

# **PROOF OF EVIDENCE**

---

In respect of

**OUTLINE APPLICATION FOR UP TO 170 DWELLINGS  
(USE CLASS C3) WITH ASSOCIATED OPEN SPACE AND  
VEHICULAR ACCESS OFF WARWICK ROAD, BANBURY;  
ALL MATTERS RESERVED EXCEPT FOR ACCESS**

**PINS REF: APP/C3105/W/24/3338211**

**LPA REF: 23/00853/OUT**

On behalf of

**Cherwell District Council**

**AHC REF: ND/10295**

**Date: MAY 2024**

[www.assetheritage.co.uk](http://www.assetheritage.co.uk)

Annexe Offices, Linton Road, Oxford, OX2 6UD T: 01865 310563

Registration No: 07502061

## CONTENTS

1.0 INTRODUCTION AND SCOPE OF EVIDENCE .....	5
2.0 THE APPEAL SITE AND ITS CONTRIBUTION TO THE SETTING OF HANWELL CONSERVATION AREA AND ITS SIGNIFICANCE .....	7
(i) Historical Background and Heritage Significance .....	7
(ii) Description of the Appeal Site and Surrounding Area.....	11
(iii) Assessment of the Appeal Site’s contribution to the rural setting of the nearby Hanwell Conservation Area.....	11
3.0 PLANNING POLICY, THE APPEAL PROPOSALS & THE HERITAGE ISSUES .....	13
(i) Local Policy .....	13
(ii) National Policy .....	13
(iii) The appellants’ Built Heritage Statement, General Discussion and the Degree of Heritage Harm caused by the Appeal Proposals .....	16
4.0 SUMMARY AND CONCLUSION .....	22

APPENDIX 1: ‘*Historic Environment Good Practice Advice in Planning Note 3- The Setting of Heritage Assets*’ (Historic England, 2<sup>nd</sup>. edn., December 2017)

APPENDIX 2: Letter from Historic England to EDP dated 20 December 2023

## QUALIFICATIONS AND EXPERIENCE

NICHOLAS DAVID BARTHOLOMEW DOGGETT, BA, Ph.D., Cert. Archaeol., FSA, MCIfA, IHBC, Managing Director of Asset Heritage Consulting, will say:

After reading archaeology and history at the University of Southampton and completing a postgraduate qualification at the University of Oxford I worked for several years as an archaeologist, both in the United Kingdom and abroad. From 1984 to 1988 I was employed on the English Heritage Resurvey of listed buildings in Shropshire, Oxfordshire and Cornwall. From 1988 to 1989 I was a member of the Conservation Team at Bedfordshire County Council before joining South Oxfordshire District Council, where I was head of Conservation from 1991 to 2002, before leaving for CgMs in October 2002, of which I was a Director from 2004.

I left CgMs in November 2010 to establish Asset Heritage Consulting, a specialist heritage consultancy based in Oxford but working across the country.

My doctoral research on 16<sup>th</sup>-century English architecture was completed in 1997 and has subsequently been published. I am a member of the Institute of Field Archaeologists and the Institute of Historic Building Conservation. I was elected a Fellow of the Society of Antiquaries of London in 2016.

I am the author of two books and several articles and papers on archaeology, building conservation and architectural history, including contributions to the *Oxford Dictionary of National Biography*, and have given lectures and taught on summer schools on these subjects for Oxford University Department of Continuing Education and many other organizations. I was formerly committee secretary of the Buildings Special Interest Group of the Chartered Institute for Archaeologists and a committee member of the Oxfordshire Architectural & Historical Society.

In the private sector my clients have included Bournville Village Trust, numerous Oxford colleges, several Local Planning Authorities, the Metropolitan Police, the Home Office and various major house builders. I have also acted as a consultant for English Heritage and Cadw on applications for listing, re-grading, de-listing and Certificates of Immunity. I have given evidence relating to the historic built environment at many public inquiries and hearings and in court, both for appellants, third parties and local planning authorities.

As part of my instruction from the District Council (see Section 1.0 below) I have, of course, visited the appeal site and surrounding area and believe that my qualifications and experience make me an appropriate person to give heritage evidence on the Council's behalf to this inquiry.

In providing this evidence I have also taken full account of the representations of others on the appeal.

Finally, and in accordance with PINS 01/2009, I confirm that the evidence I have prepared for this appeal is true, has been prepared and given in accordance with the guidance of my professional institutions and that the opinions expressed in it are my true and professional opinions. I am fully aware that my duty is to assist the inquiry irrespective of where my instructions arise.

## 1.0 INTRODUCTION AND SCOPE OF EVIDENCE

- 1.1 This proof of evidence, which should be read in conjunction with the other documentation submitted on the appeal proposals by Cherwell District Council ('The Council') to this inquiry, examines the question of whether the proposals are acceptable in heritage terms given the site's proximity to Hanwell Conservation Area and the various designated and non-designated heritage assets, notably the Grade I listed St. Peter's Church and the Grade II\* listed Hanwell Castle, it contains.
- 1.2 The Council's heritage-based reasons are set out in Refusal Reason Two, which reads as follows: *'The proposed development is considered to erode the open arable landscape which provides clear separation between Banbury and Hanwell and forms part of the surroundings within which the setting of Hanwell Conservation Area, St Peter's Church (Listed Building Grade I) and Hanwell Castle (Listed Building Grade II\*) are experienced, to the detriment of and causing harm (less than substantial) to the setting of these designated heritage assets, contrary to policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework'*.
- 1.3 In addition to considering the statutory tests set by Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, this proof pays particular attention to the Government's guidance on the historic environment contained in the National Planning Policy Framework (NPPF) and the accompanying National Planning Policy Guidance (NPPG), together with Historic England's NPPF and PPG-compliant *'Historic Environment Good Practice Advice in Planning Note 3- The Setting of Heritage Assets'* (second edition, December 2017) – **Appendix 1**.
- 1.4 My own involvement in the appeal site dates to late April this year when I was contacted by the Council to consider whether I would be prepared to act as a heritage witness on their behalf at the forthcoming public inquiry. Having examined the papers I was sent at that time, I confirmed to the Council that I would indeed be prepared to prepare evidence and appear at the inquiry on their behalf, visited the site and surrounding area, and have prepared this proof of evidence accordingly.
- 1.5 For all the reasons set out in the body of this report, it is my professional opinion that the appeal proposals cause a significant (albeit 'less than substantial') degree of harm to the significance of the setting of the nearby Hanwell Conservation Area, which contains several designated and non-designated heritage assets, including the Grade I listed St. Peter's Church and the Grade II\* listed Hanwell Castle, which are

the listed buildings situated closest to the appeal site. This view is shared by Historic England.

- 1.6 Put simply, the appeal site does not lie in an area allocated for housing, and in heritage terms this is the wrong scheme in the wrong place, it being very clear that the appeal proposals would cause irreparable damage to the significance of the setting of the conservation area at the mid-level of 'less than substantial harm', as that term is defined and used in the NPPF and PPG.
- 1.7 For all the detailed reasons set out in the body of this proof, I therefore respectfully urge the Inspector to dismiss this appeal.

## **2.0 THE APPEAL SITE AND ITS CONTRIBUTION TO THE SETTING OF HANWELL CONSERVATION AREA AND ITS SIGNIFICANCE**

2.1 This section of my proof examines the appeal site, which is currently made up of two arable fields separated by Gullicote Lane which runs north-south through the site, in its present form and provides an assessment of the contribution it makes to the setting and significance of the nearby Hanwell Conservation Area and the various designated heritage assets it contains.

### **(i) Historical Background and Heritage Significance**

2.2 The village of Hanwell, which lies to the north-west of the appeal site, was designated a conservation area in 1985 and its boundaries revised, with a brief written appraisal, in 1995. An updated and more detailed Conservation Area Appraisal was produced by the Council in August 2007. The extent of the designated area encompasses the Main Street which runs, in winding fashion, south-west to north-east through the village, along which are sited the majority of the village's buildings and a spur extending south-east from this incorporating Hanwell Castle and its extensive grounds.

2.3 The conservation area contains one Grade I listed building (St. Peter's Church); one Grade II\* listed building (Hanwell Castle); and three Grade II listed buildings (Spring Farmhouse, Heath Farmhouse and No.6 Main Street, all of 17<sup>th</sup>-century date). It also includes two Grade II listed gate piers associated with Hanwell Castle, and a number of Grade II listed churchyard monuments.

2.4 The village has its origins as an Anglo-Saxon settlement based around a spring, the name deriving from *Hana's Weg*, 'Hana' being a personal name and 'weg' being the Old English word for 'way' or road.

2.5 In the medieval period the village appears to have been focused on the spring near Spring Farm, which supplied water to the village and fed the fish ponds extending beyond Hanwell Castle. The village green, pound and smithy were all located here too, while the church stood on slightly higher ground to the south-east, overlooking the village, with the castle nearby.

2.6 The later expansion of the village was to the south-west and north-east along the line of Main Street; the presence of the church and castle precluded further development to the south-east, which area of course includes the appeal site.

- 2.6 The earliest indication of a church at Hanwell is a reference to its rector in 1154. The present St. Peter's Church is largely a rebuilding of the early 14<sup>th</sup> century in Decorated style with a chancel all of one phase, probably of c.1330-40. It retains some fine 14<sup>th</sup>-century carvings of figures, both human and monstrous, to the external corbel tables on both sides of the chancel and internally to the capitals of the nave arcade.
- 2.7 This work, which is described and illustrated in the recent revision by Alan Brooks of Pevsner's 'Oxfordshire' (2017), was carried out by two groups of masons whose lively and good-quality carving can also be seen at Adderbury, Bloxham and Broughton.
- 2.8 Hanwell Castle, which lies just to the north-east of the church in the classic castle and manor house relationship, was begun in 1498 by William Cope, treasurer to Henry VII, after he acquired the manor from the de Vernons, and was completed by his son, Anthony.
- 2.9 Although it was crenellated, it was never intended as a defensive structure, and was built as Hanwell Hall, a two-storey house with four corner turrets around a central courtyard and built of brick with stone dressings. Four generations of the Cope family lived there until 1714. This house was largely demolished in the 18<sup>th</sup> century, probably following the death of Sir Charles Cope of Bruern in 1781, when it was converted to use as a farmhouse.
- 2.10 By 1902, only the south-west tower, south wing, and the stone gate piers to the entrance were left standing, in dilapidated condition, with the materials from demolitions having been reused in farm buildings. The surviving elements were restored in 1902 by Caroline Berkeley, who also added an east wing in the same style as the surviving Tudor wing; further additions were made 'in keeping' (Brooks) by Robert Franklin in the late 20<sup>th</sup> century.
- 2.11 Again, this building is described in the revised Pevsner, including the reproduction of an evocative engraving of the building made by the well-known engraver and architectural illustrator F.L. Griggs in 1905.
- 2.12 The original grounds of the castle were more extensive than they are today. As noted in the Council's Conservation Area Appraisal, Robert Plot, in his *The Natural History of Oxfordshire* (published in 1677) describes a number of elaborate features there, including a waterworks in a 'House of Diversion' on an island in a fishpond north-east of the house, including an artificial shower and a ball tossed by a column of



water; a corn mill, which also turned a large engine for cutting stone and another for boring guns; and a water clock with gilded sun moving in a wooden hemisphere. The First Series Ordnance Survey (OS) map of 1833 defines the original extent of the grounds to the south of the castle, which by 1904 had been significantly reduced to 17.5 acres (7ha).

- 2.13 As is the case with the church, the castle is significant for the survival of original early fabric, including its brickwork, which is notable as being the earliest known example of the use of this material in north Oxfordshire, if not the whole county. The use of this material in a stone belt at this time is indicative of the Cope family's wealth, status and aspirations.
- 2.14 By the 16<sup>th</sup> century, several small yeomen farmers in the village were beginning to prosper, which led to the erection of a number of substantial farmhouses. These, like most other historic houses and cottages in the village, are of two storeys and built of coursed ironstone. In the early 20<sup>th</sup> century, thatch still predominated but now there are only a few surviving thatched roofs.
- 2.15 It is notable however that the revised Pevsner can still accurately in the Introduction to Hanwell describe it as a '*Picturesque small village, almost entirely built of the local orange limestone*'.
- 2.16 The boundaries of the conservation area are very clearly defined against the arable land around it, which is particularly evident from the air (see the aerial photograph on p.8 of the Conservation Area Appraisal). This image also reveals how much (over half) of the conservation area is made up of the grounds to Hanwell Castle.
- 2.17 Sir Charles Cope enclosed the parish in 1768, with all farmers thereafter becoming his tenants. Arable farming continued to be the principal agricultural use of the land until well after this time. Throughout the late 18<sup>th</sup> and 19<sup>th</sup> centuries, farm holdings increased in size; by 1904, there were six farms engaged in mixed farming, with around half of the land under permanent pasture and the remainder in arable. The area around the village is still good-quality arable land today, including of course the appeal site.
- 2.18 The Council's Conservation Area Appraisal divides the conservation area into four character areas. The Historic Core covers the central section of Main Street and also Church Lane and the church itself. To south-west and north-east are the Village Ends.

The rest of the area is covered by the Hanwell Castle and Grounds character area. This is shaped a little like a bent leg, with the foot pointing south, and covers the whole of the south-eastern part of the conservation area.

- 2.19 The physical setting of the conservation area takes in arable fields to the south, south-east and east between Hanwell and Banbury. The edge of the town is apparent in views out in these directions, albeit the dense belt of trees on the northern side of the recent 'Hanwell Fields' and 'Hanwell Chase' housing developments obscures this (particularly when the trees are in leaf), while to the north and west the setting is rural, despite the presence of the M40 cutting across it. As can be seen from the aerial photograph referred to above, the conservation area appears as a distinct wooded 'island' surrounded by these fields.
- 2.20 As far as the closest buildings to the appeal site are concerned – the Grade I listed St. Peter's Church and the Grade II\* Hanwell Castle – each is the key element of the other's setting, standing very close to each other to the south-east of Main Street at the end of Church Lane.
- 2.21 The immediate setting of the church to the south and south-west is defined by its stone-walled churchyard (which contains several listed chest tombs and other monuments), from where there is also a view overlooking Hanwell Castle on the lower ground to the east. The castle can also be seen in conjunction with the church from the south-eastern end of Church Lane. The pasture field directly to south of the church (outside the conservation area) also allows good views towards both buildings, albeit those of Hanwell Castle are screened when the trees are not in leaf.
- 2.22 The fields directly to the south, south-east and south-west of the closely-related St. Peter's Church and Hanwell Castle (including the appeal site) therefore form an important part of their settings and their significance, as they do to the setting of the Hanwell Conservation Area as a whole.
- 2.23 Finally, it should be noted here that the grounds of Hanwell Castle are the home of Hanwell Community Observatory. This comprises a set of permanently mounted weatherproof telescopes, used in the open air, with no observatory building. An observing club was started in 1998 and in 1999 the Community Observatory was established, with the aim of promoting astronomy in the community.

2.24 Obviously, a dark sky at night is essential to the continuing successful operation of this enterprise. The ways in which this would be severely affected by the appeal proposals are discussed, along with other matters, in Section 3.0 of this proof.

### **(ii) Description of the Appeal Site and Surrounding Area**

2.25 As noted at paragraph 2.1 above, the appeal site currently comprises two arable fields separated by Gullicote Lane which runs north-south through the site. The site is bounded to the south by the recent 'Hanwell Fields' and 'Hanwell Chase' housing developments fields and Warwick Road to the west. There are further arable fields to the east and the Hanwell Conservation Area lies directly to the north-east with its south-western point directly abutting the north-eastern corner of the appeal site.

2.26 The appeal site itself, which has never previously been developed and is not allocated for development in the Council's adopted Local Plan, is bounded by a long-established tree belt running along its southern side, but the northern, eastern and western boundaries are defined by sparse hedgerows which do not obstruct open views in these directions, including towards Hanwell Conservation Area to the north-east.

2.27 Paragraph 9.1 of the Council's Conservation Area Appraisal notes that '*The pressure on the village from the urban extension of Banbury is a threat to the integrity and independence of Hanwell. It is important that the setting of the Conservation Area as well as that of the Castle and the Grade I listed Church is protected.*'

2.28 The ways in which the appeal proposals pose a direct threat to the character and feel of Hanwell as a separate and distinct village from the town of Banbury and the potential damage coalescence between the two would cause in heritage terms are examined in Section 3.0 below.

### **(iii) Assessment of the Appeal Site's contribution to the rural setting of the adjoining Hanwell Conservation Area**

2.29 As will be clear from the above, the appeal site makes an important contribution to the setting of Hanwell Conservation Area and its significance. It is, of course, not included in the designated area (nor would it be appropriate for it to be so given the clearly defined boundaries of the conservation area and the fact that it forms part of the open countryside beyond the settlement's edge).

- 2.30 But this is not to downplay the contribution that the open, rural nature of the appeal site makes to the setting of the conservation area and its significance.
- 2.31 Today the appeal site remains an important (and attractive) element of the open countryside surrounding the conservation area, which with its public footpaths running alongside and across the site can be seen and appreciated by walkers from the village or further afield.
- 2.32 Consideration of the ways in which this important open space and the major contribution it makes to the significance of the setting of the conservation area and how this would be irrevocably damaged by the appeal proposals is provided below in Section 3.0.

### **3.0 PLANNING POLICY, THE APPEAL PROPOSALS & THE HERITAGE ISSUES**

3.1 Before looking in detail at the Council's Refusal Reason 2 on the appeal proposals, it is helpful first to examine the relevant planning policy background: this can conveniently be broken down into two parts - policy at national level and at local level.

#### **(i) Local Policy**

3.2 The relevant heritage policy (cited by the Council in Refusal Reason 2) is Policy ESD15 of the Cherwell Local Plan 2011-2031, which states that '*New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design*'; and '*Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting*'.

3.3 This policy is clearly consistent with the NPPF and is therefore directly relevant to the appeal proposals.

3.4 In my professional opinion, and as discussed below, the appeal proposals very obviously fail to comply with this adopted policy, particularly on the grounds of proximity to and impact on significant views of designated heritage assets as discussed in detail below.

#### **(ii) National Policy**

3.5 National planning policy on heritage issues is currently enshrined in the NPPF and is accompanied by the NPPG which helpfully sets out how the Government's guidance on how the policy in the framework should be interpreted.

3.6 Reference has also been made in the Introduction to this proof to Historic England's '*Historic Environment Good Practice Advice in Planning Note 3- The Setting of Heritage Assets*' (2nd edn., December 2017) – **Appendix 1**.

3.7 In this section I refer first to the relevant heritage policies in the NPPF, before turning to a consideration of the helpful Historic England guidance contained in their 'Settings' document.

- 3.8 Paragraph 205 of the NPPF states that '*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*' (only the emphasis is mine).
- 3.9 Paragraph 208 of the NPPF goes on to state 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*'.
- 3.10 It is also helpful to quote here in full the section of the NPPG that considers 'What is the setting of a heritage asset and how should it be taken into account?' (the emphasis is mine): '*All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent. The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time. When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.* (PPG, paragraph: 013, reference ID: 18a-013-20190723 Revision Date 23 07 2019)'.
- 3.11 The application of these NPPF and NPPG paragraphs to the appeal proposals is further discussed below.

- 3.12 Historic England's planning advice note on 'Setting' (HEAN 3) builds on and incorporates the advice given in its earlier guidance documents on this important topic and is, of course, very relevant to the heritage issues raised by the appeal proposals.
- 3.13 For instance, at Section 9 is the sensible and pragmatic advice that *'Setting is not a heritage asset, nor a heritage designation, though land within a setting may itself be designated (see below Designed settings). Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance'*, before going on in the immediately following paragraphs to *'examine some more general considerations relating to setting and significance'*.
- 3.14 These 'general considerations' are discussed under a series of sub-headings: 'Change over time, Cumulative change, Access and setting, Buried Assets and setting, Designed settings, Setting and urban design' and end with 'Setting and economic and social viability'.
- 3.15 Of these sub-headings, I consider 'Change over time' 'Cumulative Change' and 'Access and setting' to be the most directly relevant to the matters before this inquiry, as the following extracts show: ('Change over time') – *'Settings of heritage assets change over time. Understanding this history of change will help to determine how further development within the asset's setting is likely to affect the contribution made by setting to the significance of the heritage asset. Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance...'* (Cumulative Change) – *'Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views of it (see also paragraph 40 for screening of intrusive developments)'*. ('Access and setting') – *'Because the contribution of setting to significance does not depend on public rights or ability to access it, significance is not dependent on numbers of people visiting it; this would downplay such qualitative issues as the importance of quiet and tranquillity as an attribute of setting, constraints on access such as remoteness or challenging terrain, and the importance of the setting to a local community who may be few in number...'*

- 3.16 Sections 10 and 11 of HEAN 3 consider 'Views and setting': (10) *'The contribution of setting to the significance of a heritage asset is often expressed by reference to views, a purely visual impression of an asset or place which can be static or dynamic, long, short or of lateral spread, and include a variety of views of, from, across, or including that asset';* (11) *'Views which contribute more to understanding the significance of a heritage asset include: those where the composition within the view was a fundamental aspect of the design or function of the heritage asset ...'*
- 3.17 Part 2 of HEAN 3 deals with 'A Staged Approach to Proportionate Decision-Taking', which sets out the five steps necessary to achieve this. Now is the appropriate point in this proof to turn to an examination of the appellants' heritage work to date.

### **(iii) The appellants' Built Heritage Assessment, General Discussion and the Degree of Heritage Harm caused by the Appeal Proposals**

- 3.18 Before turning to a discussion of the heritage issues central to the Council's Refusal Reason Two on the appeal scheme, it is helpful first to consider the findings of the appellants' Built Heritage Assessment to date. These are included in Chapter 6 'Built Heritage & Archaeology' and Appendix 6.1 (July 2022) of EDP's Environmental Statement and focus very much on below-ground archaeology (extensive evidence for Iron Age settlement has been revealed through archaeological evaluation on the site), rather than on the impact of the appeal proposals on built heritage.
- 3.19 This means that, despite its considerable length, the conclusions of the latter, detailed document are *'That in regards to the Hanwell Conservation Area, the site makes a small positive contribution to its significance, by being a small part of its historical agricultural setting. However, the experience of the HCA from the site, and vice-versa is very limited, comprising most glimpses or very long-distance views heavily screened by vegetation. The proposed development would change the character of site, from agricultural to residential and hence cause a change to a small part of the setting of the HCA. This change in character of a small part of the setting of the HCA would be somewhat mitigated by the proposed landscape scheme which includes a comprehensive green infrastructure plan effectively screening and offsetting the development and retaining open land undeveloped. However, it is a change to the rural character of part of the setting of the HCA nonetheless, and as such, is assessed in terms of the NPPF at the level of less than substantial harm (Para 202: MHCLG 2021) at the lowest end of the scale, since the main contributors to the character and appearance of the HCA itself will remain unchanged'* (paragraph 6.3) and that *'Potential impacts upon the settings of any other designated heritage*



*assets in the wider study area have been considered, namely on the Grade I Listed Church of St Peter and Grade II\* Listed Hanwell Castle, and this assessment concludes that the implementation of the proposed development will not result in an adverse impact on, harm to, or loss of significance from any of the identified designated heritage assets, either in terms of an effect on their physical fabric or through changes to their setting' (paragraph 6.4).*

3.20 In my opinion, these conclusions are as superficial as they are cumbersome and unwieldy.

3.21 Inevitably, EDP's conclusions are repeated in the appellants' Statement of Case (February 2024), which at paragraph 4.4 (apparently without any further professional consideration or assessment on behalf of the appellants) states that *'The proposals will result in a low level of less than substantial harm to Hanwell Conservation Area as a consequence of change to the wider setting of the conservation area. The harm would arise from the introduction of new built form across a single field, which would erode an element of the wider agricultural setting to the south of the Conservation Area'.*

3.22 Paragraph 4.5 goes on to state that *'In respect of the Grade I Listed St Peter's Church and Grade II\* Listed Hanwell Castle located within Hanwell Conservation Area to the northeast of the Appeal Site, it is the Appellant's position that the Appeal proposals would preserve the settings of these listed buildings. The implementation of the Appeal proposals would not result in any loss of significance to these listed buildings nor diminish the contribution that the listed buildings' setting presently makes to their significance; i.e. there would be no harm to the Grade I Listed St Peter's Church and Grade II\* Listed Hanwell Castle. This will be demonstrated in the Appellant's evidence addressing heritage matters'.*

3.23 Several important points emerge from this. First, that while the appellants claim (for reasons that are unclear to me) that the appeal proposals cause no harm to the settings of the Grade I listed church and the Grade II\* Hanwell Castle and their significance, even they acknowledge *'The proposals will result in a low level of less than substantial harm to Hanwell Conservation Area'.*

3.24 Secondly, EDP's conclusions on 'harm' are very different to those of Historic England in their pre-application advice letter sent to EDP on 20 December 2023, the summary of which unequivocally states that *'The proposed housing development would cause*

*harm to the significance of the Hanwell Conservation Area through development in its setting. We are not convinced the harm is justified, contrary to the requirements of the NPPF. The proposals also conflict with numerous related local planning policies. Historic England would strongly object should this application be submitted for planning permission' (Appendix 2).*

- 3.25 In this letter Historic England set out their concerns in some detail. In the section on the Significance of the Hanwell Conservation Area, they state that 'The application site consists of agricultural fields to the south of the conservation area and village of Hanwell. These fields form a rural buffer that separates Hanwell from the northwest suburbs of Banbury. Hanwell is a small linear settlement with early medieval origins. While some infill modern housing has sprung up along Main Street, the approach to the village along Warwick Road, West Street and the surrounding Public Rights of Ways (PROWs) remains rural in nature.

As Hanwell is an agricultural settlement, the close connection of village with the surrounding landscape farmed from it is essential to understanding the history of the Conservation Area. Furthermore, the rural context also greatly enhances the aesthetic appeal of what is a very attractive group of buildings. The fields of the application site positively contribute to that rural setting and therefore are important aspects of the conservation area's character and appearance.

*As set out in the Hanwell Conservation Area Appraisal, there are views out to the horizon to the south that take in aspects the application site. The views looking towards the application site are identified as negative views, as the industrial and urban expansion of Banbury is clearly visible beyond' (only the emphases are mine).*

- 3.26 Likewise in the section on the Impact of the Development on the Historic Environment, Historic England comment that 'The application would extend the urban edges of Banbury to within a single field's width from the village and conservation area of Hanwell. This would markedly reduce the sense of rurality around Hanwell on the approach to the village along Warwick Road, West Street and the PROWs south of the village.

*We understand additional screening is proposed to mitigate this impact. However, even if visibility of the new development in views of or from the conservation area is negligible, the scale and proximity of the development is still likely to have wider impacts on the way we experience the rural feel of the area and the setting of the conservation area. As Historic England's setting guidance and the NPPG make clear, the historic connection between places, the kinetic experience of approaching a place, and factors such as noise can often contribute to the setting of a designated*

asset.

These proposals would not only reaffirm the negative impacts the northern expansion of Banbury has had on the rurality of the village, but greatly exacerbate them. Developing these fields would essentially close the rural gap to the south between Banbury and Hanwell and would be both visible and appreciable (for example, through noise) on nearby approach roads and the PROWs to the village. Such development would affect the appreciation and understanding for the rural origins of the village and the close connection it has with the landscape. It will also affect to some extent the understanding of the historic relationship of the buildings within the conservation area with the surrounding fields which they farmed. Overall, we consider the proposals would likely cause a high level of harm to the significance of the conservation area. In the language of the NPPF the harm would be in the range of less than substantial' (again the emphases are mine).

- 3.27 The reference in the letter to the potential of screening to mitigate the impact of the appeal proposals obviously calls to mind Historic England's guidance on the merits of screening or planting around new developments, notably the helpful advice at paragraph 40 of their 'Settings' document that '*Screening may have as intrusive an effect on the setting as the development it seeks to mitigate, so where it is necessary, it too merits careful design*'.
- 3.28 The letter also points out in the Section on Relevant Policy and Guidance that the appeal site was assessed as part of a larger site within the Council's Housing and Economic Land Availability Assessment (HELAA) (2018; site HELAA030). The assessment concludes the site was '*unsuitable for development*' and as such its development would create '*a direct risk of coalescence of Banbury and Hanwell village which development would lead to impacts on the Hanwell Conservation Area and the high landscape value and visual sensitivity of the site*'.
- 3.29 Since this letter was written there has been discussion between EDP and Historic England on its contents (apparently on the question of whether the significant harm Historic England have identified to the conservation area also applies to the setting of St. Peter's Church and Hanwell Castle (see Appendix 4 of the appellants' Statement of Case).
- 3.30 This has resulted in the following confirmation from Historic England on 24 January 2024: '*As discussed, our letter focussed on the key asset impacted by the proposals, in this case the Hanwell conservation Area. As outlined in our advice 'Such development would affect the appreciation and understanding for the rural origins of*

*the village and the close connection it has with the landscape. It will also affect to some extent the understanding of the historic relationship of the buildings within the conservation area with the surrounding fields which they farmed.’ This would to an extent include St Peter’s Church and Hanwell Castle, as they are also experienced within this rural setting. To expand on that further. As Historic England’s setting guidance and the NPPG make clear, the historic connection between places, the kinetic experience of approaching a place, and factors such as noise can often contribute to the setting of a listed asset. This development would bring the suburbs closer to the church and castle, closing the gap to the south, and will be partly visible and appreciable (for example, through noise, lighting) on nearby approach roads and paths to both of these highly graded assets. The development is therefore likely to somewhat reduce the ability to appreciate the origins of these buildings, which at present can still be appreciated. This would cause some harm, but at a lower level than that identified for Hanwell Conservation Area’.*

- 3.31 It therefore seems to me that EDP’s apparent attempt to create a false distinction between the impact of the appeal proposals on the settings of these highly graded listed buildings and their significance and the impact on the setting of the conservation area has failed.
- 3.32 The church and the castle, which have a clear historical and visual association are prominent buildings in the conservation area, the former in particular being clearly visible in views from the south outside the designated area.
- 3.33 Any proposal that could damage this important relationship and the role it plays in its positive contribution to the character and appearance of Hanwell Conservation should be strongly resisted as the settings of these buildings and that of the conservation area are so clearly and inextricably intertwined.
- 3.34 It is also quite clear that light spillage from the proposed appeal scheme would have a serious impact on the dark sky at night associated with Hanwell and its immediate rural surroundings. This would clearly be harmful to the continuing successful operation of Hanwell Community Observatory, which is situated in the grounds of Hanwell Castle.
- 3.35 For all the reasons set out in this proof, it is my considered professional view that no amount of tinkering with the masterplan or other plans submitted as part of the appeal proposals is capable of rectifying the significant and irrevocable harm the

appeal proposals would cause. Put simply, this is the wrong scheme in the wrong place in heritage terms.

3.36 In my view, the level of harm caused falls at the mid-level of 'less than substantial harm', as that term is defined and used in the NPPF and NPPG, and I therefore respectfully urge the Inspector to dismiss this appeal.

## **4.0 SUMMARY AND CONCLUSION**

- 4.1 Following an introduction in Section 1.0 to the scope of evidence covered in this proof, Section 2.0 describes the appeal site and surrounding area in their present form, together with a description of the historical background to the evolution of the village of Hanwell and its subsequent designation as a conservation area.
- 4.2 The proof then goes on to assess the contribution the appeal site and surrounding area makes to the setting of the conservation area and its significance, as well as to the two buildings closest to the appeal site, the Grade I listed St. Peter's Church and the Grade II\* Hanwell Castle, which are of course both significant components of the conservation area.
- 4.3 The importance of this contribution derives not only from the clear value that the open and rural nature of the surrounding fields (including the appeal site) makes to the rural nature and village character of the conservation area and its significance but from the fact that the site has never been previously developed.
- 4.4 As such, the appeal site forms an important element of the historic rural landscape surrounding Hanwell and separating it from Banbury. The prevailing character and appearance of Hanwell is nicely described in the Council's 2007 adopted Conservation Appraisal, while it is notable that the account of it in the revised edition of Pevsner can still accurately describe it as a '*Picturesque small village, almost entirely built of the local orange limestone*'.
- 4.5 The boundaries of the conservation area are very clearly defined against the arable land around it, with paragraph 9.1 of the Council's Character Appraisal noting that '*The pressure on the village from the urban extension of Banbury is a threat to the integrity and independence of Hanwell. It is important that the setting of the Conservation Area as well as that of the Castle and the Grade I listed Church is protected.*'
- 4.6 As such, it is the conclusion of Section 2.0 of this proof that the appeal site and surrounding fields (accessible by public footpaths) form an important and attractive element of the open countryside surrounding Hanwell which obviously makes a vital contribution to the setting of the Conservation Area and its significance, as well as to those listed buildings closest to the appeal site, namely St. Peter's Church and the adjoining Hanwell Castle.
- 4.7 Section 3.0 of this proof begins with an examination of relevant planning policy relating to the Historic Environment at both local and national level, as well as

considering Historic England's 'Historic Environment Good Practice Advice in Planning Note 3- The Setting of Heritage Assets' (2<sup>nd</sup> edn., December 2017) – HEAN 3 – **Appendix 1.**

- 4.8 I quote in full at paragraph 3.10 above the section of the NPPG (PPG, paragraph: 013, reference ID: 18a-013-20190723 Revision Date 23 07 2019) which considers 'What is the setting of a heritage asset and how should it be taken into account?' but in this summary would particularly like to draw the Inspector's attention to the following extracts (my emphases) : 'All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent. The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations.

For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time. When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.'

- 4.9 The next paragraphs of this proof considers Historic England's planning advice note on 'Setting' (HEAN 3), emphasising those sections that are particularly relevant to the appeal proposals.
- 4.10 At paragraph 3.18 I begin an examination of the appellants' Built Heritage Assessment prepared on their behalf by EDP, pointing out its inadequacies and analysing the reasons behind its strange and unsustainable conclusion that the appeal proposals cause only a small element of harm to the setting of Hanwell Conservation Area and the significance it draws from this.
- 4.11 For my own part, I remain firmly of the view that the proposed fundamental change of the appeal site from agricultural fields that have never previously been built on

into a housing estate can only cause irrevocable and significant harm to what is significant about the setting of the conservation area.

4.13 In heritage terms the loss of open space on the appeal site caused by the appeal proposals would result in a clear degree of harm to the setting of Hanwell Conservation Area regarding the positive contribution the existing rural setting provides to its significance.

4.14 This applies just as much to the settings of St. Peter's Church and the adjoining Hanwell Castle, which with their clear historical and visual association are prominent buildings in the conservation area, the former in particular also being clearly visible in views from the south outside the designated area.

4.15 This is also the view of Historic England as shown in their pre-application response letter to EDP of 20 December 2023, which begins with the clear and unequivocal summary that *"The proposed housing development would cause harm to the significance of the Hanwell Conservation Area through development in its setting. We are not convinced the harm is justified, contrary to the requirements of the NPPF. The proposals also conflict with numerous related local planning policies. Historic England would strongly object should this application be submitted for planning permission"* (**Appendix 2**).

4.16 This letter sets out in some detail Historic England's strong concerns over the appeal proposals, noting *inter alia* that the *'proposals would not only reaffirm the negative impacts the northern expansion of Banbury has had on the rurality of the village, but greatly exacerbate them. Developing these fields would essentially close the rural gap to the south between Banbury and Hanwell and would be both visible and appreciable (for example, through noise) on nearby approach roads and the PROWs to the village. Such development would affect the appreciation and understanding for the rural origins of the village and the close connection it has with the landscape... Overall, we consider the proposals would likely cause a high level of harm to the significance of the conservation area. In the language of the NPPF the harm would be in the range of less than substantial'*.

4.17 Historic England also emphasise the danger of blurring between Hanwell and Banbury in their comment that the appeal proposals *'would create 'a direct risk of coalescence of Banbury and Hanwell village which development would lead to impacts on the Hanwell Conservation Area and the high landscape value and visual sensitivity of the site'*.



- 4.18 In conclusion, it is clear the appeal proposals cause significant and irretrievable harm to the designated heritage assets affected – even the appellants acknowledge that *'The proposals will result in a low level of less than substantial harm to Hanwell Conservation Area'* – including the Grade I listed St. Peter's Church and the Grade II\* Hanwell Castle, which are both indisputably assets of the highest significance.
- 4.19 For all the reasons set out in this proof, it is my considered professional view that no amount of tinkering with the masterplan or other plans submitted as part of the appeal proposals could rectify the significant and irrevocable harm the appeal proposals would cause. Put simply, this is the wrong scheme in the wrong place in heritage terms.
- 4.20 In my professional opinion, the degree of harm that would be caused by the appeal proposals falls at the mid-level of 'less than substantial harm' as that term is defined and used in the NPPF and PPG.
- 4.21 I therefore respectfully urge the Inspector to dismiss this appeal.