into the heart of Fulbourn, along with the fields that surround the village and the greens that mark the meeting and division of roads are all an important part of Fulbourn's strong rural character, and should continue to be protected so that Fulbourn continues to be a separate place, rather than being subsumed into that almost continuous belt of suburb that stretches south-eastwards from Cambridge via Cherry Hinton".*

The Pierce Lane and Cow Lane triangle

- *"This conservation area is focused on the pumping station and associated ponds and cart wash along the northern side of Cow Lane that were built from 1885 (opened in 1891) to supplement Cambridge City's water supply.*
- *The Cambridge Waterworks Co's site consists of a stone and brick lodge house (Gate Lodge, No. 2 Teversham Road, in neo-Tudor style, which stands at the original entrance to the drive that led to the pumping station. The lodge now forms a separate property, with the result that the drive is now blocked at its eastern end.*
- *The pumping station itself is a tall chapel-like building of gault brick with stone detailing and neo-Tudor flat-arched and mullioned-and-transomed windows, now used as offices, with car parking to the sides.*
- *Where once this was a wet fenland site, water extraction combined with a fall in the water table and a series of droughts has left the many water channels and dykes surrounding the pumping station dry, as is the large pond at Poor's Well Water, though here, willow trees suggest that water is available below the surface.*

- *Pond and water courses were once a feature of the Poor's Well Water site and the area around the waterworks on Cow Lane but these are all dry as a result of drought and water extraction, leading to a loss of bio-diversity, though the pond in the north west corner continues to thrive. Consideration might be given to improve the bio-diversity of the area.*
- *Built by the water company to provide a cart wash and stand pipe for filling water carts, the granite paved base of the cart wash survives, along with the surrounding railings and brick retaining walls".*

Materials

- *"Rendered houses in Fulbourn are almost all painted white (the exceptions are two cottages in Balsham Road and one house in the High street that are all painted pink and one house in Home End painted grey-green), and there are no examples in the village of the use of flamboyant colours. Local chalk-based gault clay bricks are white, grey and yellow in colour, and are mostly unpainted, though where front elevations have been painted, these are also white.*
- *Though some of these timber-framed buildings date from as late as the early 19th century, brick was in use as a building material from the 18th century. Examples of good double fronted brick houses with slate roofs include the Post Office at Nos 2 and 4 School Lane, No. 1 High Street and St Osyth's at No. 14 High Street. At the same time, older timber-framed halls were given new brick frontages (No. 2 Ludlow Lane, for example). The initially high cost of brick meant that fieldstone – pebbles brought up to the surface during ploughing – was still in use in the 19th century for building. They were used, for example, for the side and rear walls of even quite substantial houses, such as Hall Farm, in School Lane, and Flendyshe House, at No. 1 Ludlow Lane. Though vertical 4 x 4 sash windows are the norm for the more prestigious buildings, smaller cottages have side-sliding sashes, and these continue to be used until the late 19th century".*

Pierce Lane

- *"A short stretch of eastern end of Pierce Lane is included within the conservation area boundary at the northern end of the High Street. This junction is marked by visually arresting buildings on both sides of the junction. On the southern side, Yew Lodge and Nos 1 and 3 Barrett's Yard consist of a group of thatched buildings including the main Grade II listed two-storey 17th-century hall and cross wing that fronts onto the street, and an 18th century rear wing, extended and restored in 1983".*

New Developments

- *"In considering the design of new or replacement buildings, or extensions to existing ones, the Council will take into account the impact of proposals on the setting of listed buildings and the character*

3.4 ASSESSMENT OF HERITAGE ASSETS: CONSERVATION AREA

and appearance of the conservation area. Section 8 of this document sets out some of the key characteristics which need to be considered if a design is to fit comfortably with its neighbours. The following points summarise considerations that are important in determining whether a new development is acceptable.

- *Scale: buildings should be 1½ to 2 storeys in height. Roofs should be modestly pitched (i.e. 30 to 35 degrees) in slate or clay pan-tile, or more steeply pitched in plain-tile or thatch. Rooflights should only be located on less visible slopes and hipped or cat slide dormers are to be preferred in mansard or steeply pitched roofs (eyebrow in thatch).*
- *Location on the plot: new buildings should respect established building lines and extensions should adhere to the principles of subordination, so that they do not undermine the architectural interest of the main building, while also seeking to preserve existing trees and hedgerows.*
- *Materials and colours: Fulbourn's limited pallet of materials and colours is set out in Section 8 of this document. This pallet should be used as a guide for new development. In addition, stained weatherboard timber cladding may be considered appropriate for lesser structures, such as garages. Rendered walls should be painted either white or in pale pastel shades, while brickwork should generally be gault clay, though some limited use of red brick may be appropriate. Modern artificial materials (including concrete roof tiles and uPVC windows) should not be used.*
- *Boundaries: these are very important to the character of the proposed Conservation Area. Positive boundaries identified on the map within this appraisal should be retained. Where new boundaries are proposed, care should be taken to ensure they use appropriate materials (such as coped brick walls or timber picket fences). Overly formal or ornate gates and walls are not to be considered. Planted boundaries, including those to the sides and rear where they abut lanes or the wider countryside, will need to be appropriately treated so that existing vegetation of merit is retained and augmented as necessary with new native trees and hedges. Sufficient space must be allowed within site layouts to enable this planting to be implemented in the short term and retained over the longer term. Close-boarded fences to open countryside will be resisted unless they can be adequately screened with appropriate planting".*

3.4 ASSESSMENT OF HERITAGE ASSETS: CONSERVATION AREA

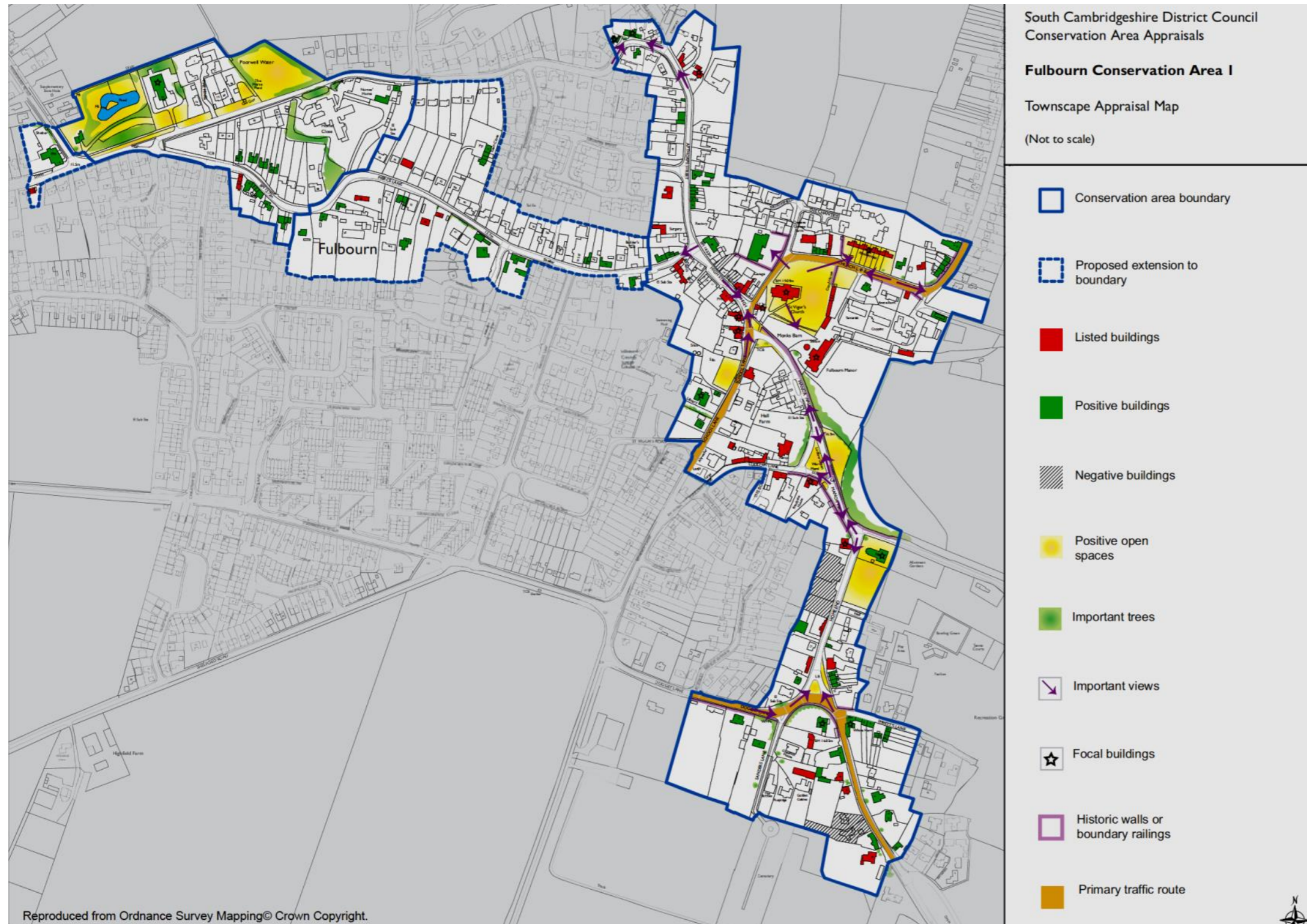


Figure 32: plan showing the extent of the Fulbourn Conservation Area delineated in blue.

3.4 ASSESSMENT OF HERITAGE ASSETS: LOCALLY LISTED BUILDINGS

ASSESSMENT OF LOCALLY LISTED BUILDINGS

The following locally listed buildings have been identified as requiring detailed assessment under this section.

FORMER PUMPING STATION, COW LANE, FULBOURN (LOCALLY LISTED) (SEE FIGURE 33)

The plan of the building is approximately a T-plan with a double range on the upper horizontal section of the 'T'. The building is brick built of buff brick in English bond under a gabled roof to the south and a M-shaped roof to the north. The building is set upon an artificial earth mound with the entrance being via a double flight of stone flags steps with brick retaining walls and stone copping. The building is set upon a half storey brick plinth in buff brick.

The entrance to the building is approached from the south from Cow Lane. The main elevation is a single bay, two storey elevation (south elevation). The elevation comprises the following. Dominating the elevation is the advanced doorcase comprising long and short quoins to the jambs with a gabled hood moulded apex and linear hood mould above the doorway. The doorway is indented, with a 4-centred arch to its peak surrounded by stone spandrels. The doors are half-glazed, half 2-panelled Victorian doors with brass door furniture. Between ground and first floor is a bold string course. The first floor window is a flat headed, 3-light steel casement with stone mullions and transom. In the gable end is a single light with stone dressings.

The western elevation is built with similar detailing but includes a 4-centred arched doorway (blocked) at lower ground level, two 3-light windows with stone mullions and transom at ground and two 3-light windows at first with stone mullions. Above is a stepped eaves cornice with elevational stone brackets. The western roof slope contains two gabled dormers, the roof is gabled, covered with grey slates and cast iron crestings to the ridge. The eastern elevation is identical.

To the rear the soil mound drops away allowing an extra half storey to the rear cross wing. The detailing is almost identical to the southern vertical range. The cross wing comprises a M-shaped roof atop two identical gabled parallel ranges. Each range comprises a 3-light modern casement with transom with stone hood mould surround and identical original stone casement above. The eastern elevation is identical. At roof level is a shallow verge parapet with corbelled elevational jambs. Above are modern roof extensions of high quality designs incorporating lead sheet sides, aluminium windows and grey slates above. Despite the quality of the design they unsettle the balance of the elevations with the effect that the roof looms large over the elevation.

The northern elevation and interior were not inspected.

The building is locally listed, lies in the Conservation Area and is listed in the Conservation Area Appraisal as a focal building of the Conservation Area.

The primary significance of the building is a good local example of a Victorian institutional, philanthropic building built on a grand scale. The Former Pumping Station was constructed by the Cambridge Waterworks Company to bring safe drinking water to the local community and to increase supply to Cambridge to the west. The location chosen was located adjacent to the historic local location for water collection, namely the Poor's Well. The waterworks also provided water to the nearby Horses' Well. The Former Pumping Station was designed in 1885 by Thomas Hawksley (1807-1893), who was acclaimed for his work with the Health of Towns Association, and consultancy regarding a number of water supply schemes across Britain. The building should be read in the context of the adjacent Gate Lodge, Horses' Well and standpipe to the east. The building can therefore be assessed as having evidential, communal and local significance at a moderate level.

It's secondary significance is as a fine example of institutional architecture built at the height of Victorian philanthropy in affine Tudor/Gothic style. It was typical of the age that such buildings were statements of pride to those gifting the funds for their construction and a sign of their status. This is the reason for two large inscription panels on the southern elevation bearing the names of the directors of the Cambridge Water Company responsible for its construction. The building can be assessed as possessing architectural at a merit at a low-moderate level.

The setting of the building comprises the following. To the west is the former Cooling Pond (and portion of the Conservation Area), the Gate Lodge and the Bakers Arms public house. All have a positive impact on the setting of the building. To the north is a dense line of trees along the east-west drainage ditch providing shielding from views from the building into the Site. Further north is the Site. To the east is The Pines, the Horses' Well, the standpipe and the semi-formal gardens adjacent to the latter. All these items represent the building's historic, original and aesthetic setting. To the south is a variety of poorly designed 20th century houses which are detrimental to the setting of the locally listed building.

As the setting of the heritage asset is proximal to the Site, the impact of the proposed development on the locally listed building will be discussed in Section 4.2 of this report to assess whether it impacts the setting of the heritage asset.

THE GATE LODGE, TEVERSHAM ROAD, FULBOURN (LOCALLY LISTED) (SEE FIGURE 34)

The house is arranged around a typical Elizabethan E-plan, despite being built in the 1880s. This is typical of the Gothic Revival which was in its pomp in the Victorian period. The house is constructed as a central range orientated east-west with two cross wings orientated north-south. The house is brick built of buff coloured brick in English bond with stone dressings under a steeply pitched roof with grey slates.



Figure 33: view looking north-east towards the Former Pumping Stations at the Cow Lane (southern) frontage.



Figure 34: view looking north-west towards the Gate Lodge.

3.4 ASSESSMENT OF HERITAGE ASSETS: LOCALLY LISTED BUILDINGS

The western cross wing (left) comprises of a 4-light window at ground with stone architraves and mullions. The windows are '1 over 1' sash windows. The wing corners contain stone long and short quoins. At first floor is a 3-light stone mullioned window with identical sashes. The gabled roof contains stone, shallow verge parapets.

The central range contains a 3-light stone mullioned window with sashes and an identical 2-light window above set within a gabled dormer. To the left hand side is a brick entrance porch including a 4-centred arched doorway. This porch follows the same construction details, for example stone long and short quoins, stone dressings and stone shallow verge parapets. Gabled roof above with grey slates. To the rear of the central range is a large extension orientated north-south under a hipped roof of grey slates. The right hand cross wing is identical to the left hand cross wing.

Its primary significance can be directly linked and matched with the Former Pumping Station. The secondary significance is as a well-preserved example of mid-Victorian Neo Gothic/Tudor architecture. The building can be assessed as possessing architectural merit at a low level and evidential, communal and local significance at a moderate level.

The same setting comments can be derived from the comments made in relation to Former Pumping Station.

As the setting of the heritage asset is proximal to the Site, the impact of the proposed development on the locally listed building will be discussed in Section 4.2 of this report to assess whether it impacts the setting of the heritage assets.

BAKERS ARMS PUBLIC HOUSE, HINTON ROAD, FULBOURN (LOCALLY LISTED) (SEE FIGURE 35)

This building is three bays in width and two storeys in height and is likely to date from the early to mid 19th century. The building is brick built (painted) set under a hipped roof covered with grey slates. The main elevation (south) comprises the following. At the centre of the elevation is a fine, timber doorcase. The doorcase contains an open pediment and fluted pilasters of the Doric Order. The door is 6-panelled and includes brass door furniture. To either side of the central entrance is a tripartite window including '6 over 6' sashes in the centre.

Above the entrance door is a cast iron coaching lamp from the Victorian period. At first floor the fenestration includes '6 over 6' sashes in vertical alignment with the ground floor windows and also above the central, ground floor entrance. Above, the roof has a low pitch, is hipped and covered with grey slates. To the eastern and western extremes of the roof is a brick chimneystack with corniced apex. The building lies within the Conservation Area.

The primary significance of the building is as a well-preserved example of mid-Victorian architecture. The map progressions show that the Cow Lane/Hinton Road/Teversham Road junction was a key local junction from at least 1803. This is logically a sensible place for an inn to be located catering for passing coach traffic prior to the railways and the motor engine. Its function in this role however would have been short lived with the arrival of the railway in 1852. The building can be assessed as possessing architectural merit of low level.

The same setting comments can be derived from the comments made in relation to 29 Hinton Road.

As the setting of the heritage asset is proximal to the Site, the impact of the proposed development on the locally listed building will be discussed in Section 4.2 of this report to assess whether it impacts the setting of the heritage asset.



Figure 35: view looking north-west from the junction of Teversham Road and Cow Lane towards the Bakers Arms public house.

4.0 PROPOSALS AND ASSESSMENT OF IMPACT

4.1 SCHEME PROPOSALS

Proposed Scheme

The scheme information reviewed are the draft scheme layout drawings by Barton Willmore circulated on 20 May 2014. Please see **Figure 36**.

The development would comprise the following principle items:

Built Form

- Medium density residential development in three principle Site locations: west, north-east and south-east.

Roadways and access

- The vehicular access would be provided from Teversham Road immediately to the north of the field drain orientated east-west across the Site.
- Internal roadways are proposed between the western housing area and the north-eastern. Secondly two roadways are proposed from the north-eastern housing area to the south-eastern.

Planting and landscaping

- The existing mature tree planting would be retained on all Site boundaries including the thicket to the northern boundary adjoining the railway line. This is particularly important within the section of the Site falling within the Conservation Area.
- The tree growth along the field drain orientated north-south across the Site will be retained shielding views across the Site from east to west, save for the small link road between the western housing area and the north-eastern.
- Three wetland areas are proposed for the Site. These are located as follows: 1) the first lies along the north-eastern boundary of the Site between the proposed north-eastern housing and the railway line; 2) between the proposed housing in the north-east and south-east corners; and 3) to the west of the north-south field drain to the east of the proposed western housing area.
- An ornamental garden is proposed in the grass/wooded area to the west of the Former Pumping Station (lying within the Conservation Area). The use of this area would be open to the village population as a whole and not just the residents of the new development.



4.2 ASSESSMENT OF IMPACT

As aforementioned the Site contains a section of the Conservation Area which constitutes a designated heritage asset. No other designated or non-designated heritage assets lie within the Site. The remainder of the Conservation Area lies predominantly to the south and east of the Site and sections of it fall within the setting of the Site.

Following the assessment of the heritage assets in Section 3.4 the following designated heritage assets were identified for further analysis under this section:

Designated Heritage Assets:

29 Hinton Road and 28 Cow Lane (both are Grade II listed) and the Fulbourn Conservation Area.

Non-Designated Heritage Assets:

The following locally listed buildings were identified as requiring further assessment: The Former Pumping Station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge (Teversham Road).

FULBOURN CONSERVATION AREA

In Section 3.4 we detail a number of listed buildings within the Conservation Area that potentially lie in the setting of the Site. Those requiring additional assessment in close proximity of the Site will be assessed later in this section. For the remainder of the listed buildings, the potential impact to these heritage assets can be grouped together and assessed as one below.

Available Views

The vast majority of the Conservation Area lies well to the east and south-east of the Site. The southern, eastern and central sections of the Conservation Area have no views of the Site whatsoever. However, the north-western section has the potential for views towards the Site and these will be discussed below:

1. Views from adjacent to the Bakers Arms public house and the area surrounding the junction of Teversham Road, Cow Lane and Hinton Road. The majority of the Site is not visible from this area. However, the proposed vehicular access to the Site would lie a short distance north along Teversham Road from this junction. Secondly views from the same junction towards the Cooling Pond area exist.

The proposed access to the Site will be from a relatively wide suburban road and so the access would not change the width of this road nor the characteristic of the area. The access is also a sufficient distance to the north (c. 90m) that views would be only over a very narrow range. This impact will

be further reduced by the fact that the dense tree growth along the southern bank of the east-west drainage ditch will shield all views from the south except those immediately onto Teversham Road. The proposed development has therefore been assessed as having a neutral impact on this section of the Conservation Area.

The area surrounding the Cooling Pond is proposed to be a botanical garden within the proposed scheme. At present the area is largely self contained and so the impact of creating such a garden on the Conservation Area will be negligible. With this in mind the proposed development would have a neutral impact on this section of the Conservation Area.

2. Views from the junction of Pierce Lane and Cow Lane into the Site. Any views from this point are shielded by the Former Pumping Station, the dense tree growth to the south fronting Cow Lane and to the rear along the rear boundary of the Former Pumping Station, the Gate Lodge, The Pines and the Horses' Well. The proposed development has therefore been assessed as having a neutral impact on the setting of the Conservation Area.
3. Views from the area of the Conservation Area surrounding the Cooling Pond lying immediately adjacent to the Site. This part of the Conservation Area is contained within the Site. This area was formerly the Cooling Pond serving the Former Pumping Station. Today it is a very tranquil area bordered on all sides by dense tree growth. The boundary between this area and the Site is delineated by the dense tree growth along the southern bank of the east-west drainage ditch. Due to its proximity to the proposed scheme the potential impact of the scheme will be assessed below.
4. Views from the north-western boundary bordering the Former Pumping Station, The Pines and the Horses' Well. This border is delineated by dense tree growth along its length with almost complete shielding. Partial views are available where an occasional historic tree has been lost and from the upper floors of The Pines in a small number of locations. The trees in this section are deciduous and so these views would increase in the winter months. The scheme currently proposes building massing within 20m of this boundary. The potential impact of the scheme will be assessed below.

The Conservation Area character appraisal sets out a number of key views. None of these relates to the Site or its setting. The proposed scheme would therefore not affect these views nor any other identified key views.

Scheme Proposals

At this stage only indicative massing plans are available for the Site with no detailed elevational, sectional and material drawings available to assess. The scheme does however, set out a number of positive landscaping items which will be listed again below for ease of reference:

- The existing mature tree planting would be retained on all Site boundaries

including the thicket to the northern boundary adjoining the railway line. This is particularly important within the section of the Site falling within the Conservation Area.

- The tree growth along the field drain orientated north-south across the Site will be retained shielding views across the Site from east to west, save for the small link road between the western housing area and the north-eastern.
- Three wetland areas are proposed for the Site. These are located as follows: 1) the first lies along the north-eastern boundary of the Site between the proposed north-eastern housing and the railway line; 2) between the proposed housing in the north-east and south-east corners; and 3) to the west of the north-south field drain to the east of the proposed western housing area.
- An ornamental garden is proposed in the grass/wooded area to the west of the Former Pumping Station (lying within the Conservation Area). The use of this area would be open to the village population as a whole and not just the residents of the new development.

Assessment of Impact

In assessing the impact of the proposed development on the Conservation Area it is important to recognise that the Conservation Area's setting and appearance has been affected by the swathe of indifferently designed housing development from a variety of decades during the 20th century. This relates to the majority of Cow Lane and in particular to the 1970s housing developments along The Maples and Bird Field Farm. Thus, in assessing the impact on the proposed development on the Conservation Area, it is important to see the Conservation Area in its context; the modern world has already intruded into its setting, causing a high degree of detrimental harm.

As discussed above the only areas of the Conservation Area that have the potential to be affected by the proposed scheme as currently drafted are the areas to the north of the Cooling Pond and to the north of the Former Pumping Station, The Pines and the Horses' Well. The harm to these areas has been assessed as less than substantial.

Recommended Scheme Mitigation Measures

To mitigate against this harm the following measures could be undertaken:

- The setting back of any built form from the boundary of the Conservation Area adjacent to The Pines, Horses' Well and Former Pumping Station. This setting back could be to the north and a sufficient distance to show an increased acknowledgement of its

4.2 ASSESSMENT OF IMPACT

heritage value and so as not to impact upon its immediate or wider setting.

- This latter point is just as pertinent for the area of the Site lying immediately to the north of the Cooling Pond. Identical setting back should be followed here.

If the above measures are incorporated into the scheme designs the potential impact of the proposed development could be reduced from less than substantial harm to negligible or neutral.

29 HINTON ROAD, FULBOURN (GRADE II LISTED)

Building Description, Significance and Setting

Please see Section 3.4—Assessment of Heritage Assets.

Intervisibility

The vast majority of the Site is not visible from the listed building. The only area where the Site is partially visible is the southern most edge of the Cooling Pond area where it fronts onto Cow Lane. This area is shielded for the most part by trees restricting views to a negligible amount.

Assessment of Impact

Notwithstanding the almost lack of any visibility between the listed building and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the proposed scheme detrimentally affect its significance.

With regard to any effects to their setting, the scheme proposes re-landscaping the Cooling Pond areas as a botanical garden. With this borne in mind the proposed development would have a neutral impact on the setting and significance of the listed building.

28 COW LANE, FULBOURN (GRADE II LISTED)

Building Description, Significance and Setting

Please see Section 3.4—Assessment of Heritage Assets.

Intervisibility

The Site is for the most part not visible from the listed building owing to mature trees along its northern boundary and those of the adjoining property to the west. However, such views are limited by deciduous trees with their shielding reducing in the winter months. There are also occasional gaps in the

treeline allowing only fleeting views of the Site from the upper floors of the listed building.

Assessment of Impact

Notwithstanding the almost total lack of any visibility between this heritage asset and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the listed building. However, built form is proposed in relative close proximity to the curtilage boundary of the listed building which could cause less than substantial harm to the setting of the listed building. To minimise any harm, in addition to the measures outlined for the Conservation Area above, we would recommend that the massing be set back from the western curtilage boundary of the listed building. If these measures are followed the harm would be minimised to negligible neutral.

Non-Designated Heritage Assets:

The following locally listed buildings were identified as requiring further assessment: The Former Pumping Station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge (Teversham Road).

THE FORMER PUMPING STATION, COW LANE, FULBOURN (LOCALLY LISTED)

Building Description, Significance and Setting

Please see Section 3.4—Assessment of Heritage Assets.

Intervisibility

To the north is a line of tall, mature trees which shield views from the building into the Site. The Site is therefore not visible from the locally listed building.

Assessment of Impact

The proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the building. However, it would cause a degree of harm to its setting. The same points are relevant as highlighted in the assessment of impact on the Conservation Area. Specifically please refer to bullet 3 and 4 in relation to this section of land. The proposed scheme has been assessed as likely to cause less than substantial harm to the setting of the locally listed building. Please see the Recommended Scheme Mitigation Measures above. If these are incorporated into the scheme designs the potential impact of the proposed development could be reduced from less than substantial harm to negligible or neutral.

THE GATE LODGE, TEVERSHAM ROAD, FULBOURN (LOCALLY LISTED)

Building Description, Significance and Setting

Please see Section 3.4—Assessment of Heritage Assets.

Intervisibility

There are no views from the Site into the locally listed building. Views from the building north and north-east are shielded by the trees on the south side of the east-west drainage ditch.

Assessment of Impact

Notwithstanding the lack of any visibility between the building and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the heritage asset. However, with regard to any effects to its setting, it may cause a degree of harm. The immediate setting of the building will remain unaffected in that the development will not physically affect the Former Pumping Station, The Pines nor the Bakers Arms public house. The wider setting of the Gate Lodge would be affected however in its loss of a semi-rural character on the outskirts of Fulbourn. This harm has been assessed as less than substantial.

BAKERS ARMS PUBLIC HOUSE, HINTON ROAD, FULBOURN (LOCALLY LISTED)

Building Description, Significance and Setting

Please see Section 3.4—Assessment of Heritage Assets.

Intervisibility

The Site will be visible in two distinct areas from the locally listed building. Firstly from the area surrounding the Cooling Pond. The scheme proposals propose for this area to become a botanical garden. At present the area is largely self contained and so the impact on the locally listed building from the creation of such a garden will be negligible. With this in mind the proposed development would have a neutral impact on the building. Secondly the Site is visible at the proposed location of the vehicular access into the Site. This is located a short distance north along Teversham Road from the junction with Cow Lane and Hinton Road.

Assessment of Impact

Notwithstanding the lack of any visibility between the heritage asset and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme

4.2 ASSESSMENT OF IMPACT

detrimentally affect the significance of the heritage asset. The same points are relevant as highlighted in the assessment of impact on the Conservation Area. Specifically please refer to bullet point 1. The proposed development has therefore been assessed as having a neutral impact on this section of the Conservation Area.

5.0 SUMMARY

CgMs instruction

CgMs have been instructed to undertake this Heritage Statement to support Castlefield International Limited's outline planning application for the redevelopment of the Site.

Planning Context

To fully understand the impact of proposals, the National Planning Policy Framework 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 proposed schemes potential to cause harm to these heritage assets and any mitigating measures. This Heritage Statement will therefore be appended to the Castlefield International Limited's outline planning application for the Site.

Assessment of Significance of Heritage Assets Affected

A history of the development of the Site and an extensive study of the history of the heritage assets in the vicinity of the Site has been used to inform the assessment of these proposals. Section 4.2 specifically analysed those heritage assets where the proposed scheme potentially affected their setting or significance to greater detrimental extent than having a neutral impact. These included the following:

Designated Heritage Assets:

29 Hinton Road and 28 Cow Lane (both are Grade II) and the Fulbourn Conservation Area.

Non-Designated Heritage Assets:

The following locally listed buildings were identified as requiring further assessment: The Former Pumping Station (Cow Lane), the Bakers Arms public house (Hinton Road) and the Gate Lodge (Teversham Road).

Scheme Proposals

Built Form

- Medium density residential development in three principle Site locations: west, north-east and south-east.

Roadways and access

- The vehicular access would be provided from Teversham Road immediately to the north of the field drain orientated east-west across the Site.

- Internal roadways are proposed between the western housing area and the north-eastern. Secondly two roadways are proposed from the north-eastern housing area to the south-eastern.

Planting and landscaping

- The existing mature tree planting would be retained on all Site boundaries including the thicket to the northern boundary adjoining the railway line. This is particularly important within the section of the Site falling within the Conservation Area.
- The tree growth along the field drain orientated north-south across the Site will be retained shielding views across the Site from east to west, save for the small link road between the western housing area and the north-eastern.
- Three wetland areas are proposed for the Site. These are located as follows: 1) the first lies along the north-eastern boundary of the Site between the proposed north-eastern housing and the railway line; 2) between the proposed housing in the north-east and south-east corners; and 3) to the west of the north-south field drain to the east of the proposed western housing area.
- An ornamental garden is proposed in the grass/wooded area to the west of the Former Pumping Station (lying within the Conservation Area). The use of this area would be open to the village population as a whole and not just the residents of the new development.

ASSESSMENT OF IMPACT

DESIGNATED HERITAGE ASSETS

Fulbourn Conservation Area

In assessing the impact of the proposed development on the Conservation Area it is important to recognise that the Conservation Area's setting and appearance has been affected by the swathe of indifferently designed housing development from a variety of decades during the 20th century. This relates to the majority of Cow Lane and in particular to the 1970s housing developments along The Maples and Bird Field Farm. Thus, in assessing the impact on the proposed development on the Conservation Area, it is important to see the Conservation Area in its context; the modern world has already intruded into its setting, causing a high degree of detrimental harm.

As discussed above the only areas of the Conservation Area that have the potential to be affected by the proposed scheme as currently drafted are the areas to the north of the Cooling Pond and to the north of the Former Pumping Station, The

Pines and the Horses' Well. The harm to these areas has been assessed as less than substantial.

Recommended Scheme Mitigation Measures

To mitigate against this harm the following measures could be undertaken:

The setting back of any built form from the boundary of the Conservation Area adjacent to The Pines, Horses' Well and Former Pumping Station. This setting back could be to the north and a sufficient distance to show an increased acknowledgement of its heritage value and so as not to impact upon its immediate or wider setting.

- This latter point is just as pertinent for the area of the Site lying immediately to the north of the Cooling Pond. Identical setting back should be followed here.

If the above measures are incorporated into the scheme designs the potential impact of the proposed development could be reduced from less than substantial harm to negligible or neutral.

29 HINTON ROAD, FULBOURN (GRADE II LISTED)

Notwithstanding the almost lack of any visibility between the listed building and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the proposed scheme detrimentally affect its significance.

With regard to any effects to their setting, the scheme proposes re-landscaping the Cooling Pond areas as a botanical garden. With this borne in mind the proposed development would have a neutral impact on the setting and significance of the listed building.

28 COW LANE, FULBOURN (GRADE II LISTED)

Notwithstanding the almost total lack of any visibility between this heritage asset and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the listed building. However, built form is proposed in relative close proximity to the curtilage boundary of the listed building which could cause less than substantial harm to the setting of the listed building. To minimise any harm, in addition to the measures outlined for the Conservation Area above, we would recommend that the massing be set back from the western curtilage boundary of the listed building. If these measures are followed the harm would be minimised to negligible neutral.

5.0 SUMMARY

NON-DESIGNATED HERITAGE ASSETS

THE FORMER WATERWORKS, COW LANE, FULBOURN (LOCALLY LISTED)

The proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the building. However, it would cause a degree of harm to its setting. The same points are relevant as highlighted in the assessment of impact on the Conservation Area. Specifically please refer to bullet 3 and 4 in relation to this section of land. The proposed scheme has been assessed as likely to cause less than substantial harm to the setting of the locally listed building. Please see the Recommended Scheme Mitigation Measures above. If these are incorporated into the scheme designs the potential impact of the proposed development could be reduced from less than substantial harm to negligible or neutral.

THE GATE LODGE, TEVERSHAM ROAD, FULBOURN (LOCALLY LISTED)

Notwithstanding the lack of any visibility between the building and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the heritage asset. However, with regard to any effects to its setting, it may cause a degree of harm. The immediate setting of the building will remain unaffected in that the development will not physically affect the Former Pumping Station, The Pines nor the Bakers Arms public house. The wider setting of the Gate Lodge would be affected however in its loss of a semi-rural character on the outskirts of Fulbourn. This harm has been assessed as less than substantial.

BAKERS ARMS PUBLIC HOUSE, HINTON ROAD, FULBOURN (LOCALLY LISTED)

Notwithstanding the lack of any visibility between the heritage asset and the Site, the proposed scheme would not intervene physically into any historic fabric of the heritage asset nor its curtilage. Nor would the scheme detrimentally affect the significance of the heritage asset. The same points are relevant as highlighted in the assessment of impact on the Conservation Area. Specifically please refer to bullet point 1. The proposed development has therefore been assessed as having a neutral impact on this section of the Conservation Area.

APPENDICES

APPENDIX A: STATUTORY LIST DESCRIPTION

ROSE COTTAGE, 34 COW LANE, FULBOURN (GRADE II LISTED)

Cottage, C17 timber framed, plaster rendered with steeply pitched roof, corrugated iron, originally thatched with ridge stack of gault brick. Three bay plan with entry to centre bay. Two storeys. Two small horizontal sliding sashes with small panes and heads flush with eaves. Boarded door. Interior not seen, but said to have framing of substantial scantling.

29 HINTON ROAD, FULBOURN (GRADE II LISTED)

Cottage, c1840. Plaster rendered timber frame on sill with low pitch pan tiled roof and grey gault brick projecting end stack. Two room plan with lean-to, possibly later, at the rear. Two storeys. Two small flush frame horizontal sliding sashes at first floor and two larger and later hung sashes of four panes each at ground floor on either side of doorway with boarded door.

28 COW LANE, FULBOURN (GRADE II LISTED)

House. Probably C17, remodelled and extended in circa late C18 or C19. Pebbledash clunch on brick and stone plinth, possibly originally timber framed. Thatched longstraw roof with gabled ends. Brick axial and gable-end stacks. Plan: 2-room plan main range; the right hand room heated from a gable end stack with winder stairs to side; the left room heated from the axial stack. Small pantry partitioned off behind the axial stack. 2-room plan rear wing added in circa late C18 or C19 behind the left end of main range, its first room heated from an axial stack, the end room unheated and with lower floor level. Exterior: 2 storey. Asymmetrical north front; to right of centre on first floor a C19 3-light horizontally sliding sash with glazing bars. On ground floor C19 and C20 casements, of 2-lights on left and to right of centre and small square casements to left of centre and on right. Doorway to right of centre with moulded case and flush panel door. The left (west) side has 2-light casements and gabled dormer in rear wing. At rear C20 glazed outshut on inner (east) side of rear wing. Interior: Left west room front range has chamfered axial beam without stops. South room of rear wing has boxed-in axial beam. C18 and C19 joinery including various 2-panel and plank doors. At centre of rear wall in chamber there appears to be a jowled wall post.



APPENDICES

APPENDIX A: STATUTORY LIST DESCRIPTION

63 & 65 PIERCE LANE, FULBOURN (GRADE II LISTED)

Row of cottages, now two dwellings, late C17 or early C18, extended or rebuilt at road end in early-mid C19. Timber framed, rendered, with thatched roof of combed wheatreed. Two ridge stacks, one with C18 red brick base and gault brick upper courses, the other of grey gault brick similar to Croft House, Pierce Lane (q.v.). Plan of single range with gable end to road. One storey and attic. Two dormers. Two windows and gabled porch to entry. The C19 brick addition or rebuild to the road has a steeply pitched roof, tiled. One storey and attic. One horizontal sliding sash above a doorway and recessed window in gable end.



Cgms

www.cgms.co.uk

Appendix 3.0
Appeal Decision Report (ref. APP/A0530/W/15/3139730)
(November 2016)

Appeal Decision

Inquiry opened on 12 September 2016

Site visit made on 21 September 2016

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 November 2016

Appeal Ref: APP/W0530/W/15/3139730

Land at Teversham Road, Fulbourn, Cambridgeshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Castlefield International Limited against the decision of South Cambridgeshire District Council (SCDC or “the Council”).
 - The application Ref S/2273/14/OL, dated 19 September 2014, was refused by notice dated 12 August 2015.
 - The application form describes the proposed development as an “outline application, including consideration of access points, for high quality residential development of up to 110 dwellings, with areas of landscaping and public open space and associated infrastructure works”.
 - The inquiry sat for 7 days on 13 to 16 and 20 to 22 September 2016.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline, with only access to be determined at this stage. An illustrative layout plan and a parameters plan were also submitted, and I have had regard to these in reaching my decision. I have also had regard to 2 planning obligations made by the appellant, which were submitted shortly after the inquiry had closed, in accordance with an agreed timescale.
3. The Council refused planning permission for 3 reasons as set out in Core Document (CD) E9. However, as explained in the Statement of Common Ground¹ (SOCG), in light of more recent information submitted by the appellant the Council accepted that up to 110 dwellings could be built and delivered on the appeal site within a 5 year time frame. As a consequence it agreed that its third reason for refusal could be withdrawn and did not defend it at the inquiry. However, the Rule 6(6) Party, Fulbourn Parish (FP) continued to contest this matter, which I therefore deal with later in this decision.

Site description, surrounding area and details of the appeal proposal

4. The appeal site lies to the east of Teversham Road; to the south of the Ipswich to Cambridge railway line; to the north of Cow Lane; and is bordered on its eastern side by the Cox’s Drove cul-de-sac. It comprises some 6.85 hectares (ha) of generally flat, open grassland, partitioned by a narrow chalk stream which flows

¹ Document (Doc) 8

northwards and divides the site into western and eastern fields. There are no public rights of way or permissive routes across the site, although the submitted evidence indicates that members of the public do visit the site on a regular basis.

5. The appeal site is not covered by any statutory environmental designations, but Green Belt land lies immediately to the north of the railway line, and the site abuts (and includes some land within) the Fulbourn Conservation Area to the south. The site also sits adjacent to the former Fulbourn water pumping station which is listed on the Cambridgeshire Historic Environment Record (HER) and is noted as a building of importance in the Fulbourn Conservation Area Appraisal² (CAA).
6. A small part of the appeal site fronting Cow Lane was formerly an ornamental garden associated with this pumping station. Although not currently accessible to the public, it has been allocated as a Protected Village Amenity Area (PVAA) within the Council's Local Development Framework (LDF) Core Strategy Development Plan Document³ (DPD) adopted in 2007. The appeal site also abuts a further PVAA, a publicly accessible area adjacent to Cow Lane known as Poorwell Water. This area is also listed on the Cambridgeshire HER and is owned and managed by Fulbourn Parish Council. Both the ornamental garden and Poorwell Water are located within the Fulbourn Conservation Area.
7. The appeal proposal seeks to develop the site for up to 110 dwellings, with 30% of these to be affordable units. This would result in a gross residential density of 16 dwellings per hectare (dph) over the site as a whole. However, the illustrative layout plan indicates that about 3.55 ha of the site would remain as open space, to include the chalk stream, floodwater management areas, a sustainable drainage system (SuDS), children's play areas, and the pumping station garden. Overall this would result in a net density of about 33 dph within the developed parts of the site. No built form would occur within the conservation area.
8. The sole vehicular access would be from Teversham Road, with an emergency access also proposed onto Cox's Drove. In addition, a pedestrian access is proposed from Cow Lane, through the pumping station garden, and a further pedestrian access is suggested to link with the informal path through Poorwell Water, although doubt was expressed at the inquiry whether this would be acceptable to the Parish Council. I return to this matter later in this decision.

Planning policy context

9. The Development Plan comprises the LDF Core Strategy DPD, and the LDF Development Control Policies DPD⁴. No specific planning policies from either of these documents are referenced in any of the reasons for refusal, although the Council did allege conflict with a number of LDF policies in its written and oral evidence. I deal with these under the appropriate main issues.
10. The Council is also preparing the South Cambridgeshire Local Plan⁵ (SCLP) to replace the 2007 LDF. This SCLP was submitted to the Secretary of State in March 2014, alongside the Cambridge City Local Plan, with joint examination of both plans commencing in November 2014. But the examination was subsequently suspended to enable additional work to be undertaken on such matters as objectively assessed need for housing. This work was completed and

² CDD3

³ CDB1

⁴ CDB2

⁵ Selected extracts at CDC1

the SOCG explains that examination hearings have now recommenced, with the programme currently scheduled to extend into 2017.

11. At the national level the National Planning Policy Framework⁶ ("the Framework"), published in 2012, and the Planning Practice Guidance (PPG) initially published in 2014, are material considerations in the determination of this appeal.

Environmental impact

12. The Council has screened the proposal in accordance with the Environmental Impact Assessment (EIA) Regulations and has come to the view that it is not EIA development as it would not be likely to have significant effects on the environment by virtue of such factors as its nature, size and location⁷.

Main issues

13. Having regard to the various matters raised in evidence and discussed at the inquiry I consider that the main issues can best be stated as:
- i. The effect of the proposed development on the character and appearance of the surrounding area;
 - ii. Its effect on the setting of Fulbourn Conservation Area ;
 - iii. Its effect on areas of ecological or nature conservation interest;
 - iv. The weight which should be given to policies for the supply of housing;
 - v. The weight which should be given to Policy NH/12 of the emerging SCLP and the proposed designation of the appeal site as a Local Green Space;
 - vi. Whether the submitted planning obligations would satisfactorily address the impact of the proposed development;
 - vii. Whether the appeal proposal should be seen as representing sustainable development, in the terms of the Framework.

Reasons

14. There was some discussion at the inquiry regarding the reference in the Council's first reason for refusal to the "collective adverse impact" on a number of matters. The appellant maintains that this has to mean that none of the items referred to would, individually, justify refusal of planning permission, whereas the Council's position is that each of the matters subsist as independent reasons for rejection of the appeal proposal, as well as collectively. For my part, I have simply assessed the appeal proposal on its own merits, under the main issues defined above, and have concluded, on the planning balance, as set out later in this decision.

Main Issue 1 – The effect of the proposed development on the character and appearance of the surrounding area

15. The appeal site lies adjacent to, but outside, the development framework of Fulbourn, as set out under LDF Policy DP/7, and also in the emerging SCLP under Policy S/7. The planning application was supported by a Landscape and Visual Appraisal⁸ (LVA) which, in summary, concludes that the appeal site could successfully accommodate residential development, assimilated into the existing settlement edge within a robust landscape framework. As such, it considers that the proposed development would be acceptable in landscape and visual terms, would be sympathetic to the existing townscape and landscape character, and would respond appropriately to relevant policy at national and local levels.

⁶ CDA1

⁷ CDE1

⁸ CDE13

16. This view was echoed by the appellant's landscape witness who maintained that aside from an inevitable change in the character of the appeal site itself, there would be no wider significant landscape or visual impacts, given the existing high level of containment of the site by built form or mature, substantial vegetation.
17. In contrast, the Council's landscape witness argued that the proposal would result in potentially significant adverse impacts on local views and on the character of the site, because of the large change that might occur to its vegetation cover and landform, the effect on the openness of the Green Belt, and views across and of the site. He also considered that the magnitude of the change of views would be high, and that the sensitivity of key receptors would be medium/high, meaning that overall the significance of effect would be major at the local level.
18. I have had regard to these conflicting views, and have also considered the photographic evidence from representative viewpoints submitted by all parties. I also made my own assessments on site, with the assistance of the illustrative material contained in the Design and Access Statement⁹ (DAS), the submitted parameters plan and the illustrative layout. For the reasons detailed below, I favour the appellant's assessment of the likely implications and impact of the proposed development. On a specific point, as the appeal site does not lie within the Green Belt I do not agree with the Council that the proposal would adversely impact upon the openness of the Green Belt.
19. The site lies within National Character Area (NCA) 87 – East Anglian Chalk¹⁰ – and within the Chalklands County Landscape Character Area¹¹ (LCA). At a more local level the vast majority of the site lies at the southernmost extremity of the Little Wilbraham Fen District Landscape Character Type (LCT), with just a small part sitting within the Fen Edge LCT. This Fen Edge LCT is split into smaller LCAs, with the Fulbourn Eastern Fen Edge LCA almost completely surrounding the appeal site on its western, southern and eastern sides. These landscape character assessments all acknowledge that settlements are characteristic components of the landscape within which Fulbourn and the appeal site are located, and they all provide guidance and design principles for successfully accommodating new development within the landscape.
20. The DAS and the illustrative layout plan indicate how these design principles could be accommodated within the proposed development by such things as retaining the majority of the existing vegetation structure within and surrounding the appeal site; ensuring the development is appropriate to the setting; improving green infrastructure; ensuring the development is integrated with sufficient space for garden and street tree planting; and creating new village greens and/or wildlife areas within the new development. Although the appeal proposal would comprise a cul-de-sac development, there are clearly other culs-de-sac in Fulbourn and I am not persuaded that the form of the proposed development would be unacceptably out of keeping with the rest of the village.
21. It is common ground that the appeal site is characteristic of Fen Edge landscape and that Fulbourn has a rural setting, with the appellant acknowledging this in its DAS, as well as in a report prepared in 2007¹² and submitted by the appeal site landowner in 2011 in response to a call for potential housing sites. However,

⁹ CDE9

¹⁰ CDA5

¹¹ CDA7

¹² Doc 15

there is a clear difference between the parties regarding the likely impact of development on the appeal site in landscape and village character terms.

22. At my site visit I saw that the appeal site is well contained by a combination of built form and vegetation on most of its boundaries, and that as a result the locations from which the site can be seen and appreciated are very limited. Because of this I find it difficult to share the Council's view that the appeal site contributes substantially to the rural character of the village. Indeed, no meaningful views of the site are possible from Breckenwood Road or the Breckenwood Road Industrial Estate, or from Teversham Road, where the frontage residential development in well-treed gardens seems to be a key characteristic component of this part of Fulbourn.
23. The same, well-treed character, interspersed with predominantly residential development can also be found along Cow Lane, from where I saw that only very limited glimpsed views of the open nature of the appeal site can be obtained, across Poorwell Water and between some of the more modern dwellings which lie just to the west of Cox's Drove. Even so, boundary vegetation within the gardens of these latter dwellings restricts views of the appeal site's grassland, with only the tops of distant trees and the upper parts of some buildings in Cox's Drove capable of being seen from Cow Lane.
24. I acknowledge that a little more may be seen of the appeal site from Cow Lane during winter months, when the tree foliage would be thinner, although I consider that these views could still only be described as glimpsed. Whilst such views do give the impression of an open, undeveloped area to the north of Cow Lane the extent of these views is very limited and, for the reasons set out above, I am not persuaded that the appeal site contributes anything particularly meaningful to the rural character of the village in views from these aforementioned roads.
25. The situation is somewhat different from parts of Cox's Drove, where there is a common boundary with the appeal site and from where the site's open nature can be clearly seen. Some views of the site would also be available to passengers on the train, passing close to the site's northern boundary, but these would only be fleeting. However, no views of the appeal site are possible from the southern end of Cox's Drove, where it passes between residential properties, and use of this road is likely to be limited as it only serves a handful of residential and commercial properties, all located on its eastern side.
26. Importantly, not all of Cox's Drove is adopted public highway, and even though it continues northwards as a pedestrian route to a railway crossing point, this path does not feature on the definitive map as a public right of way. Rather, it was described at the inquiry as a private bridleway for the use of occupiers of properties in Cox's Drove and landowners to the north of the railway. I saw at my site visit that this bridleway appears to be largely impassable a little distance north of the railway, and there is no firm evidence before me to suggest that Cox's Drove and this bridleway are well used.
27. With these points in mind I am not persuaded that there is great scope for the appeal site to be seen and appreciated from Cox's Drove, and this reinforces my view that the site only plays a limited role in defining the rural character of the village. In coming to this view I have also been mindful of the fact that a number of vehicles associated with the businesses in Cox's Drove were parked adjacent to the appeal site at the time of my site visit, and I also saw that some of the Cow Lane properties feature in views across the appeal site. Taken together, these

aspects of the site's immediate surroundings introduce urban elements into the proximity of the site, and serve to highlight its edge of settlement nature.

28. I share the Council's view that the railway line does not read as an intrusive feature in landscape or visual terms, but do not agree that it results in no landscape separation between the settlement and the open countryside to the north. I saw at my site visit that other than when a train is actually passing along the track, the railway line and its associated vegetation has the clear character and appearance of a typical field boundary, and that from the publicly accessible locations along Cox's Drove no clear impression can be gained of the wider, open landscape to the north. As such, I consider that the railway line forms a natural northern boundary to the appeal site.
29. Moreover, with appropriate planting, landscaping and a sensitive layout of the proposed built form, I see no good reason why the railway could not also form an acceptable northern boundary to Fulbourn at this location, as it does immediately to the north and west of the appeal site at Breckenwood Road and to the west of Teversham Road. This view appears to be borne out by the Council's Strategic Housing Land Availability Assessment¹³ (SHLAA) of August 2013 which concluded, in its "Townscape and landscape impact" section, that *"Development of this site would have a neutral effect on the landscape setting of Fulbourn because the site is so well screened from the residential and commercial buildings that surround it on 3 sides with the railway forming a barrier to the north"*.
30. I turn now to consider Poorwell Water and the pumping station garden which, as noted above, are both designated as PVAAs. As such, the appeal proposal needs to be assessed against LDF Policy CH/6 which indicates that development will not be permitted within or adjacent to PVAAs if it would have an adverse impact on the character, amenity, tranquillity or function of the village. The supporting text to Policy CH/6 explains that PVAAs are important to the amenity and character of villages and should be protected for their own sake.
31. The appeal proposal would not impact directly upon Poorwell Water, but the Council and others are concerned that it would substantially change the physical and visual relationship of the appeal site with Poorwell Water and result in substantial visual harm to receptors within, and looking northwards across, this important amenity area. The Council also maintains that attempting to address this by substantial reinforcement of boundary planting between the appeal site and Poorwell Water, as the appellant proposes, would simply compound this harm by enclosing the amenity area from its surroundings to the north.
32. The character of the area to the north would clearly change as a result of the appeal proposal, but insofar as views from within Poorwell Water are concerned it seems to me that with a layout and landscaping as indicated on the illustrative plans, only partial views of the upper parts of a few new dwellings on the site would be seen, set back some 14m-17m from the site's southern boundary, as suggested in the appellant's LVA. This would limit their visual impact, and I see no reason why new planting would need to be so dense as to completely enclose this area from its surroundings to the north, as feared by the Council.
33. The likely overall effect is described in the LVA as being moderate adverse, and that does not seem unreasonable to me as visitors to Poorwell Water at the present time would not be unaware of nearby existing residential properties on

¹³ CDD1

Cow Lane and in The Pines. Because of this, I am not persuaded that glimpsed views of new dwellings on the appeal site would unacceptably harm the existing character of the area.

34. Furthermore, the illustrative proposals offer the potential (subject to agreement with the Parish Council), for visitors to Poorwell Water to lawfully continue into the appeal site and make use of a number of walks and open spaces proposed as part of the development. Whilst some of the proposed open space would accommodate the SuDS features, and would be seasonally wet, boardwalks are proposed through these areas so that public access would still be available at all times. This would result in a different type of experience to that which the current, open fields provide, but I am mindful of the fact that no formal public rights of way currently exist within the appeal site.
35. I also note that anyone who currently walks along the south-eastern part of the appeal site, between Poorwell Water and Cox's Drove, would be well aware of the existing residential properties which front each of those roads, as I saw at my site visit. In view of these points I do not consider that the appeal proposal would result in conflict with LDF Policy CH/6 insofar as Poorwell Water is concerned.
36. There is currently no public access to the second PVAA referred to above, the pumping station garden, although that would change with the appeal proposal as a new pedestrian entrance would be created somewhere along the Cow Lane frontage. The appeal proposal also seeks to remove some low-grade trees and restore this garden area and its pond to some semblance of its former condition. This would provide an area of some 0.81 ha of accessible open space, with a pedestrian link through into other walkways and areas of public open space within the main parts of the appeal site. Again, I do not consider that this would result in conflict with LDF Policy CH/6.
37. I turn finally to consider whether or not the appeal site can be considered as a valued landscape in the context of paragraph 109 of the Framework. As already noted, the appeal site has no landscape designation. Of itself, this does not mean that land cannot have the status of a "valued landscape", but the absence of a designation is a good indication that past, objective, assessment of the landscape has not caused anyone to conclude that it has particular value which needs to be marked out and noted.
38. It is clear from the representations made at application and appeal stages, as well as in the representations seeking to have the site designated as a Local Green Space (see later), that local people do value this area of currently open land. However, a recent Court judgement¹⁴, indicates that in the absence of any formal landscape designations or other protection, a site needs to have some "*demonstrable physical attribute rather than just popularity*" for it to be considered as valued under Framework paragraph 109. On the basis of the evidence before me, including the matters set out above, I do not consider that the appeal site has any such qualities. Because of this, I do not regard it as a valued landscape, deserving of protection under paragraph 109.
39. Drawing all the above points together I conclude on this first main issue that the appeal proposal would result in a form of development which would not be out of keeping in this part of Fulbourn, and would therefore not have an unacceptable impact on either the character or the appearance of the surrounding area.

¹⁴ CDG5

40. Accordingly I find no conflict with LDF Policies DP/1, DP/2, DP/3 or NE/4, referred to in evidence by the Council. In summary, Policy DP/1 requires, amongst other things, that new development should be appropriate to its location, scale and form, and should conserve and wherever possible enhance local landscape character. Policy DP/2 seeks to ensure that new development preserves or enhances the character of the local area, whilst Policy DP/3 seeks to preclude development which would give rise to an adverse effect on things such as village character and countryside and landscape character. Finally, Policy NE/4 requires new development to respect and retain or enhance the local character and distinctiveness of the individual LCA in which it is located.

Main Issue 2 – The effect of the proposed development on the setting of Fulbourn Conservation Area

41. The Council's first reason for refusal contends that the appeal proposal would have an adverse impact on the setting of the Fulbourn Conservation Area, but provides no further information on the alleged extent of that harm. Its written evidence claims that there would be conflict with LDF Policy CH/5, which requires that applications for proposals that affect conservation areas are determined in accordance with legislative provisions and national policy, together with guidance contained in specific CAAs and the District Design Guide¹⁵. The relevant legislation is the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of such areas.
42. National policy is set out in the Framework, with paragraph 132 making it clear that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Framework explains that in this context, "significance" is the value of a heritage asset to this and future generations because of its heritage interest; and that that interest may be archaeological, architectural, artistic or historic. It further notes that significance derives not only from a heritage asset's physical presence, but also from its setting. At the local level, the Council adopted the Fulbourn CAA¹⁶ in 2008, and a Supplementary Planning Document (SPD) Development Affecting Conservation Areas¹⁷ in 2009.
43. In this case no harm is alleged to the conservation area itself, with the principal area of dispute between the parties being what impact, if any, the appeal proposal would have on the conservation area's setting, and hence on its significance. The setting of a heritage asset is defined in the Framework as "*the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*".
44. The Council first designated a conservation area at Fulbourn in 1975, covering the historic core of the village, and then extended it in 1992 to include the former Fulbourn Waterworks on Cow Lane, which abuts the appeal site to the south. This Waterworks area was not contiguous with the originally designated historic core of the village, but these 2 parts were joined together in January 2008 by the

¹⁵ CDD4

¹⁶ CDD3

¹⁷ CDD5

inclusion of Pierce Lane within the conservation area designation. The issue in this appeal relates predominantly to impact on the Waterworks area and its setting.

45. The Council points to the "Key Characteristics" section of the CAA¹⁸ which states, amongst other things, that the *"fields that surround the village and the greens that mark the meeting and division of roads are all an important part of Fulbourn's strong rural character, and should continue to be protected"*. It argues that the appeal site falls into the category of "fields surrounding the village" and, as such, should be protected, as stated. However, a fuller reading of this paragraph makes it clear that the protection is considered necessary *"so that Fulbourn continues to be a separate place, rather than being subsumed into that almost continuous belt of suburb that stretches south-eastwards from Cambridge via Cherry Hinton"*.
46. There is no suggestion that development on the appeal site would make Fulbourn less of a "separate place", and I have already concluded that development could take place on the appeal site, in keeping with the character of the village. I am therefore not persuaded that the appeal proposal would be unacceptably at odds with this defined key characteristic. In any case, the appellant has pointed out that nowhere does the CAA identify the appeal site as contributing to the significance of the conservation area, a point which the Council has not disputed.
47. Moreover, although I have noted the Council's contention that the Waterworks were located purposefully remote from the settlement and bordering the countryside to the north, there is no firm evidence before me to suggest that this location was chosen because of any anti-social aspects of the Waterworks operation, as opposed to it simply being the most appropriate location close to the source of well water. But regardless of the reason for its location, in functional terms there appears to be no historical link with the appeal site, save possibly for surface water discharge to the award drain which runs along the southern boundary of the site. I share the appellant's view that if any such connection still exists, it would not be affected by the appeal proposal, nor would it be of any materiality in understanding what is special about the pumping station building.
48. In any case, as the Framework explains, the setting of a heritage asset can change over time, as the asset and its surroundings evolve. That is clearly a relevant point here, as whilst the historic maps show that the Waterworks, Poor's Well, Poorwell Water and the nearby cart wash or horse pond on Cow Lane were all once separated from the main built-up part of Fulbourn, that is not now the case. Indeed, the submitted evidence indicates that Poor's Well used to be the main source of water for the village of Fulbourn¹⁹, such that there seems to me to be a greater functional link between the Waterworks area and the built-up area of the settlement to the south, that with the rural area to the north.
49. That said, there is a clear physical proximity between the appeal site and that part of the conservation area which includes the pumping station garden and Poorwell Water, where people can currently visit or where they would be able to visit under the appeal proposal. The fact that such visitors would be able to obtain glimpsed views of development on the appeal site has to mean, in my assessment, that the appeal site should be considered as serving as some part of the setting of the conservation area. I note that this was the view of the consultants (CgMs) who prepared the Heritage Statement²⁰ which accompanied the planning application in

¹⁸ Paragraph 8.1 of CDD3

¹⁹ See paragraph 9.3 in CDD3

²⁰ CDE11

2014, and was also the view of English Heritage²¹ (EH) in its consultation response on the original application²².

50. However, in the version of the scheme seen by EH, a play area was proposed for part of the pumping station garden, and this prompted it to comment that such a feature would fit awkwardly in this historic context. It also considered that 2½ storey dwellings, as indicated by the parameters plan, would not be appropriate on the edge of the village. But even with these points in mind, EH considered that the likely scale of any harm would be limited, and that it might be possible to mitigate at least part of that harm through control of the scale and layout of the development, and by relocating the Local Equipped Area of Play (LEAP) to elsewhere on the site.
51. To address these points, a suggested condition to control building heights has been put forward and agreed between the main parties, and in the currently submitted parameters plan and illustrative layout the LEAP has been moved to a location within the eastern field. Furthermore, CgMs commented in the Heritage Statement that any less than substantial harm could be mitigated, and possibly reduced to a negligible or neutral level, by the setting back of any built form from the boundary of the conservation area.
52. With these points in mind, I conclude that, at most, the appeal proposal would only have a very minor adverse impact on the setting of the conservation area and, in turn, would only have a very minor adverse effect on its significance. Using the wording of the Framework I place this impact at the bottom end of the “less than substantial harm” range. Accordingly, this harm needs to be weighed against the public benefits of this proposal, as detailed in paragraph 134 of the Framework, a matter I address later in this decision, when all the potential benefits have been identified.
53. However, before leaving this issue it is necessary to consider whether the appeal proposal would give rise to any heritage benefits which would also need to be assessed in the overall balance. In this case it seems to me that there would, indeed, be benefits arising from the proposed restoration and opening to the public of the former pumping station garden. I consider that this would allow for a better appreciation of this part of the conservation area and should therefore be seen as a modest enhancement.
54. On a final point, the Council has made reference to an appeal decision issued in June 2016, relating to an outline proposal for 50 dwellings on land to the north of Lanthorn Stile, Fulbourn²³. That site also abuts the conservation area, and the Inspector in that case commented that “*the historic pattern of development along the main roads adjoins the open countryside and the open land forms a key part of the character of the area. By providing an open setting to the Conservation (sic) it positively contributes to its value as a heritage asset*”. The Inspector went on to comment that with the proposed development, “*urbanisation of the site would clearly alter the setting and erode the historic relationship of the village with the open countryside beyond*”.
55. The Council argues that the same relationship and the same adverse effect would apply in the current case, but I do not agree. Firstly, I saw at my site visit that

²¹ Now Historic England

²² Within CDE5

²³ Reference: APP/W0530/W/16/3144909

the Lanthorn Stile site has a much more open feel to it than the current appeal site, with noticeably less boundary planting and no clearly defined northern boundary. In addition, as roads such as The Chantry and Lanthorn Stile lie very close to the conservation area boundary, it seems to me that development on the Lanthorn Stile site would be much more clearly visible from within the conservation area than would be the case with the current appeal site.

56. In any case, the Inspector concluded that the impact would be less than substantial, which is within the same range that I consider applies in the current case. The facts are clearly different between this earlier case and the matter before me, and I see nothing in this Lanthorn Stile decision to cause me to give any different weighting to the low level of harm I have identified.

Main Issue 3 –The effect of the proposed development on areas of ecological or nature conservation interest

57. The Council’s written evidence alleges that the proposal would be at odds with LDF Policy NE/6: Biodiversity. Amongst other matters, this states that the Council will refuse development that would have an adverse significant impact on the population or conservation status of protected species or priority species or habitat, unless the impact can be adequately mitigated or compensated for by measures secured by planning conditions or obligations. The Council also alleges conflict with the Framework, particularly paragraphs 109 and 118.
58. The appeal site is not subject to any conservation designation, and the parties agree that the site’s grassland habitat represents the most important element of its ecological interest. There was, however, a significant difference of opinion regarding the extent and frequency of occurrence of the various grassland species; the consequent implications for the status or value of the site; and the overall success or otherwise of any proposed mitigation measures.
59. The Council maintains that the appeal site is of borderline County Wildlife Site (CWS) status, citing the findings of a Targeted Botanical Survey undertaken by the Wildlife Trust²⁴ (WT) in June 2016²⁵, along with earlier studies by MKA Ecology Limited (MKA) in 2012 and 2014²⁶. The 2016 survey found that as a whole, the appeal site contained 46 grassland species which is just short of the 50 species required for selection as a CWS, but that the western field contained at least locally frequent numbers of 3 or more strong neutral grassland indicator species and would therefore meet the CWS selection criteria for grasslands²⁷.
60. However, some of the reported findings do not appear to be fully verified, whilst others do not seem to be borne out by the illustrative material contained in these same reports. In particular, and notwithstanding the Council’s comment to the contrary²⁸, the MKA Phase 1 Habitat Survey does not record the frequency of occurrence of the grassland indicator species, but highlights the fact that they were not widespread across the site. Because of this, it is difficult to verify whether these indicator species occur “frequently”, which is the requirement for

²⁴ The Wildlife Trust for Bedfordshire, Northamptonshire and Cambridgeshire

²⁵ Appendix 2 to Mr Mungovan’s evidence

²⁶ See CDE12 and Doc 22

²⁷ See Appendix 3 to Mr Mungovan’s evidence

²⁸ Paragraph 53 of Doc 30

CWS selection²⁹, and which the Council's ecology witness explained means with an occurrence of 40%-60%, in accordance with the DAFOR³⁰ scale.

61. Moreover, even though the 2016 WT survey refers to the western field containing at least locally frequent numbers of adder's-tongue, yellow rattle and glaucous sedge, this does not appear to be reflected in the plans which accompany this survey. Rather, these only show adders tongue as occurring anything like frequently, with glaucous sedge not shown at all within the western field. This seems to broadly be confirmed by 2 more recent surveys undertaken by the appellant in 2016³¹, and also by a further assessment of the 2012 and 2014 MKA surveys³². On this basis, it seems to me that the site should be seen as simply of local ecological significance, rather than of borderline CSW quality.
62. The Council has cited guidance issued by the Chartered Institute of Ecology and Environmental Management³³ (CIEEM), to support its view that rather than just considering the site's current condition, regard should also be had to the potential for improving the site's habitat. However, the appellant points out that the site could be cleared at any time, such that its current ecological value is not secure, and that there is no realistic prospect of the appellant allowing its ecological value to do anything other than decline, if the development does not proceed³⁴.
63. That said, it is the appellant's case that if planning permission was to be granted, all impacts of the proposed development could effectively be mitigated and there would be significant opportunities for biodiversity enhancement on the site. These mitigation and enhancement measures could be delivered through a Landscape and Biodiversity Management Plan, which could be secured by condition. This position is supported by the MKA Phase 1 Habitat Survey which, despite taking the view that the semi-improved neutral grassland is potentially of CWS quality, still concludes that development could acceptably take place on the site.
64. Indeed, one of its specific recommendations is that where possible, areas of this grassland habitat type should be retained and enhanced within the development. It also recommends that consideration should be given to the translocation of target species such as early marsh orchid and adder's tongue into the proposed retained areas, and that a management plan should be developed to ensure that the retained areas of grassland are enhanced and conserved in the long-term.
65. I have noted the Council's concerns about the difficulties of successful translocation of grassland species, and its reference to the Joint Nature Conservation Committee's document A Habitats Translocation Policy for Britain³⁵, which makes it clear that translocation of habitats is not an acceptable alternative to in situ conservation. Similar views are expressed in Habitat translocation: a best practice guide³⁶. However, I share the appellant's view that much of the concern and disquiet regarding translocation in both of these guides appears to be directed towards habitats of high conservation interest and, as such, carry less weight in the context of this site of purely local interest.

²⁹ See Appendix 3 to Mr Mungovan's evidence

³⁰ DAFOR scale: a common means of describing ecological frequency - Dominant (80%+); Abundant (60%-80%); Frequent (40%-60%); Occasional (20%-40%) and Rare (1%-20%)

³¹ See Appendix A to Mr Ellis's evidence

³² Doc 22 - Assessment of Species of Botanical Interest, MKA Ecology Limited, 2 April 2015

³³ Paragraph 4.17 of CDH4 - "Guidelines for Ecological Impact Assessment in the UK and Ireland"

³⁴ Paragraph 4.25 in Mr Kosky's evidence

³⁵ CDH5

³⁶ CDH3

66. This guidance indicates that knowledge of the soil and hydrological conditions is critical if translocation is being considered³⁷, and I understand that no such assessments have been carried out from an ecological perspective. That said, the appellants comments that the only species of local interest which would require translocation is adder's tongue, which is widely distributed across the site suggesting that if there are groundwater variations, it is insensitive to them. All other relevant species are stated to be relatively undemanding in terms of soil condition, with there being sufficient flexibility within the scheme to ensure that they would be provided with the conditions they most need. No firm, contrary evidence has been placed before me to dispute these points.
67. Turning to hydrological matters, it is clear that certain aspects of the proposed development layout have been driven by the need to take account of and accommodate surface water flooding of parts of the site, which is identified as lying within Flood Zone 1 on mapping provided by the Environment Agency (EA). Zoned as such, the site has been identified as being potentially liable to flooding as a result of surface water run-off shed from areas of Fulbourn which lie uphill of the site³⁸, and as a result of the site having a high groundwater level. This seems to be supported by representations made by interested persons and the evidence from FP, which speak of standing water on the appeal site at various times.
68. The surface water flood map shows that water flows onto the site over the eastern and southern boundaries, with the on-site chalk stream providing an onward route for this floodwater to leave the site. In order to allow floodwater to continue to pass through the site it is proposed to manage the risk of surface water flooding through the creation of raised development platforms some 300mm-600mm high³⁹. The appellants explains that these proposals have taken account of the site's high water table and would allow for the passage of water without affecting the development parcels, without leading to flooding elsewhere, and with no areas designed to be permanently wet.
69. Although interested persons raised objections to the Flood Risk Assessment, the appeal proposals were considered acceptable by the EA and the Council's Drainage Officer⁴⁰. Moreover, the proposals have subsequently been independently reviewed and assessed by HR Wallingford, who have concluded that the proposed development would be unaffected by surface water flooding, and that the drainage proposals would actually result in a slight reduction in peak flows downstream of the site⁴¹. No firm contrary evidence has been put forward to contest these conclusions, and I therefore give them significant weight.
70. The fact that the need to accommodate surface water floodwater and provide public amenity space has taken precedence over habitat development, does not automatically mean that acceptable habitat and ecological mitigation and enhancement measures could not also be achieved. That would be a matter to be explored at any future detailed design stage. But I see no good reason why a satisfactory layout, to accommodate drainage requirements and habitat management and enhancement proposals, could not be prepared along the lines of that included in the appellants' ecology witness's evidence⁴².

³⁷ See page 15 of CDH3

³⁸ This surface water run-off from outside the site is also referred to as run-on

³⁹ See section 5 of Mr Totman's evidence

⁴⁰ See section 6 of Mr Totman's evidence

⁴¹ Appendix E to Mr Totman's evidence

⁴² See Appendix B to Mr Ellis's evidence

71. This illustrative Habitat Management and Drainage Plan shows that the principal concentration of the early marsh orchid and the only common twayblade plants would remain in situ, with adder's tongue also present in the areas to be retained. Such a scheme would therefore result in the retention in situ of 3 of the key grassland indicator species.
72. Insofar as there would be the likelihood of disturbance to any of the retained or translocated grassland habitat arising from any future residential development, I note that MKA provide an explicit recommendation to address such matters in its report of April 2015⁴³. This sets out suggested measures to minimise the long-term impacts of human disturbance if the development was to proceed, and whilst such measures could not eliminate all harm, no firm evidence has been submitted to demonstrate why, with good design and high quality management, the appeal proposal could not deliver meaningful ecological mitigation and enhancement.
73. Indeed, the appellant has stressed that a number of ecological benefits, would flow from a grant of planning permission. In particular, the chalk stream would be cleared of shading, managed and maintained to the benefit of ecology. As this feature is a UK Biodiversity Action Plan Priority Habitat, I consider that this proposed enhancement should be accorded significant weight. Although concern was expressed that this work could disrupt a foraging corridor used by pipistrelle bats, the appellant's comment that these bats are the least sensitive to light pollution was not disputed by the Council or others.
74. The proposed landscaping scheme is intended to provide additional boundary planting and allow for the management of existing planting, and would be accompanied by the provision of bat and bird boxes and a more diverse flora on the site itself⁴⁴. This could enhance the species mix and provide opportunities for protected species and species which do not presently use the site for roosting or breeding. Although FP is particularly concerned about the potential loss of habitat for breeding corn bunting, the appellant disputes the current presence of a breeding population, as no birds of this species were recorded on the site during 3 visits in 2016. But as MKA has put forward a recommendation showing how an appropriate breeding habitat could be incorporated into the site layout, I am not persuaded that this matter should weigh significantly against the appeal proposal.
75. The nature of the site would clearly change with the proposed development, but there would still be significant open areas and areas of existing and strengthened vegetation and, like the appellant, I consider that this would result in notable benefits for bats and the breeding bird population. No firm evidence has been submitted to support the views of FP and other interested persons, that the value of the site to birds would be harmed by the appeal proposal.
76. Furthermore, it seems to me that the existing reptile and grass snake population could be readily accommodated within the scheme, with a variety of areas of open space on the site being suitable for them. In particular, the pond in the pumping station garden would be suitable habitat for the grass snake population and large areas of the site would be suitable for the small population of lizards. I see no good reason why all such matters could not be delivered by the proposed Landscape and Biodiversity Management Plan, and consider that this would offer real potential for enhancement of the site's ecological value.

⁴³ Doc 22

⁴⁴ See, for example, paragraphs 59 & 60 of Mr Ellis's evidence

77. Drawing all the above points together, on balance I conclude that subject to the satisfactory implementation of an agreed Landscape and Biodiversity Management Plan, which could be secured by condition, the proposed development would not have an unacceptably harmful impact on areas of ecological or nature conservation interest. Accordingly I find no conflict with adopted LDF Policy NE/6, referred to earlier. Nor do I consider the appeal proposal to be at odds with paragraphs 109 and 118 of the Framework which, in summary, require the planning system to conserve and enhance biodiversity, minimising impacts and providing net gains where possible.

Main Issue 4 – The weight to be given to policies for the supply of housing

78. Paragraph 14 of the Framework explains that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. It goes on to indicate that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole; or unless specific policies in the Framework indicate that development should be restricted.

79. Of particular relevance is Framework paragraph 49 which indicates that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a 5 year supply of deliverable housing sites. In this case, the SOCG records that using a 20% buffer, the Council only has a 3.9 year land supply for the period 2015-2020. When calculated between 2016-2021 this increases to 4.1 years, but still falls well below the required 5 years.

80. Fulbourn is currently identified as a Rural Centre within the LDF Core Strategy, under Policy ST/4. This policy indicates that development and redevelopment without any limit on individual scheme size will be permitted within the village frameworks of Rural Centres, provided that adequate services, facilities and infrastructure are available or can be made available as a result of the development. Insofar as these latter matters are concerned, the SOCG confirms that Fulbourn is well served by existing shops and services, which also provide employment opportunities. The SOCG also states that the appeal site is well located for access by sustainable modes of travel. I explore other infrastructure requirements, made necessary by the appeal proposal, under a later main issue.

81. Fulbourn is proposed to be designated as a Minor Rural Centre in the emerging SCLP, with development limited to an indicative maximum of 30 dwellings within the development frameworks of such settlements. However, as the SCLP is just at examination stage, I consider that only limited weight can be given to this policy at this time. This view is supported by the evidence of both the Council's and appellant's planning witnesses⁴⁵. Moreover, as the Council cannot demonstrate a 5 year supply of housing land, restricting development in the way suggested by this policy would not accord with the Framework's requirement that local planning authorities should boost significantly the supply of housing.

82. In this case the appeal site lies outside the current development framework for Fulbourn, set by LDF Policy DP/7, and insofar as both this policy and emerging SCLP Policy ST/4 seek to restrict development to within the currently defined settlement boundary, it is clear that they cannot be considered up-to-date in

⁴⁵ See paragraph 8.47 of Mrs Ballantyne-Way's evidence and paragraph 2.21 of Mr Kosky's evidence

accordance with paragraph 49 of the Framework. I return to consider the implications of this, when I assess the planning balance later in this decision.

Main Issue 5 – The weight to be given to emerging SCLP Policy NH/12, and the proposed designation of the appeal site as a Local Green Space

83. The Framework introduced the option for local communities to identify green areas which are of particular importance to them and to protect such areas from development by designating them as Local Green Space (LGS), through local and neighbourhood plans. Once designated, development would only be permitted on such areas in very special circumstances.
84. The emerging SCLP includes Policy NH/12, under which such LGS would be defined, and as part of the SCLP's development the appeal site has been identified as a potential LGS and has received some appreciable support, together with 1 objection, from the appellant⁴⁶. The Council cites this policy in its second reason for refusal, which maintains that in view of the site's close proximity to the community of Fulbourn, and demonstrable special significance arising from its beauty, recreational value, tranquillity and richness of wildlife, notable weight can be afforded to this proposed designation. The reason for refusal also states that no very special circumstances have been demonstrated to outweigh this harm.
85. However, paragraph 216 of the Framework makes it clear that the weight which can be given to relevant policies in emerging plans is dependent on a number of factors, such as the stage of preparation of the emerging plan; the extent to which there are unresolved objections; and the degree of consistency of the relevant policies to the policies in the Framework. On the first of these points I have already concluded, above, that because of the current stage of preparation of the SCLP, its policies can only carry limited weight in this appeal. The fact that there is an unresolved objection, on behalf of the site owner, is a further reason why this policy should only carry limited weight in this case.
86. Furthermore, on the basis of my findings on the earlier main issues, I consider it questionable whether the appeal site can reasonably be seen as fulfilling the requirements of the Framework or indeed the Council's own draft policy for LGS designation. Having regard to the matters set out in paragraph 77 of the Framework, and notwithstanding the assertions made in the Council's second reason for refusal, I am not persuaded that the site possesses any particular beauty, historic significance, or richness of wildlife.
87. In terms of recreational value, despite the evidence of use by the Council and particularly by interested persons⁴⁷, the fact remains that there are no formal rights of way across the appeal site, and as the appellant says, the submitted figures indicate that only a small proportion of the local catchment population appears to use the site on a regular basis⁴⁸.
88. Moreover, paragraph 76 of the Framework makes it clear that identifying land as LGS should be consistent with the local planning of sustainable development and should complement investment in sufficient homes, jobs and other essential services. However, I understand that the proposed designation of the appeal site as LGS dates back to 2012, well before the objectively assessed needs of the district had been assessed in accordance with Framework requirements. There is

⁴⁶ See the evidence of Councillor Williams

⁴⁷ See especially paragraph 4 in Mr Culshaw's evidence

⁴⁸ Paragraph 89 in Doc 31

no firm evidence before me to demonstrate that the credentials of this site as a contender for LGS designation have been reassessed in the light of the Council's current housing situation, where it cannot demonstrate a 5 year supply of housing land and where there is a significant need for affordable housing.

89. Because of this I share the appellant's view that LGS designations should not be applied to sites in sustainable locations, which are otherwise unconstrained and well suited for the development of new homes⁴⁹. This echoes guidance in the PPG, which states that plans must identify sufficient land in suitable locations to meet identified development needs, and that the LGS designation should not be used in a way that undermines this aim of plan making⁵⁰.
90. I acknowledge that there is strong support for the LGS designation of the appeal site from many local people, and that general support for the protection of the countryside around Fulbourn was identified as long ago as 2007, when the Parish Plan for Fulbourn was being prepared⁵¹. But for reasons already detailed above, I do not consider that this means that the appeal site should be considered a valued landscape in Framework terms, or that it satisfies the criteria for LGS designation. Accordingly, in view of all the above points, I conclude that very little weight should be given in this appeal to emerging SCLP Policy NH/12, and the proposed designation of the appeal site as a LGS. In these circumstances, there is no need for any very special circumstances to be identified.

Main Issue 6 – Whether the submitted planning obligations would satisfactorily address the impact of the proposed development

91. LDF Policy DP/4 indicates that planning permission will only be granted for proposals that have made suitable arrangements for the improvement or provision of infrastructure necessary to make the scheme acceptable in planning terms. In this regard the appellant submitted 2 planning obligations to accompany the appeal proposal: a bilateral agreement with Cambridgeshire County Council⁵²; and a unilateral undertaking (UU) in favour of the Council⁵³.
92. Under the bilateral agreement the appellant would make a number of agreed financial contributions relating to Early Years Education, Primary Education, Secondary Education, and Libraries and Lifelong Learning. There is no dispute between the parties regarding these contributions, the actual amounts of which, and timescale for payment thereof, would be dependent on the final number of dwellings to be built on the site and the detail of the subsequent applications for approval of reserved matters.
93. The appeal proposal would increase the population of the village and, without the agreed contributions, would place pressure on education services and facilities. I therefore conclude that these contributions would meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010, as they would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
94. The UU covers a number of matters, several of which have been agreed with the Council. There is no dispute regarding the arrangements for the provision of

⁴⁹ Paragraph 4.33 to Mr Kosky's evidence

⁵⁰ CDA2 – Paragraph 007 Reference ID 37-007-20140306

⁵¹ See paragraph 3 in Councillor Williams' evidence

⁵² Doc 32

⁵³ Doc 33

affordable housing, which would amount to 30% of the total housing units provided. Nor is there any dispute regarding the contributions offered for Waste Receptacles, Healthcare, Indoor Community Space or Sports Space, or for the Monitoring Fee. There are strong disagreements, however, relating to LEAP and open space provision, and whether the appeal proposal would accord with LDF Policies SF/10 and SF/11 which deal, respectively, with "Outdoor Playspace, Informal Open Space, and New Developments", and "Open Space Standards", and also with guidance in the Open Space in New Developments SPD⁵⁴.

95. The Council is concerned that the UU seeks to limit formal children's play space to the form of a LEAP. It argues that the quantum of formal play space to be provided could and most likely would exceed that which is required for a LEAP, and that the UU would not allow delivery of the full quantum of formal play space required under Policy SF/11 and paragraph 2.8 of the Open Space SPD. However, whilst the Council may prefer the UU to omit the specific reference to a LEAP in its table at paragraph 5.6, I am not persuaded that the inclusion of this reference places this aspect of the UU outside the requirements of the Open Space SPD.
96. I acknowledge that paragraph 2.4 of this SPD simply sets out a guide for when on-site provision will be sought, but it seems quite clear that the maximum number of dwellings proposed only requires the provision of a LEAP, with provision of a Neighbourhood Equipped Area for Play not being triggered on sites of less than 200 dwellings. Accordingly, and despite the Council's contrary assertions, I do not consider that the provision as proposed would be at odds with SPD requirements. As such, I do not find conflict with Policy SF/11.
97. I have noted the Council's contention that the UU does not make provision for ongoing maintenance, in accordance with Policy SF/10, and for Council step-in rights and indemnification, in respect of the very substantial areas of open space to be delivered over and above the formal and informal place space. It argues that if a detailed maintenance arrangement is required at this stage through a UU for the relatively modest area of space required to meet policy, there is no logical reason why the same arrangement is not required for the balance of open space, which would amount to some 3.29 ha⁵⁵.
98. It seems to me, however, that such matters could be dealt by means of the proposed Biodiversity and Landscape Management Plan which would cover these additional open space areas, and could be secured by condition⁵⁶. This negatively worded condition would not permit development to start until the aforementioned plan has been submitted to and approved in writing by the Council. The appellant has compared this condition to a further agreed condition, aimed at securing an acceptable surface water drainage scheme⁵⁷, which I understand is acceptable to the Council.
99. I note that the scheme referred to in the drainage condition is intended to cover details of the long-term ownership/adoption of the surface water drainage system, as well as its maintenance, but that there is no similar, explicit provision in the suggested Biodiversity and Landscape Management Plan condition. In some ways, this appears to go to the heart of the Council's concerns about step-in rights and indemnification in a case of default. That said, as currently worded, this condition

⁵⁴ See Appendix 1 to Doc 23

⁵⁵ See paragraph C.1 in Doc 23

⁵⁶ See Condition 12 in Doc 26

⁵⁷ See Condition 8 in Doc 26

makes it plain that the Biodiversity and Landscape Management Plan should include full details of measures required to deliver the long-term maintenance of all the areas providing landscape and ecological management, and should also address means of public access, including boardwalks.

100. As such, I see no reason why this condition could not give the Council the assurances and safeguards it seeks, especially as there would be further scope to pursue this issue in detail at reserved matters stage. In this regard I share the appellant's view that if it was felt that certain provisions could only be secured through a planning obligation, such as giving the Council step-in rights and/or securing a guarantee of long-term maintenance funding, then despite the Council's assertions to the contrary, the PPG would not rule this out⁵⁸. Put simply, if the Council was not satisfied that the submitted Biodiversity and Landscape Management Plan could and would make all the necessary provisions, including acceptable arrangements for long-term maintenance, it could refuse to approve it.
101. I am more concerned, however, about the Council's contention that the UU contains no adequate guarantee to provide indemnification, should the Council need to undertake maintenance of the LEAP and the informal open space, with the guarantee as proposed being deficient in 2 respects. Firstly, it maintains that as the offer of a guarantee is limited to circumstances in which the open space is transferred to a management company, it fails to address the position whereby the landowner elects to retain the open space itself, or transfer it to what the Council referred to as a "shelf company"⁵⁹. Secondly, it argues that a guarantee is only as strong as the reliability of the guarantor, and that the UU provides the Council with no control over the identity of the guarantor, which is fixed as the owner, whomsoever that may be.
102. I consider that there is some validity to these concerns, especially when what the UU offers is compared with paragraph 2.19 of the Open Space SPD. This makes it quite clear that for new developments, it is the developer's responsibility to ensure that the open space and facilities are available to the community in perpetuity and that satisfactory long-term levels of management and maintenance are guaranteed.
103. I note that clause 5.1 of the UU requires a "LEAP Scheme" and an "Open Space Scheme" to be submitted to the Council for approval, prior to commencement of the development. But whilst both of these schemes would require a programme and specification for the maintenance of the respective areas to be detailed and approved, neither provide any guarantee regarding effective implementation of the schemes or maintenance thereof. That appears to rely upon the requirements of clause 5.2 which indicates, in summary, that the owner will maintain the LEAP and the open space in accordance with the approved schemes.
104. But in this regard I share the Council's concern that if the owner transfers the LEAP and open space to a successor in title, as opposed to a management company, there is no provision in the UU for the Council to have any involvement. It could not therefore satisfy itself that a future owner would have the ability to provide the necessary long-term management and maintenance, as required by the aforementioned SPD. It is only if the owner decides to transfer the LEAP and/or open space to a management company that the Council would have an

⁵⁸ See Paragraph: 005 Reference ID: 21a-005-20140306, last bullet point

⁵⁹ Explained by the Council to be a company with no assets – see paragraph D.2 in Doc 23

involvement, insofar as it would be able to approve the Deed of Guarantee which the owner covenants to provide under clause 5.3 of the UU.

105. However, even in these circumstances the Council maintains that being able to approve the guarantee is not the same as being able to approve the guarantor, and it drew attention to 2 cases within the district where management companies had been wound up⁶⁰. The appellant's response is that the Council would not need to approve the guarantee unless it was satisfied as to the covenant strength of the covenantor⁶¹. But whilst this may be the case, this area of dispute, and the fact that the Council has had experience of management companies being unable to fulfil their obligations, causes me to have concerns as to whether this aspect of the UU would work effectively, in practice.
106. The Council had put forward 3 suggested alternative mechanisms which would have satisfied it on this matter, but none of these were acceptable to the appellant. These alternatives were that the UU should contain:
- a guarantee from an entity/body named at this stage, with sufficient assets/net worth to give the Council (and the Inspector) sufficient assurance that the guarantee would address "permanent, managed open space available for the benefit of the whole community"⁶²; or
 - a mechanism for future submission of a named Guarantor to the Council for approval and for the submission to include details of the assets/net worth of the Guarantor being proposed⁶³; or
 - fall-back arrangements with liability passing to plot purchasers in the event of default⁶⁴.
107. I understand that this final alternative, which has been used in other recent planning obligations within the district (both bilateral and unilateral), was under discussion between the Council and the appellant until after the opening of this inquiry, but was then withdrawn by the appellant⁶⁵. These alternatives do not seem unreasonable to me, and the appellant's unwillingness to embrace any of them reinforces the concerns I have already expressed about the ability of the arrangements in the UU to fulfil the responsibilities placed on a developer by Policy SF/10 and paragraph 2.19 of the Open Space SPD, detailed above.
108. Clause 5.4 of the UU does provide a mechanism for the Council to rectify any material default of compliance by the owner or any management company in respect of the ongoing maintenance of the LEAP and/or the open space, by allowing the Council to call for payment of the "Maintenance Contribution". But this clause also states that on payment of this contribution, the obligations of the owner or management company to maintain the LEAP and or open/space (as appropriate) shall be discharged. The Council has made it clear that it finds this discharge provision unacceptable, and again it seems to me that this mechanism would be at odds with the requirements of paragraph 2.19 of the Open Space SPD as it would remove the developer's/owner's responsibility to guarantee satisfactory long-term maintenance and management of these areas.

⁶⁰ See paragraph D.6 and Appendix 5 in Doc 23

⁶¹ See paragraph 96 in Doc 31

⁶² This quote comes from the appellant's Statement of Case, which refers to the proposed development as the catalyst (via the S106 agreement) for the dedication of nearly half of the site as permanent managed open space available for the benefit of the whole community. See paragraphs B.2, D.3.1 and Appendix 3 to Doc 23

⁶³ Paragraph D.3.2 in Doc 23

⁶⁴ The Council referred to other recent planning obligations where this mechanism has been accepted – see paragraph D.3.3 and Appendix 6 in Doc 23

⁶⁵ See paragraph D.4 and Appendix 7 in Doc 23

109. A final matter of disagreement between the parties relates to the timescale for provision of the LEAP and open space. The UU would permit no more than 75% of the open market units to be occupied until the LEAP and open space have been properly and fully laid out and made available to the residents of the development. But as the Council points out, that this could mean as many as 91⁶⁶ dwellings, or some 82% of the overall development, being occupied before new residents could use the LEAP and open space⁶⁷.
110. Similarly, the requirement to dedicate the LEAP and open space for public use would not arise until this same 75% target has been reached. Conceivably, the appellant could decide to stop the development short of this target, such that subject to Clause 5.1(b)(i) of the UU, up to 90 dwellings could be built and occupied with no LEAP and no open space provision at all. This would be in conflict with LDF Policy SF/10, and would result in an unacceptable development. In light of these points I share the Council's view that such a high threshold would be unreasonable, and consider that the Council's suggested alternative trigger of 50% of all dwellings would be both reasonable and proportionate.
111. I have noted the appellant's comment that the 75% figure was chosen because of safety considerations arising from the proposed layout of development, the fact that the site is to be served just from Teversham Road, and the need to avoid construction vehicles having to pass over or close to the proposed LEAP. But as the detailed layout of the site is yet to be agreed, I see no good reason why a lower threshold, to benefit future residents, could not be devised.
112. Taken together with my adverse findings already set out above, this latter point reinforces my view that the UU would not make suitable arrangements for the provision of infrastructure necessary to make the scheme acceptable in planning terms, as required by LDF Policies DP/4 and SF/10. I do not consider that this is a situation I could seek to resolve by the imposition of additional conditions, to take precedence over the UU (as set out in Clause 3.6), as any such conditions would have to cover matters which the appellant has already declined to accommodate. As a result, my overall conclusion on this issue is that the appeal proposal would fail to satisfactorily address the impact of the proposed development.

Main Issue 7 – Whether the appeal proposal would represent sustainable development in the terms of the Framework

113. The Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 explains that there are 3 dimensions to this - economic, social and environmental – and that these give rise to the need for the planning system to perform a number of mutually dependent roles. I explore how the appeal proposal would perform against each of these roles in the following paragraphs, and what weight this should carry in my overall assessment. Then, as the development plan policies for the supply of housing are out-of-date, I assess the proposal in accordance with the fourth bullet point of paragraph 14 of the Framework, to determine whether or not the appeal proposal can be considered to be sustainable development.

The economic role

114. It is clear that a number of economic benefits would flow from this development, if permitted, as was recognised in the officer's Committee report. Up to 110 new

⁶⁶ comprising 58 open market dwellings and 33 affordable units

⁶⁷ See paragraph 78(iv) in Doc 30

market and affordable dwellings would contribute to the vitality of the area and would help support economic activity and growth. In the short term this would include the creation of jobs in the construction industry as well as the multiplier effect in the wider economy arising from increased activity. In the long term the provision of housing would help meet the needs of businesses in Cambridge⁶⁸.

115. Despite claims from both the Council and FP that the need for advanced earthworks and ecological surveys and other concerns such as noise implications (see later) would be likely to reduce the number of dwellings which could be completed within a 5 year period, this view is not supported by the Statement of Delivery prepared by Carey New Homes⁶⁹. This indicates that all dwellings could be completed on site within an overall 4 year period, from the start of any detailed planning exercise, and it seems to me that this would allow adequate time for the necessary earthworks and any additional surveys to be undertaken. In the absence of any firm, factual evidence to the contrary, I have to have due regard to this Carey New Homes assessment.
116. These benefits would not be unique to this development, but would flow from any new housing development within the district. However, this does not detract from the fact that the appeal proposal would give rise to these real benefits, and for this reason I consider that it should be regarded as satisfying the economic role of sustainable development. This weighs heavily in the appeal proposal's favour.

The social role

117. A key strand of the social role is the provision of housing to meet the needs of present and future generations and, as already noted, the appeal scheme would deliver much needed market and affordable housing with up to 77 market units and up to 33 affordable homes. This has to be viewed in the context of the fact that the Council can currently only demonstrate a 4.1 year's supply of deliverable housing sites, well below the 5 year supply required by the Framework.
118. I give little weight to the Council's contention that it has been actively addressing this housing land deficit by granting planning permission for some 570 dwellings since April 2016. It seems to me that the appellant is correct in saying that this is barely sufficient to meet the assessed need which has arisen over the last 5 months⁷⁰. Moreover, I share the appellant's view that as some 199 of these dwellings were allowed on appeal, this is not indicative of a Council recognising that it needs, itself, to be taking steps to boost housing provision⁷¹.
119. The evidence before the inquiry also indicates that there is a significant shortage of affordable housing within the district, with a recent appeal decision in the district issued in August 2016, identifying a "chronic shortage" of affordable homes, amounting to an existing need at 2013/14 of 2,846 dwellings⁷². No firm evidence has been submitted to indicate that this situation has materially changed since 2013/14. I also note the appellant's comment that there is a recently assessed need for some 79 affordable homes in Fulbourn⁷³, and whilst there is nothing to suggest that affordable units on the appeal site would specifically address this identified local need, this does not diminish the weight which should be given to much needed, policy compliant affordable housing.

⁶⁸ See paragraph 58 in CDE6

⁶⁹ Appendix J to Mr Totman's evidence

⁷⁰ Paragraph 15 in Doc 31

⁷¹ *ibid*

⁷² Paragraph 17 of CDF5

⁷³ Page 3 in Appendix 8 to Mr Kosky's evidence

120. FP asserted that the total amount of housing to be provided would only represent a very low percentage of the Council's overall objectively assessed need, but the same could be said of any modestly-sized housing proposal. In itself, this is therefore not a good reason to prevent such development from proceeding, and I give it little weight. I also give little weight to FP's assertions, referred to earlier, that likely difficulties and delays in delivery should lessen the weight to be given to the benefits arising from new dwellings on the site, as it was unable to submit any firm, factual evidence to support these views.
121. However, the potential benefits detailed above have to be tempered by my concerns regarding the UU. The Framework makes it clear that the social role of sustainable development embraces more than simply housing numbers. It requires the supply of housing to reflect the community's needs, and support its health, social and cultural well-being. I find it very difficult to be confident that the appeal proposal would achieve these aims, and make adequate provision for the needs of future residents, when there seems to me to be a high degree of uncertainty regarding the provisions for long-term maintenance of the LEAP and the open space – and indeed, some uncertainty as to whether the LEAP and open space would be delivered at all.
122. Taking a precautionary view on this matter, I consider that the proposed development would fail to satisfy the social role of sustainable development, and that this should weigh against the appeal proposal.

The environmental role

123. Paragraph 7 of the Framework indicates that as part of the environmental role of sustainable development, the planning system needs to contribute to protecting and enhancing the natural, built and historic environment, and I have considered these matters in detail under the first 3 main issues, above. I have concluded that the appeal proposal would not have an adverse impact on the character or appearance of the surrounding area nor, subject to the successful implementation of an agreed Landscape and Biodiversity Management Plan, would it have an unacceptable impact on areas of ecological or nature conservation interest.
124. Insofar as the impact of the proposed development on the historic environment is concerned, I have concluded that there would be less than substantial harm to the significance of the Fulbourn Conservation Area, with this harm being at the bottom end of the "less than substantial" range. I need to consider whether this harm to the designated heritage asset would be outweighed by the public benefits of the proposal, in accordance with paragraph 134 of the Framework.
125. To be set against this harm there would be the economic benefits I have just identified above. These benefits weigh heavily in the appeal proposal's favour. I also attach weight to the specific heritage benefits arising from the proposed restoration and opening to the public of the former pumping station garden, as set out in paragraph 53 above. There would also be a number of ecological benefits, arising from the proposed positive management of the site, and the other matters detailed in paragraphs 73 to 76 above.
126. Overall, in carrying out the necessary balance, I consider that notwithstanding the great weight which I give to the conservation of the designated asset, the public benefits outlined above would outweigh the low level of "less than substantial" harm which I have identified would be caused to the Fulbourn Conservation Area. In other words the appeal proposal passes the "paragraph 134" test.

127. Having regard to all the above points, I conclude that the proposed development would satisfy the environmental role of sustainable development. This also weighs heavily in favour of the appeal proposal.

Other matters

128. Before undertaking the assessment under the fourth bullet point of the Framework's paragraph 14, it is necessary to consider whether any of the other matters raised weigh significantly for or against the appeal proposal. I have had regard to the significant number of written representations submitted by interested persons, covering a wide range of topics. However, the majority of these raise matters which have already been addressed under the main issues in this decision, and it is therefore not necessary to deal with them separately here.
129. Many objections have been raised on highways related grounds, but these points were carefully considered by the Council and were not seen as valid reasons for refusal, as they could be addressed by conditions, or at any future reserved matters stage. On the basis of the evidence before me I share that view, and have not given these matters weight in reaching my decision. Some other matters do, however, warrant further consideration, as they were raised in the written evidence, or raised directly at the inquiry by FP or others, and I therefore deal with them in the following paragraphs.
130. A particular theme of the evidence presented by FP was that development of this site would present many difficulties, which could well lead to delays in the construction of any dwellings, if planning permission is granted, such that any benefits arising from additional housing would be reduced and should therefore carry less weight in the planning balance. I have already indicated that I do not consider these arguments to be justified insofar as any advanced earthworks and ecological surveys are concerned. A further matter raised in this context is noise.
131. The Noise Assessment Report submitted with the planning application recognises the potential for noise impact on occupiers of any new dwellings, arising from existing industrial activity from premises at the Breckenwood Road Industrial Estate. However, any such impacts could be mitigated by "acoustically treating" any noisy equipment at source, or by incorporating appropriate mitigation measures into the detailed design of the proposed development. These measures could be secured by suggested conditions, if planning permission was to be granted, and I see no reason why approval of such measures should unacceptably delay construction, as claimed by FP. In these circumstances, and in light of the Statement of Delivery prepared by Carey New Homes and referred to earlier, I cannot give these claims any meaningful weight.
132. Mr Godber, who spoke at the inquiry, claims that contrary to the information contained in the SOCG, there are several public rights of way which cross the appeal site. He states that Cambridgeshire County Council will need to investigate these claims and that this process will delay the construction of new housing (if planning permission was to be granted), such that there would be no prospect of housing being built on this site within 5 years. However, Mr Godber's claims have not been supported by any firm, factual evidence, and they are at odds with the agreed position of the 2 main parties as set out in the SOCG. In these circumstances I can only give these claims very limited weight.
133. Finally, Mr Godber also states that there is a real possibility that an application will be made to register part or all of the appeal site as a village green, which could

also have major implications for the timescale or realisation of any construction on the site. Again, however, no firm evidence has been put forward on this matter. Moreover, the appellant has highlighted the fact that the provisions introduced by the Growth and Infrastructure Act 2013 prevent an application for registration being made once notice of a planning application has been given, as here⁷⁴. No contrary evidence on this matter has been placed before me, and I therefore give little weight to Mr Godber's assertions in this regard.

Assessment under paragraph 14 of the Framework

134. This assessment has to be undertaken under the first sub-point of paragraph 14's fourth bullet point, as I have already concluded, above, that policies for the supply of housing have to be considered out-of-date, and the specific heritage policies of the Framework do not indicate that planning permission should be refused. In this context I have found in the appeal proposal's favour on many of the main issues, and have also concluded that the proposal would satisfy the economic and environmental roles of sustainable development. These matters, together, weigh heavily in the appeal proposal's favour.
135. However, my concerns regarding the UU, and the fact that I have found the proposal to be in conflict with LDF Policies DP/4 and SF/10, mean that I have serious doubts about the appeal proposal's ability to provide an acceptable development for future residents. As such, I do not consider that it would satisfy the social role of sustainable development. This is an important consideration, and in my assessment, the adverse impacts arising from this matter would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.
136. Because of this I conclude that the appeal proposal cannot be considered to be sustainable development. This means that it does not benefit from the presumption in favour of such development, described in the Framework as the golden thread running through both plan-making and decision-taking. This is a material consideration in the overall planning balance, which I undertake below.

Planning balance and overall conclusion

137. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 I am required to assess this proposal in accordance with the development plan, unless material considerations (which include the Framework), indicate otherwise. Although policies for the supply of housing have to be considered out-of-date, other relevant development plan policies are up-to-date and should carry full weight. This applies to LDF Policies DP/1, DP/2, DP/3 and NE/4, dealing with design and landscape matters; Policy CH/5 dealing with conservation areas; and Policy NE/6 dealing with biodiversity. I have found no conflict with these policies.
138. However, LDF Policies DP/4 and SF/10, dealing with infrastructure and new developments; and outdoor playspace, informal open space and new developments, also carry full weight, and as detailed above, I have found that the appeal proposal would be in conflict with these policies. This conflict means that, despite my favourable findings on many of the main issues, the deficiencies with the UU mean that I cannot have any certainty that the appeal proposal would result in an acceptable development for future residents to live in. I do not

⁷⁴ Section 15C of the Commons Act 2006

consider that this matter could appropriately be addressed by any planning conditions I could impose.

139. My overall conclusion, therefore, is that the appeal proposal would be in conflict with the development plan and would not be sustainable development. The adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits which would arise from this development and I therefore conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR

APPEARANCES

FOR THE COUNCIL	
Douglas Edwards QC	instructed by the Head of Legal Services, South Cambridgeshire District Council (SCDC)
He called:	
Adrian Gascoyne BA(Hons) FSA MCIfA	Historic and Built Environment Manager, Essex County Council
David Bolt BA(Hons) CMLI	Technical Manager, Fairhurst Landscape and Urban Design
Rob Mungovan BSc(Hons) MIEEM	Ecology Consultancy Officer, SCDC
Sarah Ballantyne-Way BSc(Hons) MSc MRTPI	Director, SBW Planning Ltd

FOR THE APPELLANT	
Simon Bird QC	instructed by Michael Heyworth-Dunn, Legal Counsel, Castlefield International Limited
He called:	
Dr Chris Miele MRTPI IHBC	Senior & Owning Partner, Montague Evans
Lisa Toyne BA(Hons) DipLA DipTP CMLI	Landscape Planning Director, Barton Willmore LLP
Richard Totman BEng(Hons)	Director, Canon Consulting Engineers
Ian Ellis BSc(Hons) MRes MCIEEM	Principal Consultant, NIRAS Consulting Limited
Steven Kosky BA(Hons) DipTP MRTPI	Planning Director, Barton Willmore LLP

FOR FULBOURN PARISH (FP) (RULE 6(6) PARTY)	
George Crutcher DipUD MRTPI	Planning Consultant
He gave evidence himself, and called:	
Robert Culshaw FRSA FRGS MCIL	Local resident
Councillor John Williams	District and County Councillor
Mrs Alex Andrews	Local resident
David Cottee DArch RIBA	Local resident (did not attend the Inquiry – his statement was read out)

INTERESTED PERSONS OPPOSING THE PROPOSAL	
Paul Godber	Local resident
Martin Baker	Conservation Manager, The Wildlife Trust BCN
Graham Cone	District Councillor, Fulbourn Ward

CORE DOCUMENTS

Section A: National Planning Documents, National Guidance and Legislation	
CDA1	National Planning Policy Framework 2012
CDA2	National Planning Practice Guidance 2014
CDA3	Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England) 2015
CDA4	Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Historic England) 2015
CDA5	NCA Profile 87: East Anglian Chalk
CDA6	NCA Profile 88: Bedfordshire and Cambridgeshire Claylands
CDA7	Vision for the Future Cambridgeshire Landscape, Cambridgeshire County Council 1991
CDA8	Conservation Area, Designation and Appraisal, Historic England Advice Note 1 2016
CDA9	BS 7913:2013 Guide to the Conservation of Historic Buildings 2013
Section B: Local Development Plan Documents	
CDB1	Selected South Cambridgeshire District Council Core Strategy 2007 Policies
CDB2	Selected South Cambridgeshire District Council Development Control 2007 Policies
Section C: Emerging Development Plan Documents	
CDC1	Selected South Cambridgeshire Local Plan Proposed Submission 2013 Policies
CDC2	Relevant Schedule of Proposed Modifications 2016
CDC3	Proposed Modifications Joint Consultation Report 2015
CDC4	Schedule of Proposed Major Modification to the Submission Local Plan 2014
CDC5	Local Plan Submission Inset Map 2013 - Fulbourn
CDC6	Local Plan Submission Inset Map Key
CDC7	Issues and Options 2 - Jan 2013
CDC8	Fulbourn Settlement Audit March 2014
CDC9	Objectively Assessed Housing Need: Further Evidence - PBA Nov 2015
CDC10	Objectively Assessed Housing Need: Response to Objectors - PBA March 2016
CDC11	Local Plan Inspector Letter 20 May 2015
CDC12	Council letter to EIP Inspector 30 June 2015
CDC13	Council letter to EIP Inspector 30 June 2015 ref Joint Trajectory
CDC14	Local Plan Inspector Letter 28 July 2015
CDC15	Local Plan Inspector Letter CIL 18 Aug 2015
CDC16	Council Letter to EIP Inspector 1 Sep 15
CDC17	Local Plan Inspector Letter 10 Sep 2015
CDC18	Council Letter to EIP Inspector 28 Sep 2015
Section D: Other SCDC Documents	
CDD1	Fulbourn Site Assessment Proforma SHLAA August 2013
CDD2	Local Development Scheme Addendum Nov 2015
CDD3	Fulbourn Conservation Area Appraisal 2007
CDD4	District Design Guide 2010
CDD5	Development Affecting Conservation Areas SPD 2009
CDD6	Landscape in New Developments SPD 2010

CDD7	Cambridge Green Belt Study, LDA on behalf of SCDC 2002
CDD8	Cambridgeshire Green Infrastructure Strategy 2011
CDD9	South Cambridgeshire Annual Monitoring Report January 2016
CDD10	Strategic Housing Market Assessment 2013
CDD11	Cambridge & South Cambs Sustainable Development Strategy 2012
CDD12	Matter 8 – Housing Land Supply and Delivery Jan 2015
CDD13	Housing Land Supply Update Nov 2015
Section E: Planning Application Documents	
CDE1	Screening Opinion Response
CDE2	22430 M02 Rev C Site Boundary Plan
CDE3	22430 M03C Illustrative Layout Plan
CDE4	22430 M06E Parameters Plan
CDE5	Consultation Responses
CDE6	Committee Report
CDE7	Committee Minutes
CDE8	Decision Notice
CDE9	Design and Access Statement
CDE10	Tree Survey
CDE11	Heritage Statement
CDE12	Phase 1 Habitat Scoping Report
CDE13	Landscape and Visual Impact Appraisal
CDE14	Planning Statement
Section F: Planning Inspectorate Decisions	
CDF1	Land off Shepreth Road, Foxton - APP/W0530/W/15/3084325
CDF2	Land to the west of Cody Road, Waterbeach - APP/W0530/A/13/2207961
CDF3	Land North of Bannold Road, Waterbeach - APP/W0530/A/13/2209166
CDF4	Land to the North of Lanthorn Stile, Fulbourn - APP/W530/W/16/3144909
CDF5	Land to the east of New Road, Melbourn - APP/W0530/W/15/3131724
CDF6	The Old Kennels, Framlingham Road, Easton - APP/J3530/W/15/3004542
CDF7	Land off Walden Road, Thaxted - APP/C1570/A/14/2222958
CDF8	Land North of Pelham Road, Clavering- APP/C1570/W/15/3010055
CDF9	Land at 14 Brook Street, Elsworth - APP/W0530/W/15/3135579
CDF10	Land off Green End, Braughing - APP/J1915/W/15/30045954
Section G: Legal Judgements	
CDG1	2014 EWCA Civ 137 East Northamptonshire DC v SSCLG (Barnwell Manor Wind Turbine Case)
CDG2	2014 EWHC 1895 (admin) Forge Field Society v Sevenoaks DC
CDG3	2014 EWHC 292 (admin) North Cote Farms Ltd v SSCLG & ERoYC
CDG4	2016 EWCA 168 Suffolk Coastal v Hopkins Homes & Richborough Estates v Cheshire East
CDG5	2015 EWHC 488 (admin) Stroud DC v SoS
Section H: Other Documents	
CDH2	Conservation Principles, Policies and Guidance – Historic England 2008
CDH3	Habitat Translocation A Best Practice Guide – Penny Anderson 2003
CDH4	CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland 2016
CDH5	A Habitats Translocation Policy for Britain – JNCC 2003
CDH6	Guidelines for Landscape and Visual Impact Assessment – Landscape Institute and IEMA 2013
CDH7	Landscape Character Assessment Topic Paper 6
CDH8	Departmental Letter, Brandon Lewis MP to Simon Ridley 27/03/2015

DOCUMENTS AND PLANS SUBMITTED AT THE INQUIRY

Document	1	Letter of notification of the inquiry, and list of persons notified
Document	2	Opening statement on behalf of the appellant
Document	3	Opening statement on behalf of SCDC
Document	4	Errata Sheet to Mr Bolt's evidence
Document	5	Errata Sheet to Mr Gascoyne's evidence
Document	6	Briefing Note from Dr Miele
Document	7	List of submitted plans
Document	8	Signed and dated SOCG between SCDC and the appellant
Document	9	Errata Sheet to Mrs Ballantyne-Way's evidence
Document	10	Updated Appendix 3 to Mrs Ballantyne-Way's evidence
Document	11	Extracts from the South Cambridgeshire Adopted Proposals Map 2010, showing Important Countryside Frontages
Document	12	Bundle of 2 photographs, taken from Mr Culshaw's property
Document	13	Extracts from A Parish Plan for Fulbourn, January 2009
Document	14	Statement of Peter Godber
Document	15	Planning and Landscape Report October 2007, prepared by Hutchison Whampoa Properties (Europe Ltd)
Document	16	Bundle of 3 plans showing the extent of adopted public highway in Cow Lane and Cox's Drove
Document	17	Plan showing the Breckenwood Road Industrial Estate
Document	18	Extracts from the South Cambridgeshire Adopted Proposals Map 2010, showing land to the north of Lanthorn Stile, Fulbourn, which was the subject of Appeal Ref APP/W530/W/16/3144909
Document	19	Bundle of 3 documents relating to proposed development at the Ida Darwin Hospital site
Document	20	Accompanied site visit itinerary
Document	21	Statement of Martin Baker, CIEEM, on behalf of The Wildlife Trust BCN
Document	22	Assessment of Species of Botanical Interest, dated 2 April 2015, carried out by MKA Ecology Limited
Document	23	Comments (with appendices) from SCDC Officers relating to matters of open space and landscaping covered by the appellant's unilateral undertaking
Document	24	Breeding Bird Survey Report, dated 18 August 2014, carried out by MKA Ecology Limited
Document	25	Details of Castlefield International Limited
Document	26	Final list of suggested conditions, all largely agreed
Document	27	Explanatory note from the local highway authority providing reasons for the proposed highway conditions
Document	28	Closing Submissions on behalf of Fulbourn Parish
Document	29	Extract from the State of Nature 2016, England
Document	30	Closing Submissions on behalf of SCDC
Document	31	Closing Submissions on behalf of the appellant
Document	32	Signed and completed S106 Agreement between Castlefield International Limited and Cambridgeshire County Council
Document	33	Signed and completed S106 unilateral undertaking made by Castlefield International Limited in favour of SCDC

Appendix 4.0
***Barnwell v East Northamptonshire District Council* [2014]**
EWCA Civ 137



Neutral Citation Number: [2014] EWCA Civ 137

Case No: C1/2013/0843

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
THE HON. MRS JUSTICE LANG
CO/4231/2012

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/02/2014

Before:

LORD JUSTICE MAURICE KAY
VICE PRESIDENT OF THE COURT OF APPEAL, CIVIL DIVISION
LORD JUSTICE SULLIVAN
and
LADY JUSTICE RAFFERTY

Between:

BARNWELL MANOR WIND ENERGY LIMITED	<u>Appellant</u>
- and -	
(1) EAST NORTHAMPTONSHIRE DISTRICT COUNCIL	<u>Respondents</u>
(2) ENGLISH HERITAGE	
(3) NATIONAL TRUST	
(4) THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT	

Gordon Nardell QC and Justine Thornton (instructed by Eversheds LLP) for the Appellant
Morag Ellis QC and Robin Green (instructed by Sharpe Pritchard) for the First, Second and
Third Respondents

The Fourth Respondent did not appear and was not represented

Hearing date: 23rd January 2014

Approved Judgment

Lord Justice Sullivan:

Introduction

1. This is an appeal against the order dated 11th March 2013 of Lang J quashing the decision dated 12th March 2012 of a Planning Inspector appointed by the Secretary of State granting planning permission for a four-turbine wind farm on land north of Catshead Woods, Sudborough, Northamptonshire. The background to the appeal is set out in Lang J's judgment: [2013] EWHC 473 (Admin).

Section 66

2. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") imposes a "General duty as respects listed buildings in exercise of planning functions." Subsection (1) provides:

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

Planning Policy

3. When the permission was granted the Government's planning policies on the conservation of the historic environment were contained in Planning Policy Statement 5 (PPS5). In PPS5 those parts of the historic environment that have significance because of their historic, archaeological, architectural or artistic interest are called heritage assets. Listed buildings, Scheduled Ancient Monuments and Registered Parks and Gardens are called "designated heritage assets." Guidance to help practitioners implement the policies in PPS5 was contained in "PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide" ("the Practice Guide"). For present purposes, Policies HE9 and HE10 in PPS5 are of particular relevance. Policy HE9.1 advised that:

"There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.... Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including scheduled monumentsgrade I and II* listed buildings and grade I and II* registered parks and gardens....should be wholly exceptional."

Policy HE9.4 advised that:

"Where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases local planning authorities should:

- (i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and
- (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.”

Policy HE10.1 advised decision-makers that when considering applications for development that do not preserve those elements of the setting of a heritage asset, they:

“should weigh any such harm against the wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval.”

The Inspector’s decision

4. The Inspector concluded that the wind farm would fall within and affect the setting of a wide range of heritage assets [22]¹. For the purposes of this appeal the parties’ submissions largely focussed on one of the most significant of those assets: a site owned by the National Trust, Lyveden New Bield. Lyveden New Bield is covered by a range of heritage designations: Grade I listed building, inclusion in the Register of Parks and Gardens of Special Historic Interest at Grade I, and Scheduled Ancient Monument [44].

5. It was common ground between the parties at the inquiry that the group of designated heritage assets at Lyveden New Bield was probably the finest surviving example of an Elizabethan Garden, and that as a group the heritage asset at Lyveden New Bield had a cultural value of national, if not international significance. The Inspector agreed, and found that:

“...this group of designated heritage assets has archaeological, architectural, artistic and historic significance of the highest magnitude.” [45]

6. The closest turbine in the wind farm site (following the deletion of one turbine) to Lyveden New Bield was around 1.3 km from the boundary of the Registered Park and 1.7 km from the New Bield itself. The Inspector found that:

“The wind turbines proposed would be visible from all around the site, to varying degrees, because of the presence of trees. Their visible presence would have a clear influence on the surroundings in which the heritage assets are experienced and

¹ [] refers to paragraph numbers in the Inspector’s decision.

as such they would fall within, and affect, the setting of the group.” [46]

This conclusion led the Inspector to identify the central question, as follows:

“Bearing in mind PPS5 Policy HE7, the central question is the extent to which that visible presence would affect the significance of the heritage assets concerned.” [46]

7. The Inspector answered that question in relation to Lyveden New Bield in paragraphs 47-51 of his decision letter.

“47. While records of Sir Thomas Tresham’s intentions for the site are relatively, and unusually, copious, it is not altogether clear to what extent the gardens and the garden lodge were completed and whether the designer considered views out of the garden to be of any particular significance. As a consequence, notwithstanding planting programmes that the National Trust have undertaken in recent times, the experience of Lyveden New Bield as a place, and as a planned landscape, with earthworks, moats and buildings within it, today, requires imagination and interpretation.

48. At the times of my visits, there were limited numbers of visitors and few vehicles entering and leaving the site. I can imagine that at busy times, the situation might be somewhat different but the relative absence of man-made features in views across and out of the gardens compartments, from the prospect mounds especially, and from within the garden lodge, give the place a sense of isolation that makes the use of one’s imagination to interpret Sir Thomas Tresham’s design intentions somewhat easier.

49. The visible, and sometimes moving, presence of the proposed wind turbine array would introduce a man-made feature, of significant scale, into the experience of the place. The array would act as a distraction that would make it more difficult to understand the place, and the intentions underpinning its design. That would cause harm to the setting of the group of designated heritage assets within it.

50. However, while the array would be readily visible as a backdrop to the garden lodge in some directional views, from the garden lodge itself in views towards it, and from the prospect mounds, from within the moated orchard, and various other places around the site, at a separation distance of between 1 and 2 kilometres, the turbines would not be so close, or fill the field of view to the extent, that they would dominate the

outlook from the site. Moreover, the turbine array would not intrude on any obviously intended, planned view out of the garden, or from the garden lodge (which has windows all around its cruciform perimeter). Any reasonable observer would know that the turbine array was a modern addition to the landscape, separate from the planned historic landscape, or building they were within, or considering, or interpreting.

51. On that basis, the presence of the wind turbine array would not be so distracting that it would prevent or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield and Lyveden Old Bield, or their relationship to each other. As a consequence, the effect on the setting of these designated heritage assets, while clearly detrimental, would not reach the level of substantial harm.”

8. The Inspector carried out “The Balancing Exercise” in paragraphs 85 and 86 of his decision letter.

“85. The proposal would harm the setting of a number of designated heritage assets. However, the harm would in all cases be less than substantial and reduced by its temporary nature and reversibility. The proposal would also cause harm to the landscape but this would be ameliorated by a number of factors. Read in isolation though, all this means that the proposal would fail to accord with [conservation policies in the East Midlands Regional Plan (EMRP)]. On the other hand, having regard to advice in PPS22, the benefits that would accrue from the wind farm in the 25 year period of its operation attract significant weight in favour of the proposal. The 10 MW that it could provide would contribute towards the 2020 regional target for renewable energy, as required by EMRP Policy 40 and Appendix 5, and the wider UK national requirement.

86. PPS5 Policies HE9.4 and HE10.1 require the identified harm to the setting of designated heritage assets to be balanced against the benefits that the proposal would provide. Application of the development plan as a whole would also require that harm, and the harm to the landscape, to be weighed against the benefits. Key principle (i) of PPS22 says that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily. I take that as a clear expression that the threshold of acceptability for a proposal like

the one at issue in this appeal is not such that all harm must be avoided. In my view, the significant benefits of the proposal in terms of the energy it would produce from a renewable source outweigh the less than substantial harm it would cause to the setting of designated heritage assets and the wider landscape.”

Lang J's Judgment

9. Before Lang J the First, Second and Third Respondents (“the Respondents”) challenged the Inspector’s decision on three grounds. In summary, they submitted that the Inspector had failed to:

- (1) have special regard to the desirability of preserving the settings of listed buildings, including Lyveden New Bield;
- (2) correctly interpret and apply the policies in PPS5; and
- (3) give adequate reasons for his decision.

The Secretary of State, the Fourth Respondent, had conceded prior to the hearing that the Inspector’s decision should be quashed on ground (3), and took no part in the proceedings before Lang J and in this Court.

10. Lang J concluded that all three grounds of challenge were made out. [72]² In respect of ground (1) she concluded that:

“In order to give effect to the statutory duty under section 66(1), a decision-maker should accord considerable importance and weight to the “desirability of preserving... the setting” of listed buildings when weighing this factor in the balance with other ‘material considerations’ which have not been given this special statutory status. Thus, where the section 66(1) duty is in play, it is necessary to qualify Lord Hoffmann’s statement in *Tesco Stores v Secretary of State for the Environment & Ors* [1995] 1 WLR 759, at 780F-H that the weight to be given to a material consideration was a question of planning judgment for the planning authority” [39]

Applying that interpretation of section 66(1) she concluded that:

“...the Inspector did not at any stage in the balancing exercise accord “special weight”, or considerable importance to “the desirability of preserving the setting”. He treated the “harm” to the setting and the wider benefit of the wind farm proposal as if those two factors were of equal importance. Indeed, he downplayed “the desirability of preserving the setting” by

² [] refers to paragraph numbers in the judgment.

adopting key principle (i) of PPS22, as a “clear indication that the threshold of acceptability for a proposal like the one at issue in this appeal is not such that all harm must be avoided” (paragraph 86). In so doing, he applied the policy without giving effect to the section 66(1) duty, which applies to all listed buildings, whether the “harm” has been assessed as substantial or less than substantial.” [46]

11. In respect of ground (2) Lang J concluded that the policy guidance in PPS5 and the Practice Guide required the Inspector to assess the contribution that the setting made to the significance of the heritage assets, including Lyveden New Bield, and the effect of the proposed wind turbines on both the significance of the heritage asset and the ability to appreciate that significance. Having analysed the Inspector’s decision, she found that the Inspector’s assessment had been too narrow. He had failed to assess the contribution that the setting of Lyveden New Bield made to its significance as a heritage asset and the extent to which the wind turbines would enhance or detract from that significance, and had wrongly limited his assessment to one factor: the ability of the public to understand the asset based on the ability of “the reasonable observer” to distinguish between the “modern addition” to the landscape and the “historic landscape.” [55] - [65]
12. In respect of ground (3) Lang J found that the question whether Sir Thomas Tresham intended that the views from the garden and the garden lodge should be of significance was a controversial and important issue at the inquiry which the Inspector should have resolved before proceeding to assess the level of harm.[68] However, the Inspector’s reasoning on this issue was unclear. Having said in paragraph 47 of his decision that it was “not altogether clear ...whether the designer considered views out of the garden to be of any significance”, he had concluded in paragraph 50 that “the turbine array would not intrude on any obviously intended, planned view out of the garden, or from the garden lodge (which has windows all around its cruciform perimeter).” It was not clear whether this was a conclusion that there were no planned views (as submitted by the Appellant) or a conclusion that there were such views but the turbine array would not intrude into them. [70] – [71].

The Grounds of Appeal

13. On behalf of the Appellant, Mr. Nardell QC challenged Lang J’s conclusions in respect of all three grounds. At the forefront of his appeal was the submission that Lang J had erred in concluding that section 66(1) required the Inspector, when carrying out the balancing exercise, to give “considerable weight” to the desirability of preserving the settings of the many listed buildings, including Lyveden New Bield. He submitted that section 66(1) did not require the decision-maker to give any particular weight to that factor. It required the decision-maker to ask the right question – would there be some harm to the setting of the listed building – and if the answer to that question was “yes” – to refuse planning permission unless that harm was outweighed by the advantages of the proposed development. When carrying out that balancing exercise the weight to be given to the harm to the setting of the listed

building on the one hand and the advantages of the proposal on the other was entirely a matter of planning judgment for the decision-maker.

14. Turning to the policy ground, he submitted that Lang J had erred by taking an over-rigid approach to PPS5 and the Practice Guide which were not intended to be prescriptive. Given the way in which those objecting to the proposed wind farm had put their case at the inquiry, the Inspector had been entitled to focus on the extent to which the presence of the turbines in views to and from the listed buildings, including Lyveden New Bield, would affect the ability of the public to appreciate the heritage assets.
15. In response to the reasons ground, he submitted that the question whether any significant view from the lodge or garden at Lyveden New Bield was planned or intended was a subsidiary, and not a “principal important controversial”, issue. In any event, he submitted that on a natural reading of paragraph 50 of the decision letter the Inspector had simply found that the turbines would not intrude into such significant views, if any, as were obviously planned or intended, so it had been unnecessary for him to resolve the issue that he had left open in paragraph 47 of the decision.

Discussion

Ground 1

16. What was Parliament’s intention in imposing both the section 66 duty and the parallel duty under section 72(1) of the Listed Buildings Act to pay “special attention to the desirability of preserving or enhancing the character or appearance” of conservation areas? It is common ground that, despite the slight difference in wording, the nature of the duty is the same under both enactments. It is also common ground that “preserving” in both enactments means doing no harm: see South Lakeland District Council v Secretary of State for the Environment [1992] 2 AC 141, per Lord Bridge at page 150.
17. Was it Parliament’s intention that the decision-maker should consider very carefully whether a proposed development would harm the setting of the listed building (or the character or appearance of the conservation area), and if the conclusion was that there would be some harm, then consider whether that harm was outweighed by the advantages of the proposal, giving that harm such weight as the decision-maker thought appropriate; or was it Parliament’s intention that when deciding whether the harm to the setting of the listed building was outweighed by the advantages of the proposal, the decision-maker should give particular weight to the desirability of avoiding such harm?
18. Lang J analysed the authorities in paragraphs [34] – [39] of her judgment. In chronological order they are: The Bath Society v Secretary of State for the Environment [1991] 1 WLR 1303; South Lakeland (see paragraph 16 above); Heatherington (UK) Ltd. v Secretary of State for the Environment (1995) 69 P & CR 374; and Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 WLR 759. Bath and South Lakeland were concerned with (what is now) the duty under

section 72. Heatherington is the only case in which the section 66 duty was considered. Tesco was not a section 66 or section 72 case, it was concerned with the duty to have regard to “other material considerations” under section 70(2) of the Town and Country Planning Act 1990 (“the Planning Act”).

19. When summarising his conclusions in Bath about the proper approach which should be adopted to an application for planning permission in a conservation area, Glidewell LJ distinguished between the general duty under (what is now) section 70(2) of the Planning Act, and the duty under (what is now) section 72(1) of the Listed Buildings Act. Within a conservation area the decision-maker has two statutory duties to perform, but the requirement in section 72(1) to pay “special attention” should be the first consideration for the decision-maker (p. 1318 F-H). Glidewell LJ continued:

“Since, however, it is a consideration to which special attention is to be paid as a matter of statutory duty, it must be regarded as having considerable importance and weight..... As I have said, the conclusion that the development will neither enhance nor preserve will be a consideration of considerable importance and weight. This does not necessarily mean that the application for permission must be refused, but it does in my view mean that the development should only be permitted if the decision-maker concludes that it carries some advantage or benefit which outweighs the failure to satisfy the section [72(1)] test and such detriment as may inevitably follow from that.”

20. In South Lakeland the issue was whether the concept of “preserving” in what is now section 72(1) meant “positively preserving” or merely doing no harm. The House of Lords concluded that the latter interpretation was correct, but at page 146E-G of his speech (with which the other members of the House agreed) Lord Bridge described the statutory intention in these terms:

“There is no dispute that the intention of section [72(1)] is that planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area. If any proposed development would conflict with that objective, there will be a strong presumption against the grant of planning permission, though, no doubt, in exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest. But if a development would not conflict with that objective, the special attention required to be paid to that objective will no longer stand in its way and the development will be permitted or refused in the application of ordinary planning criteria.”

21. In Heatherington, the principal issue was the interrelationship between the duty imposed by section 66(1) and the newly imposed duty under section 54A of the Planning Act (since repealed and replaced by the duty under section 38(6) of the Planning and Compulsory Purchase Act 2004). However, Mr. David Keene QC (as he then was), when referring to the section 66(1) duty, applied Glidewell LJ's dicta in the Bath case (above), and said that the statutory objective "remains one to which considerable weight should be attached" (p. 383).
22. Mr. Nardell submitted, correctly, that the Inspector's error in the Bath case was that he had failed to carry out the necessary balancing exercise. In the present case the Inspector had expressly carried out the balancing exercise, and decided that the advantages of the proposed wind farm outweighed the less than substantial harm to the setting of the heritage assets. Mr. Nardell submitted that there was nothing in Glidewell LJ's judgment which supported the proposition that the Court could go behind the Inspector's conclusion. I accept that (subject to grounds 2 and 3, see paragraph 29 et seq below) the Inspector's assessment of the degree of harm to the setting of the listed building was a matter for his planning judgment, but I do not accept that he was then free to give that harm such weight as he chose when carrying out the balancing exercise. In my view, Glidewell LJ's judgment is authority for the proposition that a finding of harm to the setting of a listed building is a consideration to which the decision-maker must give "considerable importance and weight."
23. That conclusion is reinforced by the passage in the speech of Lord Bridge in South Lakeland to which I have referred (paragraph 20 above). It is true, as Mr. Nardell submits, that the ratio of that decision is that "preserve" means "do no harm". However, Lord Bridge's explanation of the statutory purpose is highly persuasive, and his observation that there will be a "strong presumption" against granting permission for development that would harm the character or appearance of a conservation area is consistent with Glidewell LJ's conclusion in Bath. There is a "strong presumption" against granting planning permission for development which would harm the character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of "considerable importance and weight."
24. While I would accept Mr. Nardell's submission that Heatherington does not take the matter any further, it does not cast any doubt on the proposition that emerges from the Bath and South Lakeland cases: that Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
25. In support of his submission that, provided he asked the right question – was the harm to the settings of the listed buildings outweighed by the advantages of the proposed development – the Inspector was free to give what weight he chose to that harm, Mr. Nardell relied on the statement in the speech of Lord Hoffmann in Tesco that the

weight to be given to a material consideration is entirely a matter for the local planning authority (or in this case, the Inspector):

“If there is one principle of planning law more firmly settled than any other, it is that matters of planning judgment are within the exclusive province of the local planning authority or the Secretary of State.” (p.780H).

26. As a general proposition, the principle is not in doubt, but Tesco was concerned with the application of section 70(2) of the Planning Act. It was not a case under section 66(1) or 72(1) of the Listed Buildings Act. The proposition that decision-makers may be required by either statute or planning policy to give particular weight to certain material considerations was not disputed by Mr. Nardell. There are many examples of planning policies, both national and local, which require decision-makers when exercising their planning judgment to give particular weight to certain material considerations. No such policies were in issue in the Tesco case, but an example can be seen in this case. In paragraph 16 of his decision letter the Inspector referred to Planning Policy Statement 22 Renewable Energy (PPS22) which says that the wider environmental and economic benefits of all proposals for renewable energy, whatever their scale, are material considerations which should be given “significant weight”. In this case, the requirement to give “considerable importance and weight” to the policy objective of preserving the setting of listed buildings has been imposed by Parliament. Section 70(3) of the Planning Act provides that section 70(1), which confers the power to grant planning permission, has effect subject to, inter alia, sections 66 and 72 of the Listed Buildings Act. Section 70(2) requires the decision-maker to have regard to “material considerations” when granting planning permission, but Parliament has made the power to grant permission having regard to material considerations expressly subject to the section 66(1) duty.
27. Mr. Nardell also referred us to the decisions of Ouseley J and this Court in Garner v Elmbridge Borough Council [2011] EWCA Civ 891, but the issue in that case was whether the local planning authority had been entitled to conclude that no harm would be caused to the setting of another heritage asset of the highest significance, Hampton Court Palace. Such was the weight given to the desirability of preserving the setting of the Palace that it was common ground that it would not be acceptable to grant planning permission for a redevelopment scheme which would have harmed the setting of the Palace on the basis that such harm would be outweighed by some other planning advantage: see paragraph 14 of my judgment. Far from assisting Mr. Nardell’s case, Garner is an example of the practical application of the advice in policy HE9.1: that substantial harm to designated heritage assets of the highest significance should not merely be exceptional, but “wholly exceptional”.
28. It does not follow that if the harm to such heritage assets is found to be less than substantial, the balancing exercise referred to in policies HE9.4 and HE 10.1 should ignore the overarching statutory duty imposed by section 66(1), which properly understood (see Bath, South Somerset and Heatherington) requires considerable weight to be given by decision-makers to the desirability of preserving the setting of

all listed buildings, including Grade II listed buildings. That general duty applies with particular force if harm would be caused to the setting of a Grade I listed building, a designated heritage asset of the highest significance. If the harm to the setting of a Grade I listed building would be less than substantial that will plainly lessen the strength of the presumption against the grant of planning permission (so that a grant of permission would no longer have to be “wholly exceptional”), but it does not follow that the “strong presumption” against the grant of planning permission has been entirely removed.

29. For these reasons, I agree with Lang J’s conclusion 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 when carrying out the balancing exercise. I also agree with her conclusion that the Inspector did not give considerable importance and weight to this factor when carrying out the balancing exercise in this decision. He appears to have treated the less than substantial harm to the setting of the listed buildings, including Lyveden New Bield, as a less than substantial objection to the grant of planning permission. The Appellant’s Skeleton Argument effectively conceded as much in contending that the weight to be given to this factor was, subject only to irrationality, entirely a matter for the Inspector’s planning judgment. In his oral submissions Mr. Nardell contended that the Inspector had given considerable weight to this factor, but he was unable to point to any particular passage in the decision letter which supported this contention, and there is a marked contrast between the “significant weight” which the Inspector expressly gave in paragraph 85 of the decision letter to the renewable energy considerations in favour of the proposal having regard to the policy advice in PPS22, and the manner in which he approached the section 66(1) duty. It is true that the Inspector set out the duty in paragraph 17 of the decision letter, but at no stage in the decision letter did he expressly acknowledge the need, if he found that there would be harm to the setting of the many listed buildings, to give considerable weight to the desirability of preserving the setting of those buildings. This is a fatal flaw in the decision even if grounds 2 and 3 are not made out.

Ground 2

30. Grounds 2 and 3 are interlinked. The Respondents contend that the Inspector either misapplied the relevant policy guidance, or if he correctly applied it, failed to give adequate reasons for his conclusion that the harm to the setting of the listed buildings, including Lyveden New Bield, would in all cases be less than substantial. I begin with the policy challenge in ground 2. Lang J set out the policy guidance relating to setting in PPS5 and the Practice Guide in paragraphs 62-64 of her judgment. The contribution made by the setting of Lyveden New Bield to its significance as a heritage asset was undoubtedly a “principal controversial” issue at the inquiry. In paragraph 4.5.1 of his Proof of Evidence on behalf of the Local Planning Authority Mr. Mills, its Senior Conservation Officer, said:

“To make an assessment of the indirect impact of development or change upon an asset it is first necessary to make a judgment about the contribution made by its setting.”

Having carried out a detailed assessment of that contribution he concluded in paragraph 4.5.17:

“In summary, what Tresham created at the site was a designed experience that was intimately linked to the surrounding landscape. The presence of the four prospect mounts along with the raised terrace provide a clear indication of the relationship of the site with the surrounding landscape.”

Only then did he assess the impact of the proposed development on the setting by way of “a discussion as to the impact of the proposal on how the site is accessed and experienced by visitors.”

31. In its written representations to the inquiry English Heritage said of the significance and setting of Lyveden New Bield:

“The aesthetic value of the Lyveden Heritage Assets partly derives from the extraordinary symbolism and quality of the New Bield and the theatrical design of the park and garden. However, it also derives from their visual association with each other and with their setting. The New Bield is a striking presence when viewed on the skyline from a distance. The New Bield and Lyveden park and garden are wonderfully complemented by their undeveloped setting of woodland, pasture and arable land.”

In paragraph 8.23 English Heritage said:

“The New Bield and Lyveden park and garden were designed to be prominent and admired in their rural setting, isolated from competing structures. The character and setting of the Lyveden Heritage Assets makes a crucial contribution to their significance individually and as a group.”

32. In its written representations to the inquiry the National Trust said that each arm of the cruciform New Bield “was intended to offer extensive views in *all directions* over the surrounding parks and the Tresham estate beyond” (paragraph 11). The National Trust’s evidence was that “one if not *the Principal designed view from* within the lodge was from the withdrawing rooms which linked to the important Great Chamber and Great Hall on the upper two levels of the west arm of the lodge” (paragraph 12). The Trust contended that this vista survived today, and was directly aligned with the proposed wind farm site (emphasis in both paragraphs as in the original).

33. In his proof of evidence, the planning witness for the Stop Barnwell Manor Wind Farm Group said that:

“...the views of Lyveden New Bield from the east, south-east and south, both as an individual structure and as a group with its adjoining historic garden and listed cottage, are views of a very high order. The proposed turbines, by virtue of their monumental scale, modern mechanical appearance, and motion of the blades, would be wholly alien in this scene and would draw the eye away from the New Bield, destroying its dominating presence in the landscape.”

34. This evidence was disputed by the Appellant’s conservation witness, and the Appellant rightly contends that a section 288 appeal is not an opportunity to re-argue the planning merits. I have set out these extracts from the objectors’ evidence at the inquiry because they demonstrate that the objectors were contending that the undeveloped setting of Lyveden New Bield made a crucial contribution to its significance as a heritage asset; that the New Bield (the lodge) had been designed to be a striking and dominant presence when viewed in its rural setting; and that the lodge had been designed so as to afford extensive views in all directions over that rural setting. Did the Inspector resolve these issues in his decision, and if so, how?
35. I endorse Lang J’s conclusion that the Inspector did not assess the contribution made by the setting of Lyveden New Bield, by virtue of its being undeveloped, to the significance of Lyveden New Bield as a heritage asset. The Inspector did not grapple with (or if he did consider it, gave no reasons for rejecting) the objectors’ case that the setting of Lyveden New Bield was of crucial importance to its significance as a heritage asset because Lyveden New Bield was designed to have a dominating presence in the surrounding rural landscape, and to afford extensive views in all directions over that landscape; and that these qualities would be seriously harmed by the visual impact of a modern man-made feature of significant scale in that setting.
36. The Inspector’s reason for concluding in paragraph 51 of the decision that the presence of the wind turbine array, while clearly having a detrimental effect on the setting of Lyveden New Bield, would not reach the level of substantial harm, was that it would not be so distracting that it would not prevent, or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield or Lyveden Old Bield or their relationship to each other.
37. That is, at best, only a partial answer to the objectors’ case. As the Practice Guide makes clear, the ability of the public to appreciate a heritage asset is one, but by no means the only, factor to be considered when assessing the contribution that setting makes to the significance of a heritage asset. The contribution that setting makes does not depend on there being an ability to access or experience the setting: see in particular paragraphs 117 and 122 of the Practice Guide, cited in paragraph 64 of Lang J’s judgment.

Ground 3

38. The Inspector said that his conclusion in paragraph 51 of the decision letter that the presence of the wind turbine array would not be so distracting that it would prevent or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield had been reached on the basis of his conclusions in paragraph 50. In that paragraph, having said that the wind turbine array “would be readily visible as a backdrop to the garden lodge in some directional views, from the garden lodge itself in views towards it, and from the prospect mounds, from within the orchard, and various other places around the site, at a separation distance of between 1 and 2 kilometres”, the Inspector gave three reasons which formed the basis of his conclusion in paragraph 51.
39. Those three reasons were:
- (a) The turbines would not be so close, or fill the field of view to the extent, that they would dominate the outlook from the site.
 - (b) The turbine array would not intrude on any obviously intended, planned view out of the garden or the garden lodge (which has windows all around its cruciform perimeter).
 - (c) Any reasonable observer would know that the turbine array was a modern addition to the landscape, separate from the planned historic landscape, or building they were within, or considering, or interpreting.
40. Taking those reasons in turn, reason (a) does not engage with the objectors’ contention that the setting of Lyveden New Bield made a crucial contribution to its significance as a heritage asset because Lyveden New Bield was designed to be the dominant feature in the surrounding rural landscape. A finding that the “readily visible” turbine array would not dominate the outlook from the site puts the boot on the wrong foot. If this aspect of the objectors’ case was not rejected (and there is no reasoned conclusion to that effect) the question was not whether the turbine array would dominate the outlook from Lyveden New Bield, but whether Lyveden New Bield would continue to be dominant within its rural setting.
41. Mr. Nardell’s submission to this Court was not that the Inspector had found that there were no planned views (cf. the submission recorded in paragraph 70 of Lang J’s judgment), but that the Inspector had concluded that the turbine array would not intrude into obviously intended or planned views if any. That submission is difficult to understand given the Inspector’s conclusion that the turbine array would be “readily visible” from the garden lodge, from the prospect mounds, and from various other places around the site. Unless the Inspector had concluded that there were no intended or planned views from the garden or the garden lodge, and he did not reach that conclusion (see paragraph 47 of the decision letter), it is difficult to see how he could have reached the conclusion that the “readily visible” turbine array would not “intrude” on any obviously intended or planned views from the garden lodge. I am inclined to agree with Mr. Nardell’s alternative submission that the Inspector’s conclusion that while “readily visible” from the garden lodge, the turbine array would not “intrude” on any obviously intended or planned view from it, is best understood

by reference to his third conclusion in paragraph 50. While visible in views from the garden lodge the turbine array would not intrude upon, in the sense of doing substantial harm to, those views, for the reasons given in the last sentence of paragraph 50.

42. I confess that, notwithstanding Mr. Nardell's assistance, I found some difficulty, not in understanding the final sentence of paragraph 50 – plainly any reasonable observer would know that the turbine array was a modern addition to the landscape and was separate from the planned historic landscape at Lyveden New Bield – but in understanding how it could rationally justify the conclusion that the detrimental effect of the turbine array on the setting of Lyveden New Bield would not reach the level of substantial harm. The Inspector's application of the "reasonable observer" test was not confined to the effect of the turbine array on the setting of Lyveden New Bield. As Lang J pointed out in paragraph 57 of her judgment, in other paragraphs of his decision letter the Inspector emphasised one particular factor, namely the ability of members of the public to understand and distinguish between a modern wind turbine array and a heritage asset, as his reason for concluding either that the proposed wind turbines would have no impact on the settings of other heritage assets of national significance [28] – [31]; or a harmful impact that was "much less than substantial" on the setting of a Grade 1 listed church in a conservation area [36].
43. Matters of planning judgment are, of course, for the Inspector. No one would quarrel with his conclusion that "any reasonable observer" would understand the differing functions of a wind turbine and a church and a country house or a settlement [30]; would not be confused about the origins or purpose of a settlement and a church and a wind turbine array [36]; and would know that a wind turbine array was a modern addition to the landscape [50]; but no matter how non-prescriptive the approach to the policy guidance in PPS5 and the Practice Guide, that guidance nowhere suggests that the question whether the harm to the setting of a designated heritage asset is substantial can be answered simply by applying the "reasonable observer" test adopted by the Inspector in this decision.
44. If that test was to be the principal basis for deciding whether harm to the setting of a designated heritage asset was substantial, it is difficult to envisage any circumstances, other than those cases where the proposed turbine array would be in the immediate vicinity of the heritage asset, in which it could be said that any harm to the setting of a heritage asset would be substantial: the reasonable observer would always be able to understand the differing functions of the heritage asset and the turbine array, and would always know that the latter was a modern addition to the landscape. Indeed, applying the Inspector's approach, the more obviously modern, large scale and functional the imposition on the landscape forming part of the setting of a heritage asset, the less harm there would be to that setting because the "reasonable observer" would be less likely to be confused about the origins and purpose of the new and the old. If the "reasonable observer" test was the decisive factor in the Inspector's reasoning, as it appears to have been, he was not properly applying the policy approach set out in PPS5 and the Practice Guide. If it was not the decisive factor in the Inspector's reasoning, then he did not give adequate reasons for his conclusion

that the harm to the setting of Lyveden New Bield would not be substantial. Since his conclusion that the harm to the setting of the designated heritage assets would in all cases be less than substantial was fed into the balancing exercise in paragraphs 85 and 86, the decision letter would have been fatally flawed on grounds 2 and 3 even if the Inspector had given proper effect to the section 66(1) duty.

Conclusion

45. For the reasons set out above, which largely echo those given by Lang J in her judgment, I would dismiss this appeal.

Lady Justice Rafferty:

46. I agree.

The Vice President:

47. I also agree.

Appendix 5.0
Palmer v Herefordshire Council & ANR
[2016] EWCA Civ 1061



Neutral Citation Number: [2016] EWCA Civ 1061

Case No: C1/2015/3383

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT: PLANNING COURT
HIS HONOUR JUDGE DAVID COOKE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/11/2016

Before:

LORD JUSTICE MOORE-BICK
LORD JUSTICE LEWISON
and
LORD JUSTICE HAMBLÉN

Between:

PALMER
- and -
HEREFORDSHIRE COUNCIL & ANR

Appellant

Respondent

Mr James Burton (instructed by Kidwells Law Solicitors Ltd) for the Appellant
Mr Matthew Reed (instructed by Herefordshire Council) for the Respondent

Hearing date: 25/10/2016

Approved Judgment

Lord Justice Lewison:

1. On 15 December 2014 Herefordshire Council (“the Council”), as local planning authority, granted planning permission for the erection of four poultry broiler units and associated infrastructure at Flag Station, Mansel Lacy, Herefordshire. Mr David Palmer, who lives nearby at Shetton Barns and has a holiday lettings business, challenged that grant on a number of grounds. HH Judge David Cooke rejected all grounds of challenge in his judgment of 22 September 2015 ([2015] EWHC 2688 (Admin)). He granted permission to appeal to this court on one ground only, namely that the Council had failed to comply with its statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The judge described the proposed development thus:

“The proposed development consists of four large sheds, each approximately 95m long, 25m wide and 6m high. Each will have three feed silos adjacent, somewhat taller than the shed, and accommodate 45,000 broiler chickens at any one time.”
3. Some 50 metres from the broiler units lies Flag Station. It is a disused railway station, built in about 1863, and is a Grade II listed building. Flag Station is owned by, and under the control of, the developer and forms part of the same agricultural unit as the site of the proposed broiler sheds. Mr Palmer’s case is that the Council failed to demonstrate that it gave appropriate weight to the desirability of preserving the setting of that listed building, and failed to consider in that context non-visual harm to its setting, in particular from the noise and smell that would be occasioned by the operation of the broiler units and the spreading of manure on open fields.
4. Section 66(1) provides, so far as material:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”
5. Since section 66(1) requires that “special” regard must be paid to the desirability of preserving a listed building or its setting, this means that that desirability must be given “considerable importance and weight.” *The Bath Society v Secretary of State for the Environment* [1991] 1 WLR 1303, 1319. In this context the concept of “preserving” the building or its setting means “doing no harm.” *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141, 150. Although the most obvious way in which the setting of a listed building might be harmed is by encroachment or visual intrusion, it is common ground that, in principle, the setting of a listed building may be harmed by noise or smell. The degree of harm (if any) is a matter of judgment for the decision maker, but if the decision maker decides that there is harm, he is not entitled to give it such weight as he thinks fit. To the contrary he must give it considerable weight: *East Northamptonshire DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137, [2015] 1 WLR 45 at [22]. However, this does not mean that the weight that the

decision maker must give to the desirability of preserving the building or its setting is uniform. It will depend on, among other things, the extent of the assessed harm and the heritage value of the asset in question: *East Northamptonshire DC* at [28]; *R (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin); [2015] JPL 22 at [49]. This is consistent with paragraph 132 of the National Planning Policy Framework (“the NPPF”) which states:

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.”

6. On the same theme paragraph 134 of the NPPF states:

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

7. The existence of the statutory duty under section 66(1) does not alter the approach that the court takes to an examination of the reasons for the decision given by the decision maker: *Jones v Mordue* [2015] EWCA Civ 1243; [2016] 1 WLR 2682. It is not for the decision maker to demonstrate positively that he has complied with that duty: it is for the challenger to demonstrate that at the very least there is substantial doubt whether he has. Where the decision maker refers to the statutory duty, the relevant parts of the NPPF and any relevant policies in the development plan there is an inference that he has complied with it, absent some positive indication to the contrary: *Jones v Mordue* at [28]. In examining the reasons given by a local planning authority for a decision, it is a reasonable inference that, in the absence of contrary evidence, they accepted the reasoning of an officer’s report, at all events where they follow the officer’s recommendation: *R (Fabre) v Mendip DC* (2000) 80 P&CR 500, 511; *R (Zurich Assurance Ltd) v North Lincolnshire Council* [2012] EWHC 3708 at [15].
8. In reading an officer’s report, the court must not impose too demanding a standard: *R (Morge) v Hampshire County Council* [2011] UKSC 2, [2011] 1 WLR 268 at [36]. Such reports are addressed to a knowledgeable readership including members of the planning committee who, by virtue of that membership, may be expected to have substantial local and background knowledge. That background knowledge includes a working knowledge of the statutory test for determination of a planning application: *R (Zurich Assurance Ltd) v North Lincolnshire Council* at [15]. Where a claim for judicial review is based on alleged deficiencies in an officer’s report to the planning committee it normally needs to be shown that the overall effect of the report significantly misleads the committee about material matters which remain uncorrected at the meeting of the planning committee before the relevant decision is taken: *Samuel Smiths Old Brewery (Tadcaster) v Selby District Council* (18 April 1997). The ultimate test is whether the reasons enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal important controversial issues. The reasoning must not give rise to a substantial doubt (as opposed to what has been called a “forensic doubt”) as to whether the decision maker

erred in law, although such an inference will not be readily drawn: *South Bucks DC v Porter (No 2)* [2004] UKHL 33, [2004] 1 WLR 1953 at [36].

9. The first question, as it seems to me, is to consider whether the Council (through the advice it got from its officers) identified any (and if so what) harm to Flag Station. There was a debate about whether the judge found that the Council had identified harm. This turned upon a meticulous examination of the language of the judgment. But that is a sterile debate, since we have the primary documents.
10. Before the planning officer prepared his reports for the committee, the Council took the advice of internal consultees: Ms Tinkler, a landscape consultant, and Ms Lowe, a senior buildings conservation officer. In her report of 1 May 2014 Ms Tinkler reported that there were several heritage assets with “could potentially be affected” by the proposals, and went on to consider potential effects. In paragraph 5g of her report she said:

“It is possible that the buildings would be visible from Flag Station and they would certainly adversely affect its setting. The amenity of the residents here is also likely to be adversely affected by traffic, activity, noise, smell and so on. It should be demonstrated that any adverse effects can be satisfactorily mitigated.”
11. Her conclusion in paragraph 6 was:

“I do not object to the proposals in principle but effective and appropriate mitigation is required in order to avoid adverse effects in the longer term, and to safeguard the amenity of residents at Flag Station and Shetton Barns to the south west. Without it, the development would be contrary to planning policy including UDP Policy LA2 Landscape character.”
12. Paragraph 5g is not, in my judgment, a statement that the proposals *would* adversely affect Flag Station or its setting. Rather it is a statement that they would adversely affect Flag Station or its setting *in the absence of satisfactory mitigation*. That is the only reading which is consistent with the last sentence of paragraph 5g and also Ms Tinkler’s overall conclusion. What is noticeable about her conclusion is that with the mitigation measures adverse effects would be *avoided*, not that they would be outweighed by countervailing benefits of the development. In addition policy LS2 states that:

“Proposals for new development that would adversely affect either the overall character of the landscape ... or its key attributes or features will not be permitted.”
13. Ms Tinkler concluded that the proposals would comply with that policy. That is consistent with her view that the proposed mitigation measures would avoid adverse effects. The effects she discussed were not limited to visual matters, but also included such matters as noise and smell.

14. Ms Lowe ticked the box on her response stating that there was no objection to the proposed development. She began by saying:

“Given the proximity of the proposal to the grade II listed Flag Station and its platform it is necessary to ensure that there is compliance with policy HBA4, Setting of Listed Buildings.”

15. The reference to policy HBA4 is a reference to the part of the development plan that states:

“HBA4 Setting of listed buildings

Development proposals which would adversely affect the setting of a listed building will not be permitted. The impact of the proposal will be judged in terms of scale, massing, location, detailed design and the effects of its uses and operations.”

16. She said that the current proposal would not significantly affect the setting of Flag Station, and gave reasons for her view. Her conclusion was that:

“Overall the proposal should have no detrimental impact on the setting of the listed building, Flag Station, given the mitigation measures proposed.”

17. Again, her conclusion was not that a detrimental impact on Flag Station would be outweighed by countervailing benefits, but that there would be *no* detrimental effect. Mr Burton, for Mr Palmer, placed some reliance on a later e-mail from Ms Lowe of 12 September 2014 but that, in my judgment, simply repeated the points that she had already made, and added observations about other heritage assets which play no part in this appeal.

18. The views of these two specialist officers were accurately summarised in the planning officer’s report for the planning committee’s meeting of 24 September 2014. That report also adverted to objections to the development which included “noise, dust, pests (flies) and odour issues in relationship to residential amenity”. Paragraph 6.12 of the report, under the heading “Landscape and Heritage” stated that the setting of Flag Station “will be affected as a result of the proposed development” and referred expressly to the duty under section 66(1). The report then concluded in paragraph 6.14:

“The Conservation Manager (Historic Buildings) has considered the impact of the proposal on these historic assets and concludes that, with mitigation, including retention of woodland, the proposal is considered to meet the requirements of key policies HBA4 and LA4 of the HUDP and section 12 Conserving and enhancing the historic environment. (NPPF)”

19. This rather condensed statement needs to be unpacked a little. Compliance with policy HBA4 must mean that in the opinion of the officer the development would not adversely affect the setting of a listed building. Policy HBA4, it will be recalled, deals not only with visual impact but also the effects of the “uses and operations” of the

proposed development. The reference to policy LA4 is a reference to the part of the development plan that states, so far as material:

“LA4 Protection of historic parks and gardens

Development which would destroy, damage or otherwise adversely affect the historic structure, character, appearance, features or setting (including the designed visual envelope) of a registered park or garden will not be permitted.”

20. Compliance with this policy must mean that in the opinion of the officer the development would not damage or otherwise adversely affect the character, appearance, features or setting of the heritage assets.
21. Mr Burton argued that paragraph 6.14 of the officer’s report (a) did not encompass Flag Station and (b) was the officer’s own view rather than that of Ms Tinkler and Ms Lowe. The first point is, in my judgment, wrong. The reference in paragraph 6.14 to “these assets” is a reference to the assets previously discussed in that section of the report which included Flag Station. I do not think that the second point is right either, since paragraph 6.14 appears to be recording the views of Ms Lowe. It correctly records that her conclusion was that the proposal met the requirements of HBA4. That was expressly so in her first report in relation to Flag Station and was impliedly so in her second report in relation to Flag Station and the other listed buildings. Compliance with LA4 in relation to parks and gardens is also to be inferred from her second report and compliance with section 12 of the NPPF follows from meeting the requirements of HBA4 and LA4. But even if it is right, I cannot see what difference it makes. The officer who prepared the report was a professional planning officer, and he was entitled to form his own view for the benefit of the committee having informed himself by reference to the views of his specialist colleagues.
22. The proposal was deferred at the September meeting of the planning committee and came back before them at the meeting on 19 November. The planning officer prepared an updated version of his report. (In fact it was a different officer but that, I think, is immaterial). In paragraph 4.4 he reported that the Environmental Health Manager did not expect “any nuisance from light, dust, noise or odour (providing best practice is observed as per EP).” In paragraph 4.6 he addressed the question of odour, and concluded by saying that the Environment Agency did not “perceive odour to be a problematic issue.” He again reported the view of the Conservation Manager (Building Conservation) that:

“Overall the proposal should have no detrimental impact on the setting of the listed building, Flag Station, given the mitigation measures proposed.”
23. Paragraph 4.9 again accurately recorded the view of the Conservation Manager (Landscape) that effective mitigation measures were required in order to “avoid adverse effects.” In his summary of objections he recorded that there had been objections based on:

“Odour issues – all in relation to residential amenity”

24. Paragraph 6.12 again referred expressly to the duty under section 66 (1) and the officer reached the conclusion in paragraph 6.14 as he had in the report for the September meeting with minor and immaterial linguistic changes. Once again that conclusion referred to policies HBA4 and LA4, as well as to section 12 of the NPPF (which deals with heritage assets).
25. The important point is that his advice was that with mitigation measures, the proposed development complied with policy HBA4 (i.e. no adverse effect on the listed building or its setting) and with policy LA4 (i.e. no damage or adverse effect on the historic structure, character, appearance, features or setting). It was also said to comply with section 12 of the NPPF which says in terms that “great weight” must be given to the conservation of a heritage asset. In paragraph 6.31 the report stated:

“There have been a number of competing elements to consider, not least of which have been the economic and amenity issues, landscape and historic heritage issues. The preceding sections of this report set out these and other issues and how they have been addressed through the application submission and/or the imposition of conditions.”
26. Finally in paragraph 6.34 the report concluded that having considered the HUDP and the NPPF “it is considered that the proposal complies with the relevant policies contained therein”. Those policies (which were mentioned in the body of the report) included policy HBA4 and policy LA4 (on which I have already commented).
27. Before the meeting Ms Hamilton, a planning consultant retained by the objectors, wrote in to say (among other things) that the officer’s report made no mention of any impacts other than visual ones and said that Flag Station would be “affected by the most intense odours”. This point was reported to the planning committee as an additional representation. Under the heading “Officer comments” the planning officer said:

“Flag Station is in the control of the applicant, it is not unusual for dwellings on poultry units to be in close proximity to the buildings.”
28. The planning committee met on 19 November when the proposal was discussed. At some stage they had made a site visit. The question of odour was raised once again and the Environmental Health Officer said that even if properties were within 200 metres of the development “noise and odour levels would be acceptable.” At the end of the debate the local ward member said that odour would rarely be detectable because of the prevailing wind. The committee resolved to grant the permission.
29. It seems to me that the clear thrust of the reports to the planning committee, and the views of the specialist officers that underlay and were summarised in those reports, was that if the mitigation measures were put in place there would be no adverse effect on the setting of the listed building. I would accept Mr Reed’s submission for the Council that where proposed development would affect a listed building or its settings in different ways, some positive and some negative, the decision maker may legitimately conclude that although each of the effects has an impact, taken together there is no overall adverse effect on the listed building or its setting. That is what the

officers concluded in this case. That is borne out by the overall conclusion that the proposed development would comply with policies HBA4 and LA4. Mr Burton submitted that policies in development documents pull in different directions, and referred to policy E16 which dealt with intensive livestock rearing. I have no difficulty with the proposition that different policies can point in different directions. In such a case the decision maker may have to decide whether to prefer one policy over another and to grant planning permission even though the requirements of one relevant policy have not been satisfied. But that is not this case. The report did not say that policy E16 overrode or outweighed policy HBA4: it said that policy HBA4 had been complied with. It is difficult to think of a policy that gives greater weight to the desirability of not harming a listed building or its setting than a policy that says that development that would adversely affect the setting of a listed building “will not be permitted”. (I pause to note that the relevant policy considered in *Jones v Mordue* was in much less absolute terms).

30. In my judgment the conclusion that the proposals would comply with policy HBA4 necessarily entails the proposition that there is no adverse effect on the setting of a listed building and that either section 66(1) is not engaged, or if engaged, the policy itself is sufficient compliance. Likewise the explicit reference to section 12 of the NPPF, in the absence of contrary evidence, points to the conclusion that any duty under section 66(1) was complied with.
31. Mr Burton suggested that if that had been the Council’s conclusion it would have been perverse, but the grounds of challenge do not include a perversity challenge and the permission to appeal does not permit the point to be taken either.
32. Mr Burton next argued that in coming to its conclusion the Council did not consider the effect of odour in the context of its statutory duty under section 66(1), even if it did consider the question of odour as a material consideration. It is thus argued that the Council carried out a flawed balancing exercise, in the same way as the inspector did in *East Northamptonshire DC*, by not considering odour through the filter of the special regard required by section 66(1). The first point to make is that Ms Tinkler did consider the potential effects of, among other things, noise and smell and in my judgment the mitigation measures she proposed were intended to deal with all those aspects of what she compendiously described as “amenity”. Her consideration included the setting of Flag Station. Second, policy HBA4 also deals with the effect of the uses and operations of the proposed development, and the officers’ view was that policy HBA4 had been complied with.
33. The judge’s conclusion on this argument is at [55]. He said:

“Taken in the round, it seems to me that the sensible inference from all this is not that the officers and the committee failed to take account of impacts other than visual ones on the setting of the Flag Station, but that they reached a conclusion about the impact on the setting of the listed building in which they considered that the main potential impact on that setting was visual, and so naturally concentrated on that. It is not in my judgment necessary for officers to refer individually to every potential aspect of the impact on the setting, nor is there any requirement that any detailed or structured assessment should

be made of every such aspect. It is not therefore a proper inference from the fact that they have failed to mention a particular point that it has been ignored. Given the amount of focus on noise and odour issues generally in this case, it is not credible that either officers or committee members did not have them in mind when considering the impact on the listed building. The assessment of that impact was a matter for the planning judgment of the committee. There is no doubt that the duty was considered and a judgment exercised, and I am not persuaded that any error of law was committed in doing so.”

34. I agree. Particularly telling is the observation of the Environmental Health Officer in the course of the meeting that the noise and odour levels would be acceptable, supplemented by the closing remarks of the ward councillor that the odour would rarely be detectable. It is also clear as a matter both of law and planning policy that harm (if it exists) is to be measured against both the scale of the harm and the significance of the heritage asset. Although the statutory duty requires special regard to be paid to the desirability of not harming the setting of a listed building, that cannot mean that *any* harm, however minor, would necessarily require planning permission to be refused. I agree, therefore, with what the judge said at [61]:

“It is still plainly the case that it is for the decision taker to assess the nature and degree of harm caused, and in the case of harm to setting rather than directly to a listed building itself, the degree to which the impact on the setting affects the reasons why it is listed. Further, it is for the decision taker then to balance that against the benefits of the development. The duty to accord “considerable weight” to the desirability of avoiding harm does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight. The desirability of avoiding a great harm must be greater than that of avoiding a small one. The desirability of avoiding harm to a high category heritage asset must be greater than that of avoiding a similar harm to a less important asset.”

35. Mr Burton also took exception to the planning officer’s comment in his update to the committee, in response to the point raised about odour, that Flag Station was in the control of the applicant and that “it is not unusual for dwellings on poultry units to be in close proximity to the buildings.” Like the judge I do not read this comment as concentrating on the ownership of the building. The comment did not in fact mention ownership, but only control. I agree with the judge at [56] that the thrust of the observation was that “it was relevant that the listed building was in an agricultural setting and might be expected to be affected by otherwise acceptable agricultural uses”. In other words the setting of the listed building was an agricultural setting in the agricultural unit of which it formed part. As Mr Reed submitted if the point raised about odour had affected the officer’s view that policy HBA4 was complied with, his report would have been amended. That seems to me to be a fair point. Moreover, as Mr Reed also submitted since everyone knew that Flag Station was a listed building, and the officer knew (as his report demonstrates) that both the statutory duty and the

restrictive policies applied to it, it would have been extraordinary for him to have told the planning committee that they could ignore the listed status of Flag Station. Mr Palmer's planning consultant Ms Hamilton made a witness statement which said that, at the meeting of the committee, members raised the question of noise and smell affecting Flag Station and that they were told by the planning officer that Flag Station was not "considered to be a protected building because it was in the ownership of the applicant and would be inhabited by an agricultural worker". The judge rejected this evidence on the basis that the words attributed to the planning officer did not purport to be a quotation and that they were inconsistent with the other materials before the court. I am not prepared to say that he was wrong to do so, although it would have been preferable for the Council to have specifically responded to this evidence. In particular I do not consider that this evidence can be taken as meaning that the officer advised the committee that the listed status of Flag Station could be ignored when everyone knew that it could not be.

36. Finally Mr Burton said that the Council had failed to consider the significance of Flag Station and why it had been listed. This was a reference to paragraph 129 of the NPPF which says that:

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

37. I found it very difficult to understand what difference this made. We are dealing with a building that was originally designed as a railway station, but the most significant impact on its setting was surely the closure of the railway line. It is now in use, as I understand it, as an agricultural dwelling forming part of an agricultural unit. The specialist officers, and the planning officer in overall charge of the application, have all concluded that as things now stand there would be no adverse effects on Flag Station or its setting. That as it seems to me is enough.
38. Mr Burton sought to raise an additional point that was not taken before the judge (and is not one of the grounds of challenge raised in the claim form or the Amended Statement of Facts and Grounds). What is said is that the Council failed to give notice to English Heritage (now Historic England) as required by regulation 5A of the Planning (Listed Buildings and Conservation Areas) Regulations 1980. The reason why it is said that this ground was not raised earlier is that Mr Palmer was unaware that notice had not been given and that the Council ought to have disclosed that omission pursuant to its duty of candour.
39. The officer's reports to the planning committee (both in September and November) had a section headed "Statutory Consultees". The only statutory consultees listed were Natural England and the Environment Agency. In my judgment it should have been apparent to Mr Palmer's team that a third statutory consultee, English Heritage, had been omitted. In addition if this point had been taken in the claim form the Council

would have had the opportunity to inquire of Historic England whether it had any objection to the proposed development. If it had none, then that would have been a good reason for refusing to quash the grant of planning permission despite the procedural error: *R (Loader) v Rother DC* [2016] EWCA Civ 795. The late application to amend has deprived the Council of that opportunity. In addition if a challenge were to be permitted on this ground it would be out of time under CPR Part 54.5 and would, moreover, be a ground of challenge for which the Planning Court had not given permission.

40. I would refuse permission to advance the new ground and dismiss the appeal.

Lord Justice Hamblen:

41. I agree.

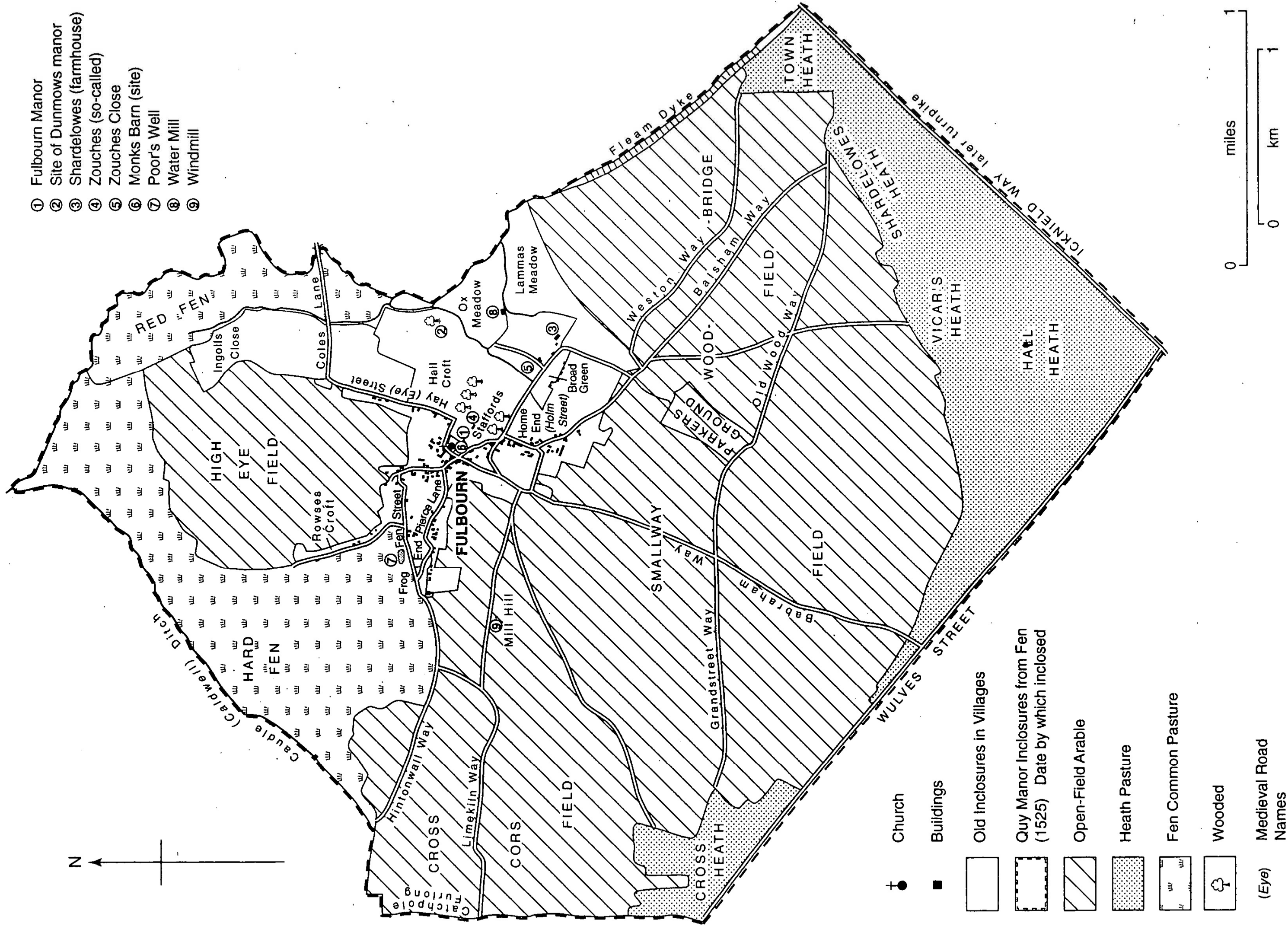
Lord Justice Moore-Bick, Vice-President of the Court of Appeal, Civil Division:

42. I also agree.

Appendix 6.0

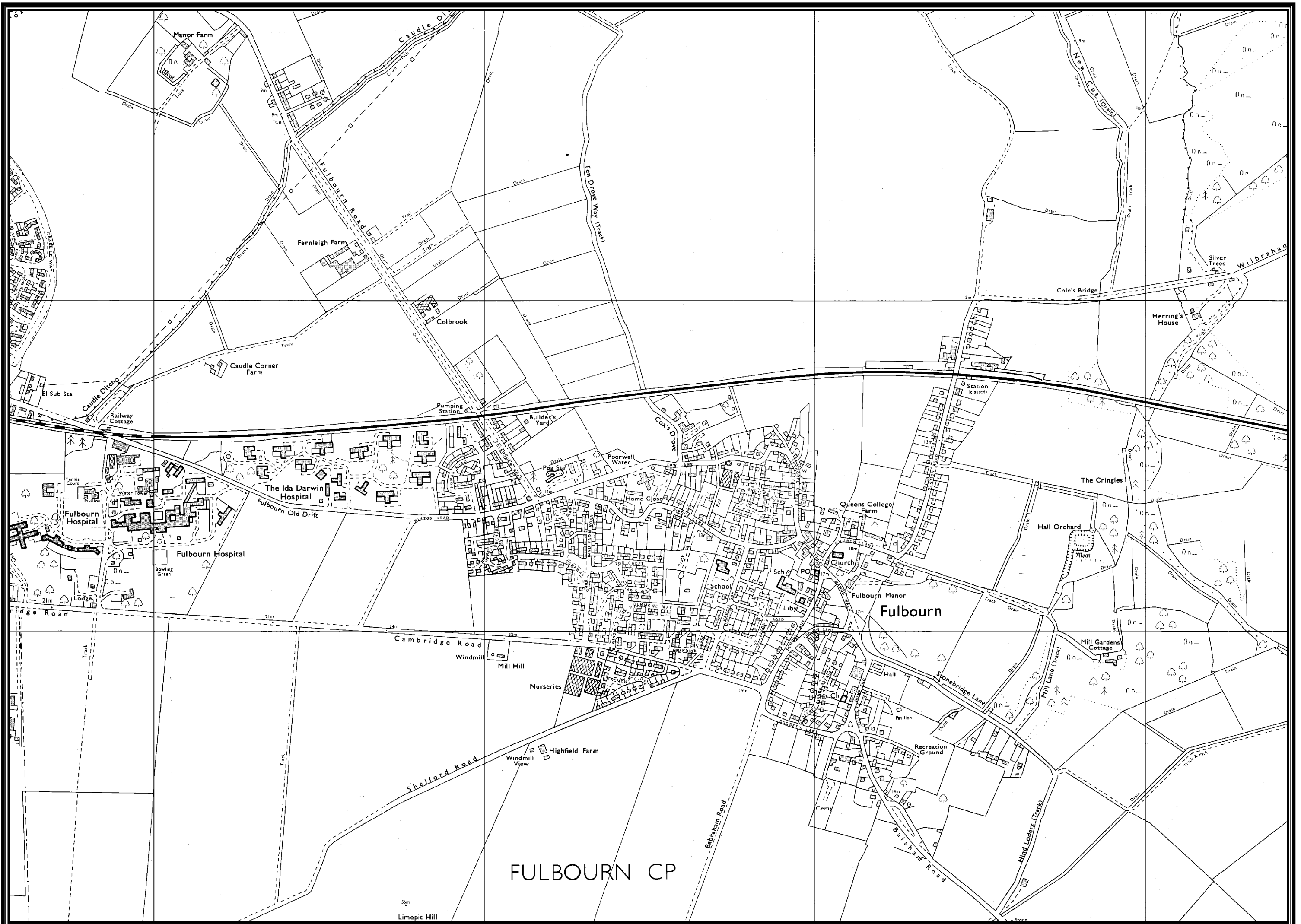
Historic Map Regression

FULBOURN C. 1800







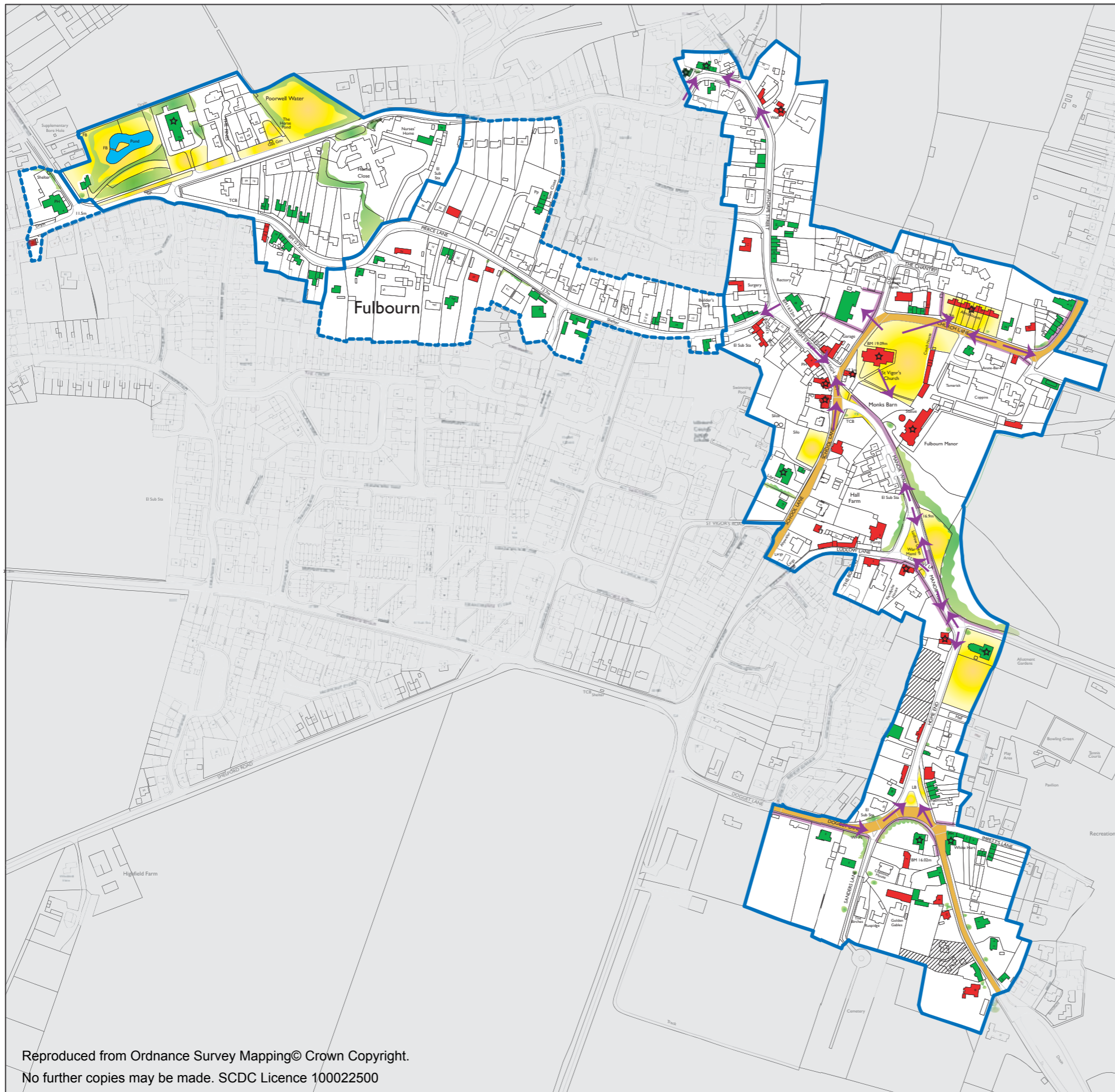



Appendix 7.0
Maps of the Fulbourn Conservation Area


Fulbourn Conservation Area I


Townscape Appraisal Map


(Not to scale)




 Conservation area boundary


 Proposed extension to boundary

 Listed buildings


 Positive buildings


 Negative buildings


 Positive open spaces

 Important trees

 Important views

 Focal buildings

 Historic walls or boundary railings

 Primary traffic route

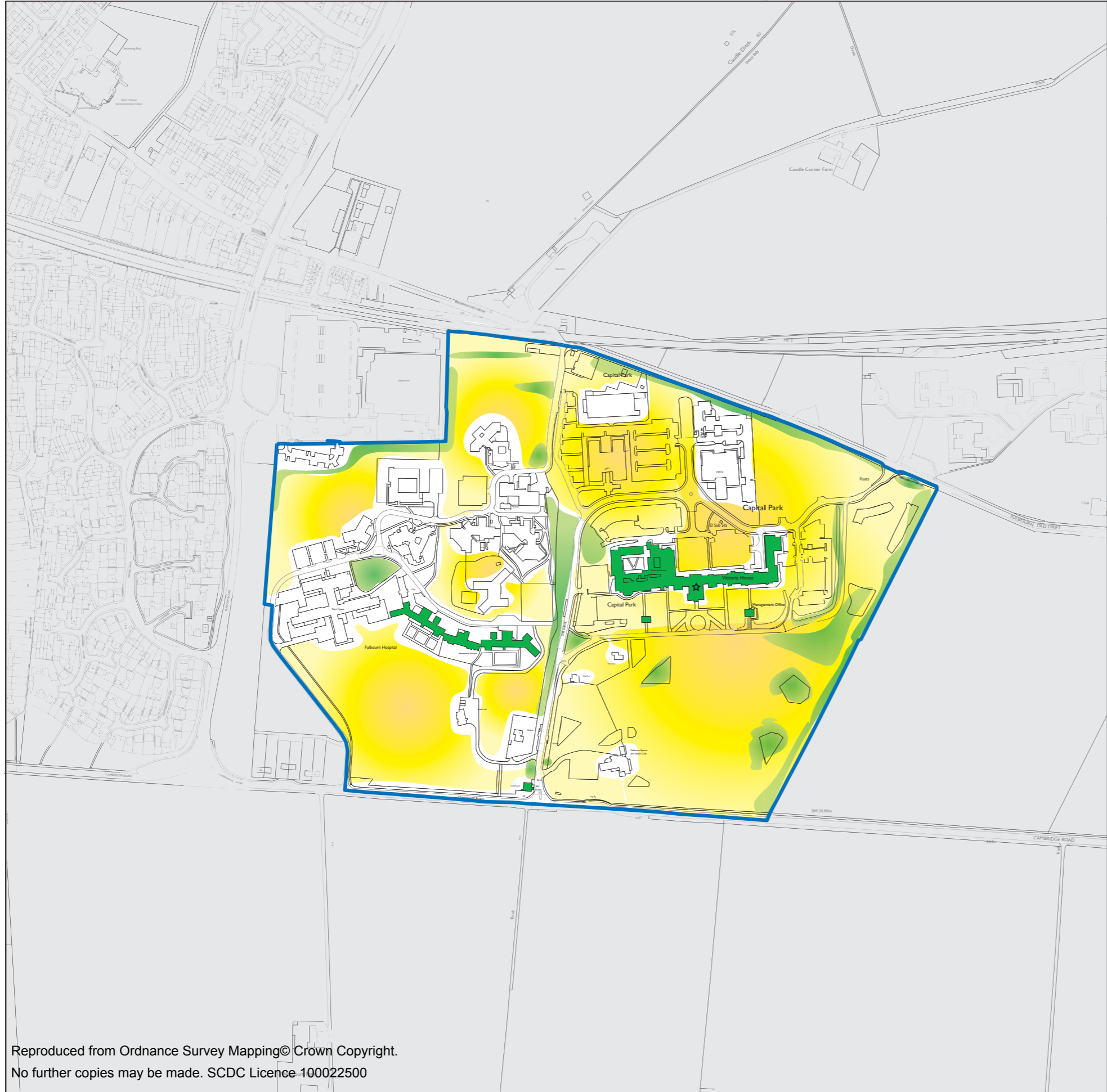


South Cambridgeshire District Council
Conservation Area Appraisals







Fulbourn Conservation Area 2

Townscape Appraisal Map

(Not to scale)



Reproduced from Ordnance Survey Mapping© Crown Copyright.
No further copies may be made. SCDC Licence 100022500

-  Conservation area boundary
-  Proposed extension to boundary
-  Positive buildings
-  Positive open spaces
-  Important trees
-  Focal buildings



Appendix 8.0
Site Context Photographs

Approximate extent of the Site

Cox's Drive



SITE CONTEXT PHOTOGRAPH 1: VIEW FROM COX'S DRIVE, LOOKING NORTH

Approximate extent of the Site

Cow Lane

Poorwell Water



SITE CONTEXT PHOTOGRAPH 2: VIEW FROM COW LANE, LOOKING NORTH

**LAND AT TERVERSHAM ROAD,
FULBOURN**

**SITE CONTEXT
PHOTOGRAPHS: 1 - 2**

**RECOMMENDED VIEWING
DISTANCE: 30CM @A1**

DATE TAKEN: JUNE 2014

PROJECT NUMBER: 22430

**BARTON
WILLMORE**



SITE CONTEXT PHOTOGRAPH 3: VIEW FROM INTERSECTION BETWEEN PIERCE LANE AND COW LANE, LOOKING NORTH



SITE CONTEXT PHOTOGRAPH 4: VIEW FROM TEVERSHAM ROAD, LOOKING EAST

**LAND AT TEVERSHAM ROAD,
FULBOURN**

**SITE CONTEXT
PHOTOGRAPHS: 3 - 4**

**RECOMMENDED VIEWING
DISTANCE: 30CM @A1**

DATE TAKEN: JUNE 2014

PROJECT NUMBER: 22430

**BARTON
WILLMORE**



SITE CONTEXT PHOTOGRAPH 5: VIEW FROM CAMBRIDGE ROAD, LOOKING NORTH



SITE CONTEXT PHOTOGRAPH 6: VIEW FROM PUBLIC RIGHT OF WAY 95/15, LOOKING SOUTH

**LAND AT TERVERSHAM ROAD,
FULBOURN**

**SITE CONTEXT
PHOTOGRAPHS: 5 - 6**

**RECOMMENDED VIEWING
DISTANCE: 30CM @A1**

DATE TAKEN: JUNE 2014

PROJECT NUMBER: 22430

**BARTON
WILLMORE**

PROW 95/15

Approximate extent of the Site

Vegetation associated with a pond



SITE CONTEXT PHOTOGRAPH 7: VIEW FROM PUBLIC RIGHT OF WAY 95/15, LOOKING SOUTH

Disused Windmill on Cambridge Road

Golf Course

Golf Course



SITE CONTEXT PHOTOGRAPH 8: VIEW FROM WANDLEBURY COUNTRY PARK, LOOKING NORTH

LAND AT TERVERSHAM ROAD, FULBOURN

SITE CONTEXT PHOTOGRAPHS: 7 - 8

RECOMMENDED VIEWING DISTANCE: 30CM @A1

DATE TAKEN: JUNE 2014

PROJECT NUMBER: 22430

BARTON WILLMORE

