



Appeal Ref: APP/B1930/W/23/3333685
Land to the rear of High Street, Colney Heath, St Albans

Appeal by Tarmac Ltd against the Refusal by St Albans City and District Council of an Outline Application for:

Up to 45 dwellings, including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works, at Land to the rear of 96 to 106 High Street Colney Heath, Hertfordshire.

Proof of Evidence: Heritage

Andrew Josephs (BA Hons) on behalf of Tarmac Ltd

E:mail andyjosephs@hotmail.com • Telephone 07990 571908

Offices in Thirsk•Stowmarket•Leamington Spa•Bath

Correspondence and Accounts: 43 Middle Green, Higham, IP28 6NY

Andrew Josephs Associates Ltd. Registered Office, Fulford House, Newbold Terrace, Leamington Spa, England, CV32 4EA

Registration no. 13428825. VAT No. 390520313

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Appendix 1 Key Policy and Guidance

1. Introduction

1.1 I am Andrew Josephs, Managing Director of Andrew Josephs Associates, a cultural heritage consultancy founded in 2002. I hold a BA (Hons) in Archaeology and Environmental Studies awarded by the University of Wales in 1985. I was elected a full Member of the Chartered Institute for Archaeologists in 1994, but resigned in 2001.

1.2 I was previously Principal Consultant (Director of Heritage and Archaeology) at Entec (now Wood Group) and Wardell Armstrong, where I started in 1992, becoming one of the UK's first consultants in the post-PPG16 era of developer-funded heritage and archaeology. Prior to 1992, I worked as an archaeologist and researcher for universities and units including the Universities of York, Wales, Leuven and Arizona.

1.3 I have authored over 1000 Heritage Statements.

1.4 The evidence which I have prepared and the opinions expressed are my true professional opinions.

2. Scope of my Evidence

2.1 A detailed Heritage Statement was submitted with the planning application that I authored (CD4.10).

2.2 Having reviewed that report and revisited the site on February 12th 2024, I am fully satisfied that I reached the correct conclusions in that report in relation to the setting of designated heritage assets.

2.3 As part of this Appeal, and at the request of the Inspector, a Statement of Common Ground (SOCG) on Heritage Matters has been produced that focussed on identifying the effects upon the setting of three designated assets:

1. Crooked Billet Public House
2. Apsley Cottage
3. 94, High Street

2.4 The SOCG has been agreed by myself and Mr. Nick Collins on behalf of SACDC.

3. Impact upon the significance of listed buildings

3.1 Key excerpts from policy in relation to the setting of listed buildings is included at **Appendix 1**.

3.2 With respect to the assessment of impact, the key guidance is contained within *Historic England: The Setting of Heritage Assets (GPA3) CD 11.2*) and the 5-step approach recommended in the guidance was adopted in the Heritage Statement (CD4.10), pages 24-34.

3.3 The findings of that assessment, based upon site visits in January 2022 and February 2024, and historical research, are summarised below. Photographs and maps are contained within the Heritage Statement and cross-referenced where relevant.



Figure 1
To show how the historic cores (shaded purple) of the three listed buildings have been absorbed by 20th century development (shaded brown) and how the curtilage of the Crooked Billet was originally close to the pub until a car park and beer garden were created on agricultural land after 1985. (© Google, base photo)

Crooked Billet PH

3.4 This Grade II public house retains a small weather-boarded core of early 19th century date that has been absorbed into a much larger building with 20th century extensions such that its legibility as an historic building has been significantly affected. There are no views from the historic part of the asset to the Appeal Site – *qv* Heritage Statement (CD4.10, page 25, Figure 13). Its significance can only be experienced from the High Street.

3.5 Its southern curtilage abuts the High Street and faces onto modern housing *qv* Heritage Statement (CD4.10, page 26, Figure 14). Historically, its northern curtilage was close to the northern edge of the original cottage. The landholding was extended northwards into agricultural land, to provide car parking and a beer garden, after the 1985-1990 OS mapping. **Figure 1**, above; *qv* Heritage Statement (CD4.10, page 22, Figure 9).

3.6 The Appeal Site does not form part of the pub's immediate historic setting in that until circa 1985 an agricultural field separated the Appeal Site from the pub.

3.7 I conclude that as a result of the degradation of the setting over time there would be no harm or effect upon the significance of the asset from development within the Appeal Site.

Apsley Cottage

3.8 This Grade II cottage has 18th century origins with 20th century storey extensions to the east and the rear. It is orientated south west and faces onto High Street opposite 20th century housing. *qv* Heritage Statement (CD4.10, page 28, Figure 19) The house is set down below the level of the Appeal Site and the only view of it would be oblique and from a small rear elevation upstairs window *qv* Heritage Statement (CD4.10, page 29, Figure 21).

3.9 The agricultural land taken by the pub to form car parking and a beer garden would have formed the rear setting of the Cottage (**Figure 1**, above), although there is no evidence that the house had an agricultural function. The Appeal Site did not form part of the House's landholding.

3.10 I conclude that there would be harm at the lowest level of less than substantial harm to the significance of the asset caused by development within its rear setting.

94, High Street

3.11 The Grade II house dates from the late 17th or early 18th centuries. It has been extended in the 20th century to the west, east and to the north, and a garage has been inserted into the eastern extension. It is orientated broadly south and faces onto High Street, *qv* Heritage Statement (CD4.10, page 30, Figures 22 and 23).

3.12 There would be oblique views from first floor rear elevation windows of the proposed development, filtered by hedging. *qv* Heritage Statement (CD4.10, page 32, Figure 27).

3.13 The significance of the asset, and how its setting is experienced, has already been irreparably affected by modern extensions.

3.14 I conclude that there would be no harm or effect upon the significance of the asset from development within the Appeal Site due to the loss of legibility of the historical aspects of the asset over time.

4. The Committee Report

4.1 The comments of the SACDC Design and Conservation Officer embedded within The Committee Report (CD 6.1), para 8.9.7, state:

Comments from the Design and Conservation Officer raise concerns regarding the absence of parameter plans, the unused green space adjacent to the boundary, and the uncertainty regarding the retention of existing tree and hedgerow screening. On this basis, the application has failed to demonstrate that the proposed development would avoid harm to the adjacent heritage assets. It is considered that the proposed development would cause less than substantial harm, on the lower end of the spectrum.

4.2 This had failed to articulate through structured assessment how the proposed development would affect the significance of the heritage assets. It has focused on the harm that the development would in their opinion cause, which is not how the test should be applied, as NPPF and heritage guidance makes clear (Appendix 1), it is not harm *per se* which is assessed but how that harm affects the significance of an asset.:

“It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed (Conserving and Enhancing the Historic Environment (CD 1.1), paragraph 16.)

4.3 I would argue that such details of layout, design and landscaping are for a reserved matters application and that there would be no effect upon the significance of the assets should these matters be correctly addressed at that stage.

5. Conclusion

5.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory tests for dealing with heritage assets in planning decisions. In relation to listed buildings, planning decisions “*should 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*”.

5.2 NPPF, paragraph 205 (CD 1.1) 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... This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

5.3 I have concluded that in relation to Crooked Billet and 94 High Street there would be no effect upon significance due mainly to modern changes to the assets and their curtilage.

5.4 In relation to Apsley Cottage, whilst development on farmland to its rear would have an effect at the lowest end of less than substantial harm upon its setting, I conclude that, subject to the details of a reserved matters application, there would be no effect upon its significance or our ability to appreciate that significance.

5.5 I would respectfully suggest that, based upon my detailed assessment, ‘*harm to the adjacent Grade II listed building*’ (Refusal Notice, CD 6.2) should not have been a reason for refusal.

Appendix 1

Key excerpts from planning policy and guidance

The primary legislation is The Planning (Listed Buildings and Conservation Areas) Act 1990 (CD**).

Key policy and guidance is contained within

- National Planning Policy Framework 2023. Department for Communities and Local Government (CD 1.1).
- Planning Practice Guidance 2014 *Conserving and Enhancing the Historic Environment* (CD1.2)
- Historic England 2017 *Good Practice Advice 3 – The Setting of Heritage Assets*, 2nd edition (CD 11.2)
- Historic England 2019. *Statements of Heritage Significance (HEAN12)* (CD11.4)

National Planning Policy Framework 2023

Significance (for heritage) is described at Annex 2 of the NPPF 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.

Setting is defined within the NPPF 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 the asset, may affect the ability to appreciate that significance or may be neutral.

The most relevant policies within NPPF to this Appeal are reproduced below,

200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

201. 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 into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Considering potential impacts

205. *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.*

206. *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

a) *grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*

b) *assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*¹

207. *Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

a) *the nature of the heritage asset prevents all reasonable uses of the site; and*

b) *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*

c) *conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*

d) *the harm or loss is outweighed by the benefit of bringing the site back into use.*

208. *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.*

Planning Practice Guidance (PPG) Conserving and Enhancing the Historic Environment

Planning Practice Guidance (PPG) Conserving and Enhancing the Historic Environment was published in April 2014 as a companion to the NPPF, replacing previous Circulars and other supplementary guidance. In respect of heritage decision-making, the PPG stresses the importance of determining applications on the basis of significance, and explains how the tests of harm and impact within the NPPF are to be interpreted.

In particular, the PPG includes the following in relation to the evaluation of significance and harm:

“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.

Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. 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 be assessed. The harm may arise from works to the asset or from development within its setting.

Historic England 2017 Good Practice Advice 3 – The Setting of Heritage Assets

GPA 3 recommends the following broad approach to assessment, undertaken as a series of steps that apply proportionately to complex or more straightforward cases. This was followed in the Heritage Statement:

- Step 1: identify which heritage assets and their settings are affected;
- Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);
- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance;
- Step 4: explore the way to maximise enhancement and avoid or minimise harm;
- Step 5: make and document the decision and monitor outcomes.



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