

Heritage Statement Appendices

Appendix 1: Legislation and Planning Policy

Legislation

Legislation relating to the built historic environment is primarily set out within the *Planning (Listed Buildings and Conservation Areas) Act 1990*,⁶ which provides statutory protection for Listed Buildings and Conservation Areas.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

“In considering whether to grant planning permission [or permission in principle] 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.”⁷

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

“Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.”⁸

A judgment in the Court of Appeal (‘Mordue’) has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134 of the 2012 draft of the NPPF, the requirements of which are now given in paragraph 208 of the revised NPPF, see below), this is in keeping with the requirements of the 1990 Act.⁹

With regards to development within Conservation Areas, **Section 72(1)** of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

“In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

Unlike Section 66(1), Section 72(1) of the Act does not make reference to the setting of a Conservation Area. This makes it plain that it is the character and appearance of the designated Conservation Area that is the focus of special attention.

⁶ UK Public General Acts, *Planning (Listed Buildings and Conservation Areas) Act 1990*

⁷ *Planning (Listed Buildings and Conservation Areas) Act 1990*, Section 66(1)

⁸ *Barnwell Manor Wind Energy Ltd v (1) East Northamptonshire DC & Others* [2014] EWCA Civ 137. para. 24

⁹ *Jones v Mordue* [2015] EWCA Civ 1243

National Planning Policy Framework (December 2024)

National policy and guidance is set out in the Government's National Planning Policy Framework (NPPF) published in December 2024. The NPPF needs to be read as a whole and is intended to promote the concept of delivering sustainable development.

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

Heritage Assets are defined in Annex 2 of the NPPF as:

"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including Local Listing)."¹⁰

As set out above, significance is also defined as:

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

Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment'.

Paragraph 208 states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this 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.

Paragraph 210 states that, in determining planning applications, local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets by putting them to viable uses consistent with their conservation; and the desirability of new development making a positive contribution to local character and distinctiveness.

¹⁰ MHCLG, NPPF

¹¹ MHCLG, NPPF

Paragraph 212 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 215 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 216 confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account, with a balanced judgement undertaken which has regard to the scale of harm or loss and the overall significance of the asset.

National Planning Practice Guidance

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

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

The PPG has a discrete section on the subject of the Historic Environment,¹² which confirms that the consideration of 'significance' in decision taking is important and states:

"Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals."¹³

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

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

¹² DLUHC, *Planning Practice Guidance: Historic Environment (PPG)* (revised edition, 23rd July 2019), <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>,

¹³ DLUHC, PPG, paragraph 007, reference ID: 18a-007-20190723

be assessed. The harm may arise from works to the asset or from development within its setting.

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.”¹⁴ (my emphasis)

¹⁴ DLUHC PPG, paragraph 018, reference ID: 18a-018-20190723

Appendix 2: Methodology

Key Documents

The key documents that have been used in the preparation of this Proof of Evidence comprise:

- *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*¹⁵ (henceforth referred to as 'GPA 2');
- *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition)*¹⁶, the key guidance of assessing setting (henceforth referred to as 'GPA 3');
- *Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12*¹⁷; and
- *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment*¹⁸ (henceforth referred to as 'Conservation Principles').

Assessment of Significance

In the NPPF, heritage significance is defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance."¹⁹

GPA 2 gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset.

¹⁵ Historic England, *Managing Significance in Decision-Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning: 2* (2nd edition, Swindon, July 2015)

¹⁶ Historic England, *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3* (2nd edition, Swindon, December 2017)

¹⁷ Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12* (Swindon, October 2019)

¹⁸ English Heritage, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008)

¹⁹ MHCLG, *NPPF*

In order to do this, GPA 2 also advocates considering the four types of heritage value an asset may hold, as identified in *Conservation Principles*.²⁰ These essentially cover the heritage ‘interests’ given in the glossary of the NPPF²¹ and the PPG which are **archaeological**, **architectural and artistic** and **historic**.

The PPG provides further information on the interests it identifies:

- **Archaeological interest:** *“As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.”*
- **Architectural and artistic interest:** *“These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skills, like sculpture.”*
- **Historic interest:** *“An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation’s history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.”²²*

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

The most-recently issued guidance on assessing heritage significance, Historic England’s *Statements of Heritage Significance: Analysing Significance in Heritage Assets*, Historic England Advice Note 12,²³ advises using the terminology of the NPPF and PPG, and thus it is that terminology which is used in this Proof of Evidence.

²⁰ English Heritage, *Conservation Principles* – These heritage values are identified as being ‘aesthetic’, ‘communal’, ‘historical’ and ‘evidential’, see *idem* pp. 28–32.

²¹ MHCLG, *NPPF*

²² DLUHC, *PPG*, paragraph 006, reference ID: 18a-006-20190723.

²³ Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets*, Historic England Advice Note 12 (Swindon, October 2019)

Setting and Significance

As defined in the NPPF:

“Significance derives not only from a heritage asset’s physical presence, but also from its setting.”²⁴

Setting is defined as:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”²⁵

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

Assessing Change Through Alteration to Setting

How setting might contribute to these values has been assessed within this Proof of Evidence with reference to GPA 3 particularly the checklist given on page 11. This advocates the clear articulation of “what matters and why”.²⁶

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

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

A Court of Appeal judgement has confirmed that whilst issues of visibility are important when assessing setting, visibility does not necessarily confer a contribution to significance and also that factors other than visibility should also be considered, with Lindblom LJ stating at paragraphs 25 and 26 of the judgement (referring to an earlier Court of Appeal judgement)²⁷:

²⁴ MHCLG, NPPF

²⁵ MHCLG, NPPF

²⁶ Historic England, GPA 3 p. 8

²⁷ *Catesby Estates Ltd. v. Steer* [2018] EWCA Civ 1697, para. 25 and 26

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

Paragraph 26 – “This does not mean, however, that factors other than the visual and physical must be ignored when a decision-maker is considering the extent of a listed building’s setting. Generally, of course, the decision-maker will be concentrating on visual and physical considerations, as in Williams (see also, for example, the first instance judgment in R. (on the application of Miller) v North Yorkshire County Council [2009] EWHC 2172 (Admin), at paragraph 89). But it is clear from the relevant national policy and guidance to which I have referred, in particular the guidance in paragraph 18a-013-20140306 of the PPG, that the Government recognizes the potential relevance of other considerations – economic, social and historical. These other considerations may include, for example, “the historic relationship between places”. Historic England’s advice in GPA3 was broadly to the same effect.”

Levels of Significance

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

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

- **Designated heritage assets of the highest significance**, as identified in paragraph 213 of the NPPF, comprising Grade I and II* Listed Buildings, Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, World Heritage Sites and Registered Battlefields (and also including some Conservation Areas) and non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments, as identified in footnote 75 of the NPPF;
- **Designated heritage assets of less than the highest significance**, as identified in paragraph 213 of the NPPF, comprising Grade II Listed Buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas); and
- **Non-designated heritage assets**. Non-designated heritage assets are defined within the PPG as “buildings, monuments, sites, places, areas or landscapes identified by plan-

*making bodies as having a degree of significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets”.*²⁸

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

Assessment of Harm

Assessment of any harm will be articulated in terms of the policy and law that the proposed development will be assessed against, such as whether a proposed development preserves or enhances the character or appearance of a Conservation Area, and articulating the scale of any harm in order to inform a balanced judgement/weighting exercise as required by the NPPF.

In order to relate to key policy, the following levels of harm may potentially be identified for designated heritage assets:

- **Substantial harm or total loss.** It has been clarified in a High Court Judgement of 2013 that this would be harm that would “have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced”;²⁹ and
- **Less than substantial harm.** Harm of a lesser level than that defined above.

With regards to these two categories, the PPG states:

*“Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.”*³⁰

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

With regards to non-designated heritage assets, there is no basis in policy for describing harm to them as substantial or less than substantial, rather the NPPF requires that the scale of any harm or loss is articulated. As such, harm to such assets is articulated as a level of harm to their overall significance, with levels such as negligible, minor, moderate and major harm identified.

It is also possible that development proposals will cause **no harm or preserve** the significance of heritage assets. A High Court Judgement of 2014 is relevant to this. This concluded that with regard to preserving the setting of a Listed building or preserving the character and appearance of a Conservation Area, ‘preserving’ means doing ‘no harm’.³¹

Preservation does not mean no change; it specifically means no harm.

²⁸ DLUHC, PPG, paragraph 039, reference ID: 18a-039-20190723.

²⁹ EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council, para. 25

³⁰ DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723

³¹ R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)

GPA 2 which states that *“Change to heritage assets is inevitable but it is only harmful when significance is damaged”*.³² Thus, change is accepted in Historic England’s guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

As part of this, setting may be a key consideration. For an evaluation of any harm to significance through changes to setting, this assessment follows the methodology given in GPA 3, described above. Again, fundamental to the methodology set out in this document is stating *“what matters and why”*. Of particular relevance is the checklist given on page 13 of GPA 3.

It should be noted that this key document also states that:

“Setting is not itself a heritage asset, nor a heritage designation...”³³

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

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

“Conserving or enhancing heritage assets by taking their settings into account need not prevent change”.³⁴ (my emphasis)

Additionally, it is also important to note that, as clarified in the Court of Appeal, whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require Planning Permission to be refused.³⁵

³² Historic England, GPA 2, p. 9.

³³ Historic England, GPA 3, p. 4

³⁴ Historic England, GPA 3., p. 8

³⁵ *Palmer v Herefordshire Council & Anor* [2016] EWCA Civ 1061

Appendix 3: List Entries

LEA HALL

Official list entry

Heritage Category: Listed Building

Grade: II

List Entry Number: 1274036

Date first Listed: 25-Sep-1984

List Entry Name: LEA HALL

Statutory Address 1: LEA HALL, HOLYHEAD ROAD

Location

Statutory Address: LEA HALL, HOLYHEAD ROAD

The building or site itself may lie within the boundary of more than one authority.

District: Shropshire (Unitary Authority)

Parish: Boningale

National Grid Reference: SJ8079602948

Details

SJ 80 SW BONINGALE C.P. HOLYHEAD ROAD (north side) 6/110 Lea Hall –

G.V. II

Manor house, now farmhouse. C16 with later additions and alterations. Pebbledash rendered, red brick (English bond) to rear, plain tiled roofs. 2 storeys and attics; 2:1:1 front with projecting gable to right and lower roof pitch on left, 4 and 8 light mullioned and transomed stone windows; entrance through C20 door in angle between projecting gable and main range; prominent external gable end stack with multiple brick shafts to right, integral ridge stack to left at junction between different roof pitches.

Listing NGR: SJ8079602948

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number: 416195

Legacy System: LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



End of official list entry

BARN ATTACHED TO NORTH END OF LEA HALL

Official list entry

Heritage Category: Listed Building

Grade: II

List Entry Number: 1274090

Date first Listed: 25-Sep-1984

List Entry Name: BARN ATTACHED TO NORTH END OF LEA HALL

Statutory Address 1: BARN ATTACHED TO NORTH END OF LEA HALL, HOLYHEAD ROAD

Location

Statutory Address: BARN ATTACHED TO NORTH END OF LEA HALL, HOLYHEAD ROAD

The building or site itself may lie within the boundary of more than one authority.

District: Shropshire (Unitary Authority)

Parish: Boningale

National Grid Reference: SJ8079602962

Details

SJ 80 SW BONINGALE C.P. HOLYHEAD ROAD (north side) 6/111 Barn attached to north end of Lea Hall –

G.V. II

Barn. Probably C17. Timber framed with painted brick infilling on brick base, corrugated iron roof. 4 bays, square panelling and one long tension brace, wide entrance to right; jowelled wall post and weatherboarding to first floor at left hand gable end.

Listing NGR: SJ8079602962

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number: 416196

Legacy System: LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



End of official list entry

OLD FARMHOUSE AND MALTHOUSE ATTACHED TO REAR

Official list entry

Heritage Category: Listed Building

Grade: II

List Entry Number: 1238629

Date first Listed: 25-Sep-1984

List Entry Name: OLD FARMHOUSE AND MALTHOUSE ATTACHED TO REAR

Statutory Address 1: OLD FARMHOUSE AND MALTHOUSE ATTACHED TO REAR, CHURCH LANE

Location

Statutory Address: OLD FARMHOUSE AND MALTHOUSE ATTACHED TO REAR, CHURCH LANE

The building or site itself may lie within the boundary of more than one authority.

District: Shropshire (Unitary Authority)

Parish: Boningale

National Grid Reference: SJ 81007 02650

Details

SJ 80 SW BONINGALE C.P. CHURCH LANE (south side) 6/106 Old Farmhouse and malt – house attached to rear

G.V. II

Farmhouse and malthouse. Farmhouse. C16 or C17 with later additions and alterations. Cement rendering on painted stone plinth masking timber frame (partly visible to rear) and painted brick to ground floor, machine tiled roofs, 2 red brick ridge stacks. T shaped plan. 2 storeys; gable fronted north-south range at right angles to street probably of 4 structural bays; jetty to first floor at gable end supported by carved corner brackets, exposed joist ends; C20 doorway in angle with 2 bay cross wing to east, C20 additions to west; C20 metal casements, one to cross wing, one in angle above doorway and one to gable end. C17 malthouse, now part of the house, attached to rear; timber framed on sandstone base, 2 storeys above cellar, gabled to east; 2 light Stone mullioned windows on ground floor.

Listing NGR: SJ8100702650

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number: 416190

Legacy System: LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



End of official list entry

OLD COTTAGE

Official list entry

Heritage Category: Listed Building

Grade: II

List Entry Number: 1238719

Date first Listed: 25-Sep-1984

List Entry Name: OLD COTTAGE

Statutory Address 1: OLD COTTAGE, CHURCH LANE

Location

Statutory Address: OLD COTTAGE, CHURCH LANE

The building or site itself may lie within the boundary of more than one authority.

District: Shropshire (Unitary Authority)

Parish: Boningale

National Grid Reference: SJ 80976 02675

Details

SJ 80 SW BONINGALE C.P. CHURCH LANE (south side) 6/108 Old Cottage –

– II Cottage.

C17 with later additions and alterations. Half timbered with painted brick infilling on sandstone plinth, machine tiled roof. One storey and dormer slit attic; 3 structural bays and blocked cross passage, square panelling, one short tension brace; C19 and C20 casements and small window lighting staircase, 2 C20 gabled dormers in roof slope, entrance to rear through C20 addition, 2 C20 brick end stacks. Interior retains cross passage with traces of former staircase; timber framing substantially intact.

Listing NGR: SJ8097602675

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number: 416193

Legacy System: LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



End of official list entry

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