



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

Proof of Evidence of:

Andrew Crutchley

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

In respect of:

Heritage Matters

On behalf of:

Canton Ltd

PINS REFs:

APP/B1930/W/20/3265925

APP/C1950/W/20/3265926

LPA REFs:

5/2020/1992/LSM

6/2020/2248/OUTLINE

Volume III:

SUMMARY OF CASE

March 2021

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Volume III: Summary of Proof of Evidence

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Section 1 Summary of Case

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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