

# Built Heritage Assessment

**Padbury Brook Solar Farm, Stratton Audley, Oxfordshire**

JBM Solar Projects 8 Ltd

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## Document Management.

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## Contents.

1. Introduction .....	4
2. Site Description and Planning History.....	5
3. Methodology .....	6
4. Policy Framework.....	8
5. Setting Assessments.....	9
6. Assessment of Impacts .....	21
7. Conclusions.....	24

## Appendices contents.

Appendix 1: Assessment Methodology.....	25
Appendix 2: Legislative Framework.....	31
Appendix 3: National Policy Guidance.....	33
Appendix 4: Relevant Development Plan Policies .....	40

## Plates:

Plate 1: Site Location Plan.....	4
Plate 2: Long-ranging glimpse of the Church of St Mary from the southern part of the site (SP619269), looking south-west.....	10
Plate 3: Long-ranging glimpse of the Church of St Mary from the lane outside the southern boundary of the site, looking south-west .....	11
Plate 4: Tall hedgerow along the southern boundary of the site, looking north-west from same location as Plate 3.....	11
Plate 5: Glimpsed view of Stratton Audley Park House from the public footpath through fields to the north of Stratton Audley village (SP614263), looking north-west towards its primary south-east facing elevation.....	12
Plate 6: Looking south-east over Scheduled Monument.....	15
Plate 7: Looking south-east from Scheduled Monument / Conservation Area boundary .....	15



Plate 8: Looking north-north-east towards the site (no visibility) from just beyond the north-eastern boundary of the Conservation Area (SP611261)	16
Plate 9: Looking north-north-east towards the site (no visibility) from the northerly continuation of the same public footpath (SP614263)	16
Plate 10: Looking south towards Stratton Audley village and Conservation Area (no visibility) from Mill Road, just south of the crossroads at the south-western corner of the site (SP615268)	17

# 1. Introduction

1.1. Pegasus Group have been commissioned by ADAS Planning on behalf of JBM Solar Projects 8 Ltd to prepare a Built Heritage Assessment to consider land at Padbury Brook near Stratton Audley in the Cherwell District of Oxfordshire (hereafter 'the site'; Plate 1).

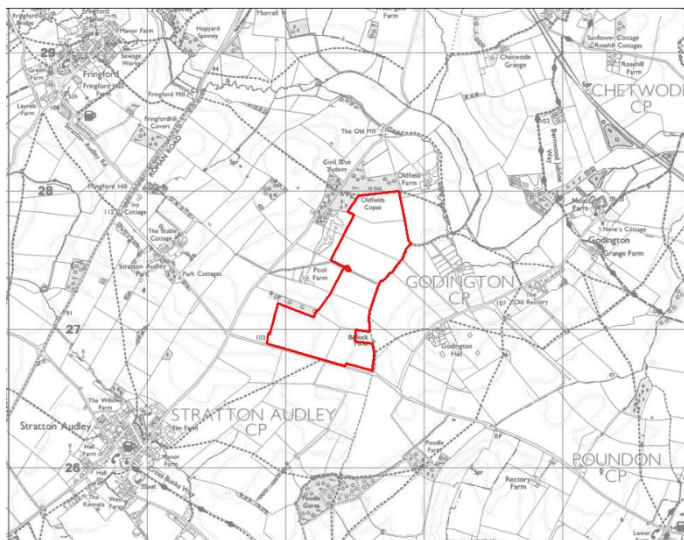


Plate 1: Site Location Plan

1.2. The site is proposed for the installation and operation of a renewable energy generating station comprising

ground-mounted photovoltaic solar arrays together with substation, switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.

1.3. This Report provides information with regards to the significance of the historic environment to fulfil the requirement given in paragraph 194 of the Government's *National Planning Policy Framework* (the *NPPF*) which requires:

***"...an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting".<sup>1</sup>***

1.4. In order to inform an assessment of the acceptability of the scheme in relation to impacts on the historic environment, following paragraphs 199 to 203 of the *NPPF*, any harm to the historic environment resulting from the proposed development is also described, including impacts on significance through changes to setting.

1.5. As required by paragraph 194 of the *NPPF*, the detail and assessment in this Report is considered to be *"proportionate to the assets' importance"*.<sup>2</sup>

<sup>1</sup> Department for Levelling Up, Housing and Communities (DLUHC), *National Planning Policy Framework (NPPF)* (London, July 2021), para. 194.

<sup>2</sup> DLUHC, *NPPF*, para. 194.

## 2. Site Description and Planning History

### Site Description

- 2.1. The site comprises approximately 59.4ha of arable farmland located c.1km north-east of Stratton Audley, c.850m north-west of Godington and c.2.2km south-east of Fringford. Pool Farm lies c.200m west of the site and Oldfield Farm lies c.200m north of the site.
- 2.2. Oldfields Copse abuts the northern and north-western boundary of the site and 'The Twins' (Padbury Brook) flows c.400m north and c.285m east of the site. The site is divided into seven fields, with a tributary of Padbury Brook extending west/east through the centre.

### Site Development

- 2.3. No enclosure or tithe map for Stratton Audley parish, within which the site lies, is available online or held at the Oxfordshire History Centre.
- 2.4. The earliest consulted detailed mapping of the site is the first edition Ordnance Survey for Oxfordshire dated 1880 (published 1885). It shows the site divided into a greater number of fields than today; with a barn in the south-western corner, a T-shaped pond at the intersection of four fields at the western boundary, and tracks in the northern fields.

- 2.5. The only change shown by the first edition Ordnance Survey mapping for Buckinghamshire dated 1898 (published 1900) is the apparent removal of the tracks in the northern fields – but it is also possible that they were simply not recorded by the cartographer.
- 2.6. The second edition Ordnance Survey mapping for Buckinghamshire dated 1920 (published 1923) shows no changes within the site for the period since 1898 other than representing the southern-central field as marshy ground.
- 2.7. Later Ordnance Survey maps document the removal of some field boundaries within the site to create the present-day layout. Sometime after 1952, a plantation was created outside the northern boundary of the south-western part of the site.

### Planning History

- 2.8. No planning history was identified for the site through a search of Cherwell District Council planning records available online.

### 3. Methodology

- 3.1. The aims of this Report are to assess the significance of the heritage resource within the site/study area, to assess any contribution that the site makes to the heritage significance of the identified heritage assets, and to identify any harm or benefit to them which may result from the implementation of the development proposals, along with the level of any harm caused, if relevant.
- 3.2. This assessment focusses on built heritage, specifically, the potential impact of the proposed development on the significance of designated heritage assets, proposed Local Heritage Assets (identified in the Stratton Audley Conservation Area Appraisal and by Buckinghamshire County Council), and non-designated heritage assets as arising through change to setting.

#### Sources

- 3.3. The following key sources have been consulted as part of this assessment:
- The National Heritage List for England for information on designated heritage assets;
  - The Oxfordshire Historic Environment Record (HER) for information on the recorded heritage resource in the vicinity of the site;
  - The Buckinghamshire County Council Local List<sup>3</sup>;

- Historic maps available online at The Genealogist, National Library of Scotland, and Promap;
- Archival material and documentary sources held at the Oxfordshire History Centre; and
- Google Earth satellite imagery.

#### Site Visit

- 3.4. A site visit was undertaken by the author of this Report on 13<sup>th</sup> July 2022, during which the site and its surrounds were assessed.

#### Photographs

- 3.5. Photographs included in the body text of this Report are for illustrative purposes only to assist in the discussions of heritage assets, their settings, and views, where relevant. Unless explicitly stated, they are not accurate visual representations of the site or development proposals, nor do they conform to any standard or guidance i.e., the Landscape Institute Technical Guidance Note 06/19. However, the photographs included are intended to be an honest representation and are taken without the use of a zoom lens or edited, unless stated in the description or caption.

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<sup>3</sup> <https://local-heritage-list.org.uk/buckinghamshire>

## Assessment Methodology

3.6. Full details of the assessment methodology used in the preparation of this Report are provided within **Appendix 1**. However, for clarity, this methodology has been informed by the following:

- *Historic Environment Good Practice Advice in Planning: 2 – Managing Significance in Decision-Taking in the Historic Environment* (hereafter *GPA:2*);<sup>4</sup>
- *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) – The Setting of Heritage Assets*, the key guidance of assessing setting (hereafter *GPA:3*);<sup>5</sup>
- *Historic England Advice Note 1 (Second Edition) – Conservation Area Appraisal, Designation and Management* (hereafter *HEAN:1*).<sup>6</sup>
- *Historic England Advice Note 12 – Statements of Heritage Significance: Analysing Significance in Heritage Assets* (hereafter *HEAN:12*);<sup>7</sup> and
- *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment*.<sup>8</sup>

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<sup>4</sup> Historic England, *Historic Environment Good Practice Advice in Planning: 2 – Managing Significance in Decision-Taking in the Historic Environment* (*GPA:2*) (2<sup>nd</sup> edition, Swindon, July 2015).

<sup>5</sup> Historic England, *Historic Environment Good Practice Advice in Planning Note 3 – The Setting of Heritage Assets* (*GPA:3*) (2<sup>nd</sup> edition, Swindon, December 2017).

<sup>6</sup> Historic England, *Historic England Advice Note 1 – Conservation Area Appraisal, Designation and Management* (*HEAN:1*) (2<sup>nd</sup> edition, Swindon, February 2019).

<sup>7</sup> Historic England, *Historic England Advice Note 12 – Statements of Heritage Significance: Analysing Significance in Heritage Assets* (*HEAN:12*) (Swindon, October 2019).

<sup>8</sup> English Heritage, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008).



## 4. Policy Framework

### Legislation

- 4.1. Legislation relating to the built historic environment is primarily set out within the *Planning (Listed Buildings and Conservation Areas) Act 1990*, which provides statutory protection for Listed Buildings and their settings and Conservation Areas.<sup>9</sup>
- 4.2. In addition to the statutory obligations set out within the aforementioned Act, Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that all planning applications, including those for Listed Building Consent, are determined in accordance with the Development Plan unless material considerations indicate otherwise.<sup>10</sup>
- 4.3. Full details of the relevant legislation are provided in **Appendix 2**.

### National Planning Policy Guidance

- 4.4. National Planning Policy guidance relating to the historic environment is provided within Section 16 of the Government's *National Planning Policy Framework (NPPF)*, an updated version of which was published in July 2021.

- 4.5. The *NPPF* is also supplemented by the national *Planning Policy Guidance (PPG)* which comprises a full and consolidated review of planning practice guidance documents to be read alongside the *NPPF* and which contains a section related to the Historic Environment.<sup>11</sup> The *PPG* also contains the *National Design Guide*.<sup>12</sup>
- 4.6. Full details of the relevant national policy guidance are provided within **Appendix 3**.

### The Development Plan

- 4.7. Planning applications in Cherwell District are currently considered against the policy and guidance set out within the Cherwell Local Plan 2011–2013. The Local Plan includes
- 4.8. Details of the policies relevant to the development proposals are provided within **Appendix 4**.

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<sup>9</sup> UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>10</sup> UK Public General Acts, Planning and Compulsory Purchase Act 2004, Section 38(6).

<sup>11</sup> Department for Levelling Up, Housing and Communities (DLUHC), *Planning Practice Guidance: Historic Environment (PPG)* (revised edition, 23<sup>rd</sup> July 2019), <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>.

<sup>12</sup> Department for Levelling Up, Housing and Communities (DLUHC), *National Design Guide* (London, January 2021).

## 5. Setting Assessments

- 5.1. The significance of a heritage asset can be derived from many elements, including the intrinsic interests of its physical form and elements of its setting.
- 5.2. Typically, the significance of a Listed Building (or Locally Listed Building) is principally derived from the special architectural and historic interest of its fabric, while the significance of a Scheduled Monument is principally derived from the archaeological and/or historic interest of its earthwork and buried remains; with setting making a lesser contribution to that significance.
- 5.3. Development proposals may adversely impact heritage assets where they remove a feature which contributes to the significance of a heritage asset (a direct, physical effect); or where they interfere with an element of a heritage asset's setting which contributes to its significance, such as interrupting a key relationship or a designed view (an indirect, non-physical effect).

### Step 1

- 5.4. Step 1 of the methodology recommended by *GPA3* (see Methodology, above), is to identify which heritage assets might be affected by a proposed development.<sup>13</sup>
- 5.5. Consideration, based upon professional judgement and on-site analysis, was made as to whether any of the heritage assets present within a minimum 1km radius of the site may include the site as part of their setting,

whether the site contributes to their overall heritage significance, and whether the assets may potentially be affected by the proposed scheme as a result.

- 5.6. A map of all designated heritage assets in the vicinity of the site is provided as Figure 1. Proposed local heritage assets within Stratton Audley Conservation Area are depicted on Figure 3. No contenders for local heritage assets are present within or immediately outlying the part of the study area that lies within Buckinghamshire<sup>14</sup>.
- 5.7. To the north of the site, within and beyond Oldfields Copse, the Oxfordshire HER identifies The Old Mill and a Civil War Battery (Figure 4). It does not identify Stratton Audley Park (c.700m west of the site), Pool Farm (c.210m west of the site) Oldfield Farm (c.200m north of the site), or Godington Hall (c.425m east of the site) (Figure 4).

### Designated and Local Heritage Assets

- 5.8. Through Step 1 it was deemed that Stratton Audley Conservation Area had the potential to be sensitive to the development proposals on account of possible visual associations with the site. As such, the Conservation Area is progressed to further setting assessment, comprising Steps 2 and 3 of the methodology recommended by *GPA3*, below.
- 5.9. With regard to the other designated heritage assets (which mostly comprise Listed Buildings but include one

<sup>13</sup> Historic England, *GPA3*, p. 4.

<sup>14</sup> <https://local-heritage-list.org.uk/buckinghamshire/map>

Scheduled Monument) and the proposed local heritage assets identified by Cherwell District Council, it was established that the site does not constitute an element of their setting that positively contributes to their overall heritage significance. The reasoning for this is provided below.

- 5.10. No historical association between any designated or local heritage asset and the site was identified from the sources consulted for this assessment. There are no designed views from any designated or local heritage asset towards the site. Equally, there are no key views of any designated or local heritage asset from within or across the site; the site is not a location from where any such asset is typically or best experienced.
  
- 5.11. A long-ranging glimpse of the upper stage of the tower of the Church of St Mary at Stratton Audley from the southernmost part of the site is incidental (Plate 2). There is no covisibility of the church tower and the site from the lane that runs outside the southern boundary of the site, due to the tall, dense hedgerow at that boundary (Plate 3, Plate 4).
  
- 5.12. The proposed development is not anticipated to result in a change that would impact upon the significance of any Listed Building or Local Heritage Asset; and as such, further setting assessment is not considered necessary for those assets.



*Plate 2: Long-ranging glimpse of the Church of St Mary from the southernmost part of the site (SP619269), looking south-west*



*Plate 3: Long-ranging glimpse of the Church of St Mary from the lane outside the southern boundary of the site, looking south-west*



*Plate 4: Tall hedgerow at the southern boundary of the site, looking north-west from same location as Plate 3*

Non-Designated Heritage Assets

- 5.13. The Old Mill and the Civil War Battery at Oldfields Copse are considered non-designated heritage assets by the Oxfordshire HER. No historic or visual associations between either asset and the site were identified from consulted sources or during the walkover survey. The site is considered to make no contribution to the significance of either asset and so no further setting assessment is required.
- 5.14. With regard to the historic buildings of Stratton Audley Park House, Pool Farm, Oldfield Farm and Godington Hall, which could be considered non-designated heritage assets despite not being identified as such by the Oxfordshire HER, historic and/or visual associations with the site were identified through Step 1.

- 5.15. Stratton Audley Park House was built in 1860. The origins of Pool Farm, Oldfield Farm and Godington Hall are unknown, but they are all illustrated on the first edition Ordnance Survey map of 1880 (Plate 11). 1987 sales particulars held by the Oxfordshire History Centre reveal that Pool Farm, Oldfield Farm and the site were formerly part of the Stratton Audley Park Estate<sup>15</sup>.
- 5.16. The site is only a small part of the former Stratton Audley Park Estate, and there is no intervisibility with the house as its primary elevation is south-east facing, presenting views across the pasture fields to the north of Stratton Audley village (Plate 5). The site is considered to make no contribution to the significance of Stratton Audley Park House and so no further setting assessment is required.



*Plate 5: Glimpsed view of Stratton Audley Park House from the public footpath through fields to the north of Stratton Audley village (SP614263), looking north-west towards its primary south-east facing elevation*

- 5.17. Given the proximity to the site, it is possible that the land of the site was formerly attached to Oldfield Farm and/or Pool Farm. During the walkover survey of the site, it was noted that Oldfield Farm and the site are screened from one another by intervening topography and trees. Oldfield Farmhouse is not considered sensitive to the proposals and no further setting assessment is required.
- 5.18. In the case of Pool Farmhouse, however, there may be peripheral visibility of the site in designed views from its south-facing elevation. This asset is accordingly progressed to further setting assessment, comprising

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<sup>15</sup> Oxfordshire History Centre ref. *PA Pamphlets (Strongroom) PA115*.

Steps 2 and 3 of the methodology recommended by GPA3, below.

- 5.19. No historic association between the site and Godington Hall was identified from consulted sources, and only a small upper-storey window was noted on an elevation facing towards the southern part of the site. The site is considered to make no contribution to the significance of Godington Hall and so no further setting assessment is required.

### **Steps 2 and 3**

#### Stratton Audley Conservation Area

- 5.20. Stratton Audley Conservation Area was first designated in 1988. The most recent boundary review and appraisal was undertaken by Cherwell District Council between 2018 and 2020<sup>16</sup>.

- 5.21. The Conservation Area is focussed around the historic settlement core of Stratton Audley. The boundary encompasses the Scheduled Monument of a medieval moated site, the Grade I Listed Church of St Mary and St Edburga, 12 Grade II Listed Buildings, and 14 proposed Local Heritage Assets.

- 5.22. All Listed Buildings within the Conservation Area are illustrated on Figure 2. The church is labelled (1). The Grade II Buildings comprise:

- The Willows Farmhouse (2);

- Elm Farmhouse and Dairy/Stable (3);
- Elm Farmhouse Barn (4);
- Bay Tree House (5);
- The Red Lion Public House (6);
- The Manor House (7);
- The Plough House (8);
- 1-2 Church Lane (9);
- Churchyard Cross (10);
- War Memorial (11);
- Headstone North-East of Church (12); and
- Headstone South of Church (13).

- 5.23. The proposed Local Heritage Assets within the Conservation Area are illustrated on Figure 3 and comprise:

- Stable House, Bicester Road (A);
- Stratton Audley Hall, Bicester Road (B);
- The Old Rectory, Launton Road (C);

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<sup>16</sup> Cherwell District Council, 2022. *Stratton Audley Conservation Area Appraisal*.

- West Cottages, Bicester Road (D);
- Stratton House, Stoke Lyne Road (E);
- Pound House, Launton Road (F);
- 1-3 Manor Farm Cottages, Mill Road (G);
- Manor Farm House, Mill Road (H);
- The Old School, Mill Road (I);
- Barns at Elm Farm, Mill Road (J);
- The Weir, Ponds to the North of Cavendish Place (K);
- Wall to the Rear of Cavendish Place (L);
- The Old Post Office, Cherry Street (M); and
- 1-4 Stone Row Cottages, Cherry Street (N).

5.24. The Appraisal identifies three Character Areas within the Conservation Area: Historic Core (to the south); The Manor (to the north); and the Hall (to the west).

5.25. The Appraisal is clear that the character and appearance of the Conservation Area as a whole is derived from its historic settlement pattern; land use; building age, type and style; construction and materials; means of enclosure; trees and green spaces; and carriageways, pavements and footpaths – all within the boundaries of the designation.

5.26. The Appraisal does not explicitly discuss the contribution made by setting to the significance of the Conservation

Area, but makes reference to the surrounding landscape in discussing the geographical, topographical and historic context of the village. Statements considered relevant to this assessment are cited below:

***“There are [also] a number of public footpaths/Rights of Way that branch out from the centre of the village across the open countryside.” (para 3.3)***

***“The landscape has a denuded lowland character with flat open farmland and traditional wet meadows and pastures.” (para 4.2)***

***“Stratton Audley developed as an agricultural community... Inclosure increased the amount of dairy farming, for which the area became noted in the 19th century.” (para 6.11)***

***“...after agriculture the most important occupation was quarrying. Field names indicate the presence of stone within the parish.” (para 6.15)***

***“Stratton Audley is a village of agricultural origins centred on the remains of medieval and 16th century manors. A number of farms remain in agricultural use and stable and kennel complexes associated with the hunt are located within the village.” (para 8.1)***

***“The open fields which extend into the village, most notably those south of the church contribute to the dispersed settlement pattern.” (para 9.3)***

***“The village was historically an agricultural settlement; farming is still one of the major land uses in the village today. There are 6 farms, Hall Farm, Elm Farm, Manor Farm, Willows Farm, West Farm and the modern Lodge***

**Farm. The farms with their associated buildings with the exception of Manor Farm sit on the edge of the built form of the village. However they are still very much understood as part of the village.” (para 9.4)**

**“The layout and form of the village of Stratton Audley means that from the village streets it feels very enclosed with limited views out to the wider countryside. However there are certain places where views outward can be enjoyed...**

**The two notable views out to open countryside are views over the fields north of Hall Farm on the Bicester Road and views from the land adjacent to Pound House over the scheduled monument to the fields beyond.” (paras 9.31 & 9.34)**

- 5.27. The site forms part of the historic agricultural hinterland of Stratton Audley. However, the southern boundary of the site lies c.785m north of the Conservation Area. The site is separated from the Conservation Area by other fields and a crossroads; the farmland of the site is not physically contiguous with the historic settlement core or farm within the Conservation Area, and comprises only around 7% of the farmland within the parish.
- 5.28. The site is not visible from within the Conservation Area, including its northern and eastern boundaries, on account of intervening built form, vegetation, and topography. During the walkover survey of the Conservation Area, no views of open countryside additional to those identified in the Appraisal (see 5.26; Plate 6, Plate 7) were noted.



*Plate 6: Looking south-east over the Scheduled Monument*



*Plate 7: Looking south-east from the Scheduled Monument / Conservation Area boundary*



- 5.29. A public footpath extends from the rear of Elm Farm in the north-eastern part of the Conservation Area (Figure 2: 3 & 4) across fields outlying the Conservation Area, and terminates at the lane outside the southern boundary of the site. There are no views of the site from where the footpath crosses the Conservation Area boundary (Plate 8) or from its northerly continuation (Plate 9) due to the rising topography.



*Plate 8: Looking north-north-east towards the site (no visibility) from just beyond the north-eastern boundary of the Conservation Area (SP611261)*



*Plate 9: Looking north-north-east towards the site (no visibility) from the northerly continuation of the same public footpath (SP614263)*

- 5.30. The Conservation Area is best experienced from within its boundaries. There is no visibility of the Conservation Area on the approaches via Mill Road from the north (Plate 10) and Stoke Lyne Road from the north-west. There is only limited visibility of the Conservation Area (including a glimpse of the church tower) on the approaches via Bicester Road from the south and Launton Road from the south-east. The built form within the Conservation Area is generally screened by intervening hedgerows.



*Plate 10: Looking south towards Stratton Audley village and Conservation Area (no visibility) from Mill Road, just south of the crossroads at the south-western corner of the site (SP615268)*

- 5.31. Aside from the aforementioned long-ranging glimpse of the Church of St Mary from the southern part of the site (see 5.11) there are no views of the Conservation Area (or any of its Listed Buildings or Local Heritage Assets) from within the site. In addition, there are no views of the Conservation Area or any of its built assets from any location within which the site could be covisible.
- 5.32. It is considered that the following elements of setting contribute to the significance of Stratton Audley Conservation Area:
- The geographical and topographical situation of the village within the Otmoor Lowlands, described as a flat and open agricultural landscape;

- The fields adjoining the south-eastern boundary of the Conservation Area, which are said to contribute to the settlement pattern and feature in a rare view of the outlying agricultural landscape from within the Conservation Area;
- The fields adjoining the north-western boundary of the Conservation Area (near Hall Farm), which feature in a rare view of the outlying agricultural landscape from within the Conservation Area.

5.33. To conclude, the site does not contribute through setting to the significance of Stratton Audley Conservation Area.

#### Pool Farmhouse

- 5.34. As noted above, Pool Farmhouse is not recorded by the Oxfordshire HER, but it could be considered a non-designated heritage asset. It is depicted on the first edition Ordnance Survey map of 1880 (Plate 11) but no other reference to it was found in consulted sources.
- 5.35. Its heritage significance is principally derived from the architectural and historic interest of its built form and fabric. Elements of its setting, namely, land historically attached to the farm and visible in designed views from and towards the asset, contribute but to a lesser degree.
- 5.36. Stratton Audley Park Estate was established in 1860 and remained in the same family until it was put up for sale in 1987. Those sale particulars include Pool Farm and the site, and it seems likely that both properties had always formed part of the estate – and that all or part of the site was the holding of Pool Farm, given its proximity.



*Plate 11: Extract of first edition Ordnance Survey map showing Pool Farm and the site*

- 5.37. Pool Farmhouse is approached via a private drive from the lane to the west. The asset is experienced from this drive and from within its curtilage, including its former farmyard to the west and its garden to the east; only at close range can the asset's built form and features of architectural and historic interest be appreciated.
- 5.38. On account of the tall, dense hedgerow along the western boundary of the site, there is no co-visibility of the site and the asset from the lane. Due to other hedgerows at the boundaries of the fields immediately surrounding Pool Farm, no co-visibility of the site in views of the asset from the private drive, farmyard, or garden are anticipated.
- 5.39. The primary elevation of Pool Farmhouse is south-facing, today overlooking an outlying field beyond which is a narrow plantation separating that field from the south-

western part of the site. The plantation seems to have been created sometime after 1952 as it is not illustrated on the Ordnance Survey map of this date.

- 5.40. The plantation now screens the south-western part of the site from Pool Farmhouse (Plate 12, Plate 14). There may, however, be peripheral visibility, beyond/through intervening field hedgerows, of the south-eastern and southern-central parts of the site from first-floor windows on the south-facing (front) and east-facing (side) elevations of the farmhouse (Plate 13).



*Plate 12: Looking north towards Pool Farmhouse (no visibility) from the south-western part of the site (SP619269)*



*Plate 13: View of Pool Farmhouse from the southern part of the site immediately east of the plantation (SP622271)*



*Plate 14: Looking west at the hedgerow and plantation to the north of the south-western part of the site, from same location as Plate 12*

- 5.41. It is considered that the following elements of setting contribute to the significance of Pool Farmhouse:
- Its private access drive from the lane to the west, which is the sole approach to the asset;
  - Its former outbuildings and yard to the west, which contribute to understanding how the complex once functioned as a working farm;
  - Its garden to the east, which affords views of the asset, and features in views from the asset; and
  - The three fields surrounding the asset to the west, east and south, which likely form part of its historic

landholding, are co-visible in views of the asset, and feature in views from the asset.

- 5.42. Despite shared historic ownership and probable shared tenancy of Pool Farm and the site, the two properties are no longer associated and Pool Farm is seemingly no longer a working farm.
- 5.43. The south-western part of the site would once have featured in designed views from the south-facing elevation of the farmhouse, but is now screened by an intervening plantation.
- 5.44. There is considered to be at most only limited visibility of the south-eastern and/or southern-central parts of the site in views from first-floor windows on the south- and east-facing elevations of the farmhouse.
- 5.45. To conclude, the site makes no meaningful contribution through setting to the significance of Pool Farmhouse.

## 6. Assessment of Impacts

6.1. This Section addresses the built heritage planning issues that warrant consideration in the determination of a planning application for a solar farm within the site.

### Legislation and Policy

6.2. As detailed above, the *Planning and Compulsory Purchase Act (2004)* requires that applications for planning permission are determined in accordance with the Development Plan, unless material considerations indicate otherwise. The policy guidance set out within the *NPPF* is considered to be a material consideration which attracts significant weight in the decision-making process.

6.3. The statutory requirement set out in Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* confirms that special regard should be given to the preservation of the special historic and architectural interest of Listed Buildings and their settings.

6.4. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* confirms that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the asset, as well as the protection of the character and appearance of a Conservation Area.

6.5. In addition, the *NPPF* states that the impact of development proposals should be considered against the

particular significance of heritage assets, such as Listed Buildings and Conservation Areas, and this needs to be the primary consideration when determining the acceptability of the proposals.

6.6. It is also important to consider whether the proposals cause harm. If they do, then one must consider whether the harm represents "substantial harm" or "less than substantial harm" to the identified designated heritage assets, in the context of paragraphs 201 and 202 of the *NPPF*.<sup>17</sup>

6.7. With regard to non-designated heritage assets, potential harm should be considered within the context of paragraph 203 of the *NPPF*.<sup>18</sup> 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 whilst having regard to the significance of the asset.

6.8. High Court Judgements have confirmed that when considering potential impacts on non-designated heritage assets within the decision-making process, the balanced judgement required is different from the public benefits exercise associated with designated heritage

<sup>17</sup> DLUHC, *NPPF*, paras. 201 and 202.

<sup>18</sup> DLUHC, *NPPF*, para. 203.

assets (as set out in Paragraphs 201 and 202 of the NPPF).<sup>19</sup>

6.9. Within a High Court Judgment of 2017, Jarman HHJ confirmed that the only requirement of the NPPF in respect of non-designated heritage assets is “that the effect of an application on the significance should be taken into account”.<sup>20</sup>

6.10. This was further expressed in the Bohm decision, which stated that:

**[34] “Unsurprisingly, given that an NDHA [non-designated heritage asset] does not itself have statutory protection, the test in para 135 [Paragraph 203 of the 2021 NPPF] is different from that in paras 132–4 [Paragraphs 200–202 of the 2021 NPPF], which concern designated heritage assets. Paragraph 135 [Paragraph 203 of the 2021 NPPF] calls for weighing “applications” that affect an NDHA, in other words the consideration under that paragraph must be of the application as a whole, not merely the demolition but also the construction of the new building. It then requires a balanced judgement to be made by the decision maker. The NPPF does not seek to prescribe how that balance should be undertaken, or what weight should be given to any particular matter.”<sup>21</sup>**

6.11. The PPG clarifies that within each category of harm (“less than substantial” or “substantial”), the extent of the harm may vary and should be clearly articulated.<sup>22</sup>

6.12. The guidance set out within the PPG also clarifies that “substantial harm” is a high test, and that it may not arise in many cases. It makes it clear that it is the degree of harm to the significance of the asset, rather than the scale of development, which is to be assessed.<sup>23</sup> In addition, it has been clarified in a High Court Judgement of 2013 that substantial harm 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.”<sup>24</sup>**

6.13. This Section will review the setting assessments undertaken above for designated and non-designated heritage assets, and assess the impact of the proposed development, whether that be harmful or beneficial, to the assets’ significance.

### Scheduled Monuments

6.14. The Scheduled Monument at Stratton Audley was subject to an appropriate level of setting assessment in accordance with the methodology recommended by GPA3.

<sup>19</sup> DLUHC, NPPF, paras. 201 and 202.

<sup>20</sup> Travis Perkins (Properties) Limited v Westminster City Council [2017] EWHC 2738 (Admin), Paragraph 44.

<sup>21</sup> Bohm [2017] EWHC 3217 (Admin).

<sup>22</sup> DLUHC, PPG, Paragraph: 018 (ID: 18a-018-20190723 Revision date: 23.07.2019).

<sup>23</sup> DLUHC, PPG, Paragraph: 018 (ID: 18a-018-20190723 Revision date: 23.07.2019).

<sup>24</sup> EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council.

6.15. It was determined that the site does not contribute through setting to its significance on account of no known historical associations or intervisibility between the Scheduled Monument and the site.

6.16. The proposed development will result in no harm to the significance of the Scheduled Monument.

**Listed Buildings**

6.17. All Listed Buildings within a minimum 1km radius of the site have been subject to an appropriate level of setting assessment in accordance with the methodology recommended by *GPA3*.

6.18. It was determined that the site does not contribute through setting to the significance of any Listed Building on account of no known historical associations (for example of land ownership or tenancy) between any Listed Building and the site, and no intervisibility (with specific reference to designed views) between any Listed Building and the site.

6.19. The proposed development will result in no harm to the significance of any Listed Building.

**Stratton Audley Conservation Area**

6.20. Stratton Audley Conservation Area underwent Steps 1 to 3 of the methodology recommended by *GPA3*.

6.21. It was concluded that the site does not contribute through setting to the significance of the Conservation

Area, on account of not being physically contiguous or intervisible.

6.22. The proposed development will result in no harm to the significance of the Conservation Area.

**Proposed Local Heritage Assets and Non-Designated Heritage Assets**

6.23. The proposed Local Heritage Assets within Stratton Audley Conservation Area, and the non-designated heritage assets of The Mill House, Civil War Battery, Stratton Audley Park House, Pool Farmhouse, Oldfield Farmhouse and Godington Hall, were subject to an appropriate level setting assessment in accordance with the methodology recommended by *GPA3*.

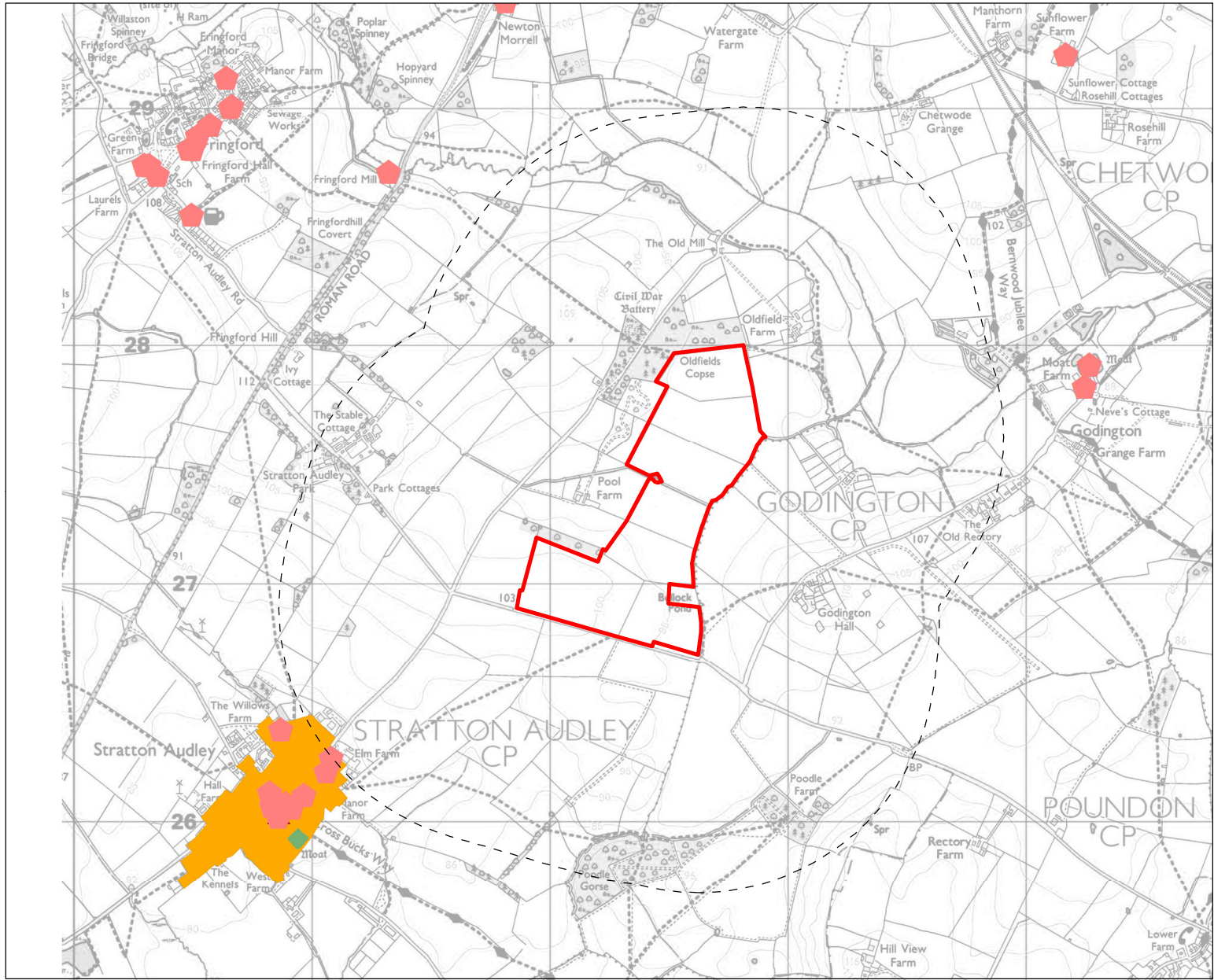
6.24. It was judged that the site makes no meaningful contribution the significance of any of these assets – including Pool Farmhouse, which has an historic association (shared ownership and probable tenancy) and a former visual association with the site (the south-western part featuring in a designed view from the asset, although now screened by an intervening plantation).

6.25. The proposed development will result in no harm to the significance of any Local Heritage Asset or any non-designated heritage asset recorded by the Oxfordshire HER or identified by this assessment.



## 7. Conclusions

- 7.1. This Built Heritage Assessment has considered the potential non-physical impacts of the proposed solar development at Padbury Brook on the significance of heritage assets.
- 7.2. All such assets within a minimum 1km radius of the site have undergone an appropriate level of setting assessment in accordance with the methodology advocated by Historic England.
- 7.3. It was determined that the site makes no contribution through setting to the significance of Stratton Audley Conservation Area or any Scheduled Monument, Listed Building, proposed Local Heritage Asset, or non-designated heritage asset.
- 7.4. No harm to any heritage asset as arising through change to setting has been identified.



**KEY**

- Site
- 1km
- Conservation Areas
- Scheduled Monuments

Listed Buildings

Grade

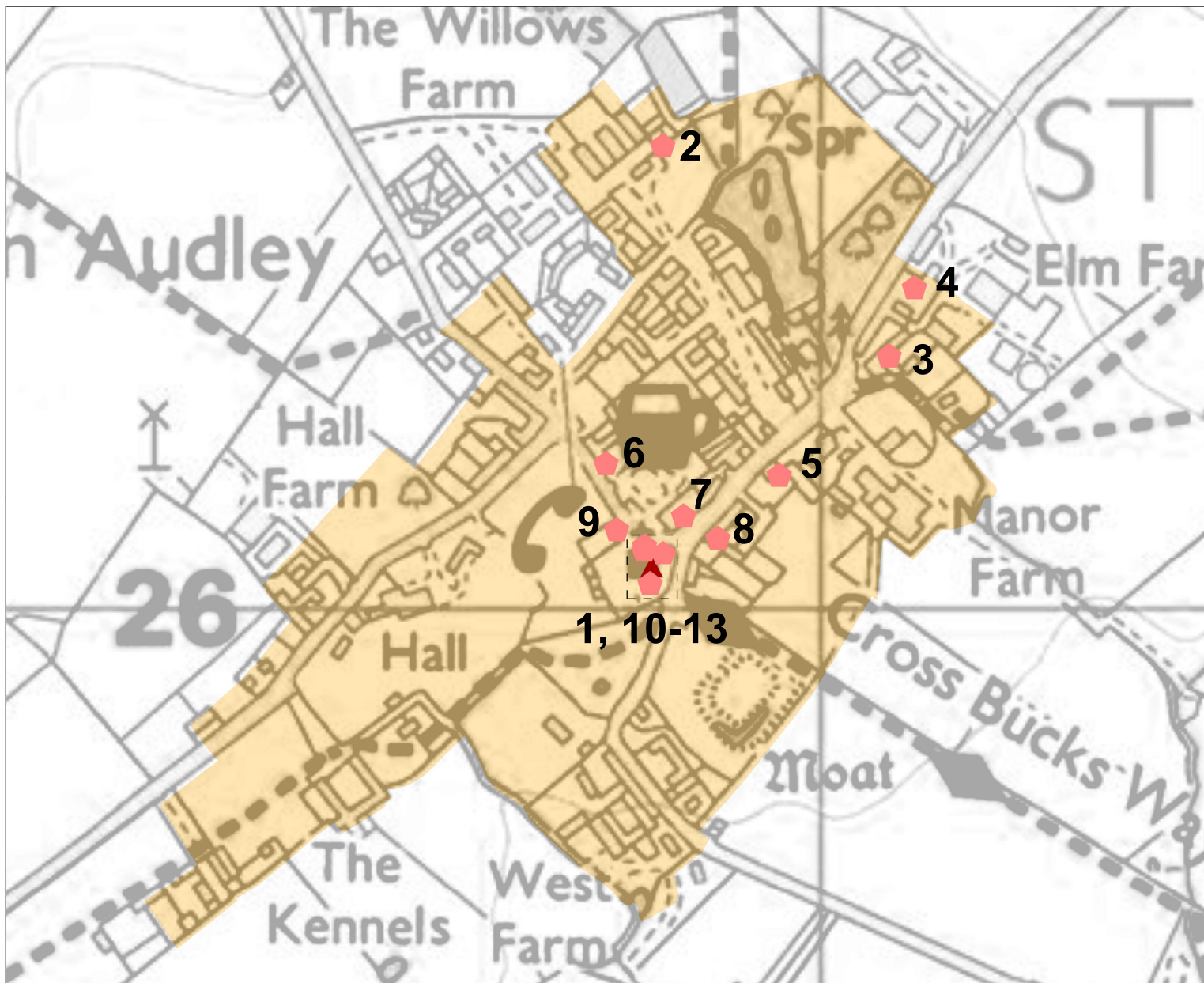
- ▲ I
- ⬠ II

**Figure 1: Designated Heritage Assets**


**Padbury Brook Solar Farm**

Client: JBM Solar Projects UK Ltd  
 DRWG No: P22-1651  
 Drawn by: EP  
 Date: 17/10/2022  
 Scale: 1:25,000 @ A4  
 Approved by: GS





**KEY**

 Conservation Area

Listed Buildings

Grade

 I

 II

Please refer to Section 5 of the Built Heritage Assessment for a key to the numbered assets.

**Figure 2: Listed Buildings in Stratton Audley Conservation Area**

**Padbury Brook Solar Farm**

Client: JBM Solar Projects UK Ltd

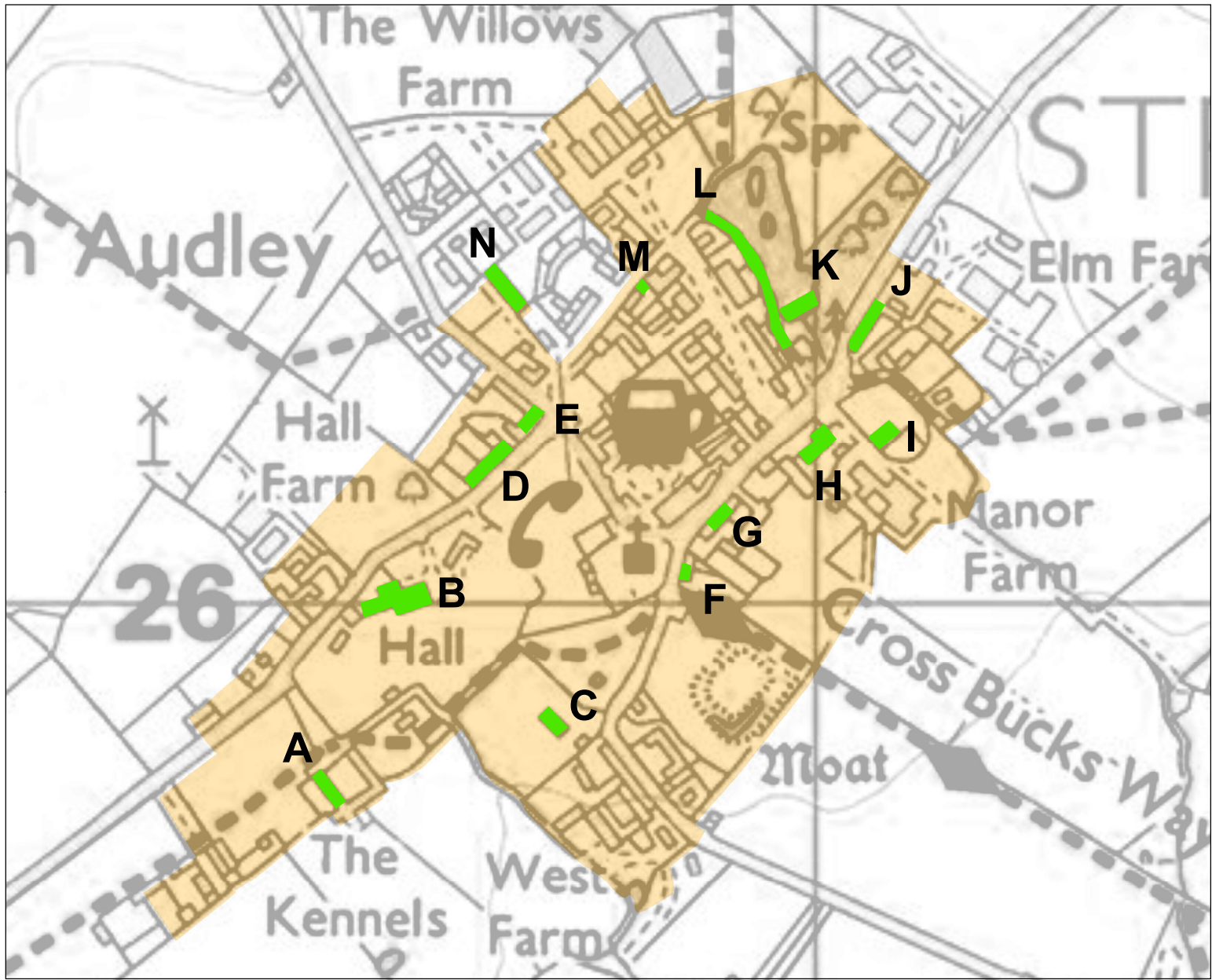
DRWG No: P22-1651

Drawn by: EP

Date: 08/07/2022

Scale: 1:5,000 @ A4

Approved by: GS



**KEY**

- Conservation Area
- Proposed Local Heritage Assets

Building locations copied from Figure 15 of Stratton Audley Conservation Area Appraisal (Cherwell District Council 2022).

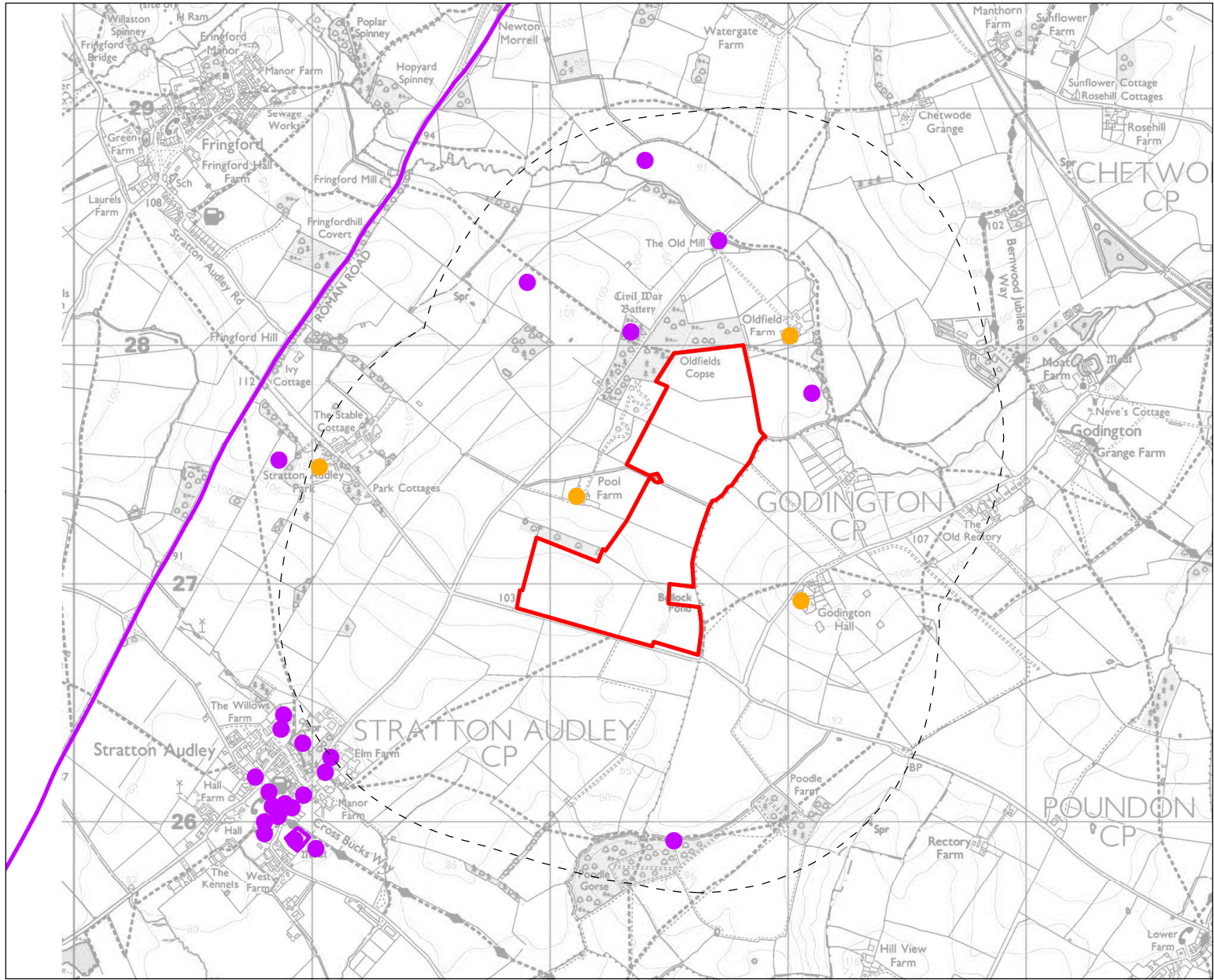
Please refer to Section 5 of the Built Heritage Assessment for a key to the numbered assets.

**Figure 3: Proposed Local Heritage Assets in Stratton Audley Conservation Area**

**Padbury Brook Solar Farm**

Client: JBM Solar Projects UK Ltd  
 DRWG No: P22-1651  
 Drawn by: EP  
 Date: 08/07/2022  
 Scale: 1:5,000 @ A4  
 Approved by: GS





- KEY**
- Site
  - 1km
  - HER Monuments
  - HER Monuments
  - HER Monuments
  - Potential Non-Designated Heritage Assets

NB Some illustrated assets lie outwith the 1km buffer as a result of a reduction of the original redline boundary.

**Figure 4: Non-Designated Heritage Assets**

**Padbury Brook Solar Farm**

Client: JBM Solar Projects UK Ltd  
 DRWG No: P22-1651  
 Drawn by: EP  
 Date: 17/10/2022  
 Scale: 1:25,000 @ A4  
 Approved by: GS

# Appendix 1: Assessment Methodology

## 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.”<sup>25</sup>***

Historic England's *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.<sup>26</sup>

In order to do this, *GPA 2* also advocates considering the four types of heritage value an asset may hold, as identified in *English Heritage’s Conservation Principles*.<sup>27</sup> These essentially cover the heritage ‘interests’ given in the glossaries of the *NPPF* and the *PPG* which are archaeological, architectural and artistic, and historic.<sup>28</sup>

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.<sup>29</sup>

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

<sup>25</sup> DLUHC, *NPPF*, pp. 71–72.

<sup>26</sup> Historic England, *GPA:2*.

<sup>27</sup> Historic England, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008). These heritage values

are identified as being ‘aesthetic’, ‘communal’, ‘historical’ and ‘evidential’, see *idem* pp. 28–32.

<sup>28</sup> DLUHC, *NPPF*, p. 71; DLUHC, *PPG, Annex 2*.

<sup>29</sup> DLUHC, *PPG*, paragraph 006, reference ID: 18a-006-20190723.

The most-recently issued Historic England guidance on assessing heritage significance, *HEAN:12*, advises using the terminology of the *NPPF* and *PPG*, and thus it is that terminology which is used in this Report.<sup>30</sup>

Listed Buildings and Conservation Areas are generally designated for their special architectural and historic interest. Scheduling is predominantly, although not exclusively, associated with archaeological interest.

### Setting and significance

As defined in the *NPPF*:

***“Significance derives not only from a heritage asset’s physical presence, but also from its setting.”<sup>31</sup>***

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.”<sup>32</sup>***

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 Report with reference to *GPA:3*, particularly the checklist given on page 11. This advocates the clear articulation of “*what matters and why*”.<sup>33</sup>

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 factors other than visibility should also be considered, with Lindblom LJ stating at

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<sup>30</sup> Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12* (Swindon, October 2019).

<sup>31</sup> DLUHC, *NPPF*, p. 72.

<sup>32</sup> DLUHC, *NPPF*, p. 71.

<sup>33</sup> Historic England, *GPA:3*, pp. 8, 11.

paragraphs 25 and 26 of the judgement (referring to an earlier Court of Appeal judgement):

***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.”<sup>34</sup>***

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<sup>34</sup> Catesby Estates Ltd. v. Steer [2018] EWCA Civ 1697, paras. 25 and 26.

<sup>35</sup> DLUHC, NPPF, para. 200 and fn. 68.

## 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 200 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 68 of the NPPF;<sup>35</sup>
- **Designated heritage assets of less than the highest significance**, as identified in paragraph 200 of the NPPF, comprising Grade II Listed buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas);<sup>36</sup> and

<sup>36</sup> DLUHC, NPPF, para. 200.



- **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”*.<sup>37</sup>

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 accordance with 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”*;<sup>38</sup> 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.”***<sup>39</sup>

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, and upper end of the less than substantial harm spectrum/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 whilst having regard to the significance of the asset. Harm to such assets is therefore articulated as a level of harm to their overall significance, using descriptors such as minor, moderate and major harm.

It is also possible that development proposals will cause no harm or preserve the significance of heritage assets. Here, a High Court Judgement of 2014 is relevant. 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”*.<sup>40</sup>

<sup>37</sup> DLUHC, PPG, paragraph 039, reference ID: 18a-039-20190723.

<sup>38</sup> Bedford Borough Council v Secretary of State for Communities and Local Government [2013] EWHC 2847 (Admin), para. 25.

<sup>39</sup> DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723.

<sup>40</sup> R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin).

Preservation does not mean no change, it specifically means no harm. *GPA:2* states that “*Change to heritage assets is inevitable but it is only harmful when significance is damaged*”.<sup>41</sup> 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. When evaluating any harm to significance through changes to setting, this Report follows the methodology given in *GPA:3*, described above. Fundamental to this methodology is a consideration of “*what matters and why*”.<sup>42</sup> Of particular relevance is the checklist given on page 13 of *GPA:3*.<sup>43</sup>

It should be noted that this key document also states:

***“Setting is not itself a heritage asset, nor a heritage designation...”***<sup>44</sup>

Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage interests 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”.***<sup>45</sup>

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<sup>41</sup> Historic England, *GPA:2*, p. 9.  
<sup>42</sup> Historic England, *GPA:3*, p. 8.  
<sup>43</sup> Historic England, *GPA:3*, p. 13.  
<sup>44</sup> Historic England, *GPA:3*, p. 4.  
<sup>45</sup> Historic England, *GPA 3*, p. 8.

Additionally, 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. This point has been clarified in the Court of Appeal.<sup>46</sup>

### **Benefits**

Proposed development may also result in benefits to heritage assets, and these are articulated in terms of how they enhance the heritage interests, and hence the significance, of the assets concerned.

As detailed further in **Appendix 3**, the *NPPF* (at Paragraphs 201 and 202) requires harm to a designated heritage asset to be weighed against the public benefits of the development proposals.<sup>47</sup>

Recent High Court Decisions have confirmed that enhancement to the historic environment should be considered as a public benefit under the provisions of Paragraphs 201 to 203.<sup>48</sup>

The *PPG* provides further clarity on what is meant by the term ‘public benefit’, including how these may be derived from enhancement to the historic environment (‘heritage benefits’), as follows:

***“Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8).***

<sup>46</sup> *Palmer v Herefordshire Council & Anor* [2016] EWCA Civ 1061.  
<sup>47</sup> *DLUHC, NPPF*, paras. 201 and 202.  
<sup>48</sup> Including – *Kay, R (on the application of) v Secretary of State for Housing Communities and Local Government & Anor* [2020] EWHC 2292 (Admin); *DLUHC, NPPF*, paras. 201 and 203.

***Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.***

***Examples of heritage benefits may include:***

- ***sustaining or enhancing the significance of a heritage asset and the contribution of its setting***
- ***reducing or removing risks to a heritage asset***
- ***securing the optimum viable use of a heritage asset in support of its long term conservation.***<sup>49</sup>

Any "heritage benefits" arising from the proposed development, in line with the narrative above, will be clearly articulated in order for them to be taken into account by the decision maker.

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<sup>49</sup> MHCLG, PPG, paragraph 020, reference ID: 18a-020-20190723.

## Appendix 2: Legislative Framework

Legislation relating to the built historic environment is primarily set out within the *Planning (Listed Buildings and Conservation Areas) Act 1990*, which provides statutory protection for Listed Buildings and Conservation Areas.<sup>50</sup> It does not provide statutory protection for non-designated or Locally Listed heritage assets.

Section 66(1) of the Act goes on to state 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.”<sup>51</sup>***

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”***

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<sup>50</sup> UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>51</sup> UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66(1).

***when the decision-maker carries out the balancing exercise.”<sup>52</sup>***

A judgement 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 version of the NPPF, the requirements of which are now given in paragraph 202 of the current, revised NPPF, see **Appendix 3**), this is in keeping with the requirements of the 1990 Act.<sup>53</sup>

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.”<sup>54</sup>***

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.

<sup>52</sup> Barnwell Manor Wind Energy Ltd v (1) East Northamptonshire DC & Others [2014] EWCA Civ 137. para. 24.

<sup>53</sup> Jones v Mordue [2015] EWCA Civ 1243.

<sup>54</sup> UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72(1).



In addition to the statutory obligations set out within the *Planning (Listed Buildings and Conservations Area) Act 1990*, Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that all planning applications, including those for Listed Building Consent, are determined in accordance with the Development Plan unless material considerations indicate otherwise.<sup>55</sup>

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<sup>55</sup> UK Public General Acts, Planning and Compulsory Purchase Act 2004, Section 38(6).

## Appendix 3: National Policy Guidance

### The National Planning Policy Framework (July 2021)

National policy and guidance is set out in the Government’s *National Planning Policy Framework (NPPF)* published in July 2021. This replaced and updated the previous *NPPF* 2019. 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.

The overarching policy change applicable to the proposed development is the presumption in favour of sustainable development. This presumption in favour of sustainable development (the ‘presumption’) sets out the tone of the Government’s overall stance and operates with and through the other policies of the *NPPF*. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers. Conserving historic assets in a manner appropriate to their significance forms part of this drive towards sustainable development.

The purpose of the planning system is to contribute to the achievement of sustainable development and the *NPPF* sets out three ‘objectives’ to facilitate sustainable development: an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these objectives, by creating a positive pro-development framework which is underpinned by the wider economic, environmental and social provisions of the *NPPF*. The presumption is set out in full at paragraph 11 of the *NPPF* and reads as follows:

***“Plans and decisions should apply a presumption in favour of sustainable development.*”**

***For plan-making this means that:***

- a. all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;***
- b. strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:***
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting***

***the overall scale, type or distribution of development in the plan area; or***

- ii. ***any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.***

***For decision-taking this means:***

- a. ***approving development proposals that accord with an up-to-date development plan without delay; or***
- b. ***where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:***
  - i. ***the application policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or***
  - ii. ***any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.***<sup>56</sup>

However, it is important to note that footnote 7 of the NPPF applies in relation to the final bullet of paragraph 11. This provides a context for paragraph 11 and reads as follows:

***“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 180) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”***<sup>57</sup> (our emphasis)

The NPPF continues to recognise that the planning system is planned and that therefore, Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application.

Heritage Assets are defined in 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).”***<sup>58</sup>

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<sup>56</sup> DLUHC, NPPF, para. 11.

<sup>57</sup> DLUHC, NPPF, para. 11, fn. 7.

<sup>58</sup> DLUHC, NPPF, p. 67.

The NPPF goes on to define a Designated Heritage Asset as a:

***“World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under relevant legislation.”<sup>59</sup>***

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.”<sup>60</sup>***

Section 16 of the NPPF relates to ‘Conserving and enhancing the historic environment’ and states at paragraph 195 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 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.”<sup>61</sup>***

Paragraph 197 goes on to state that:

***“In determining planning applications, local planning authorities should take account of:***

- a. the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;***
- b. the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and***
- c. the desirability of new development making a positive contribution to local character and distinctiveness.”<sup>62</sup>***

With regard to the impact of proposals on the significance of a heritage asset, paragraphs 199 and 200 are relevant and read as follows:

***“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***

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<sup>59</sup> DLUHC, NPPF, p. 66.

<sup>60</sup> DLUHC, NPPF, pp. 71-72.

<sup>61</sup> DLUHC, NPPF, para. 195.

<sup>62</sup> DLUHC, NPPF, para. 197.



**substantial harm, total loss or less than substantial harm to its significance.”<sup>63</sup>**

**“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.”<sup>64</sup>**

Section b) of paragraph 200, which describes assets of the highest significance, also includes footnote 68 of the NPPF, which states that non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments should be considered subject to the policies for designated heritage assets.

In the context of the above, it should be noted that paragraph 201 reads as follows:

**“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.”<sup>65</sup>**

Paragraph 202 goes on to state:

**“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.”<sup>66</sup>**

The NPPF also provides specific guidance in relation to development within Conservation Areas, stating at paragraph 206 that:

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<sup>63</sup> DLUHC, NPPF, para. 199.

<sup>64</sup> DLUHC, NPPF, para. 200.

<sup>65</sup> DLUHC, NPPF, para. 201.

<sup>66</sup> DLUHC, NPPF, para. 202.

***“Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”<sup>67</sup>***

Paragraph 207 goes on to recognise that “not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance” and with regard to the potential harm from a proposed development states:

***“Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 200 or less than substantial harm under paragraph 201, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.”<sup>68</sup>*** (our emphasis)

With regards to non-designated heritage assets, paragraph 203 of NPPF states that:

***“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing***

***applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”<sup>69</sup>***

Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Planning Authorities should approach development management decisions positively, looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. Additionally, securing the optimum viable use of sites and achieving public benefits are also key material considerations for application proposals.

### **National Planning Practice Guidance**

The then Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities (DLUHC)) 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, which confirms that the consideration of ‘significance’ in decision taking is important and states:

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<sup>67</sup> DLUHC, NPPF, para 206.

<sup>68</sup> DLUHC, NPPF, para. 207.

<sup>69</sup> DLUHC, NPPF, para. 203.

***“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.”<sup>70</sup>***

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 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.”<sup>71</sup>*** (our emphasis)

#### **National Design Guide:**

Section C2 relates to valuing heritage, local history and culture and states:

***“When determining how a site may be developed, it is important to understand the history of how the place has evolved. The local sense of place and identity are shaped by local history, culture and heritage, and how these have influenced the built environment and wider landscape.”<sup>72</sup>***

***“Sensitive re-use or adaptation adds to the richness and variety of a scheme and to its diversity of activities and users. It helps to integrate heritage into proposals in an environmentally sustainable way.”<sup>73</sup>***

It goes on to state that:

***“Well-designed places and buildings are influenced positively by:***

- ***the history and heritage of the site, its surroundings and the wider area, including cultural influences;***

<sup>70</sup> DLUHC, PPG, paragraph 007, reference ID: 18a-007-20190723.

<sup>71</sup> DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723.

<sup>72</sup> DLUHC, NDG, para. 46.

<sup>73</sup> DLUHC, NDG, para. 47.

- *the significance and setting of heritage assets and any other specific features that merit conserving and enhancing;*
- *the local vernacular, including historical building typologies such as the terrace, town house, mews, villa or mansion block, the treatment of façades, characteristic materials and details – see Identity.*

*Today's new developments extend the history of the context. The best of them will become valued as tomorrow's heritage, representing the architecture and placemaking of the early 21<sup>st</sup> century."<sup>74</sup>*

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<sup>74</sup> DLUHC, NDG, paras. 48–49.

## Appendix 4: Relevant Development Plan Policies

Cherwell District Local Plan 2011–2031

Policy ESD 15 (The Character of the Built and Historic Environment) states:

*“Successful design is founded upon an understanding and respect for an area’s unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Where development is in the vicinity of any of the District’s distinctive natural or historic assets, delivering high quality design that complements the asset will be essential.*

*New development proposals should:*

- Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- Deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions*
- Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- 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*
- Conserve, sustain and enhance designated and non designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG. Regeneration proposals that make sensitive use of heritage assets, particularly where these bring redundant or under used buildings or areas, especially any on English Heritage’s At Risk Register, into appropriate use will be encouraged*
- Include information on heritage assets sufficient to assess the potential impact of the proposal on their significance. Where archaeological potential is identified this should include an appropriate desk based*

*assessment and, where necessary, a field evaluation.*

- *Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages*
- *Reflect or, in a contemporary design response, re-interpret local distinctiveness, including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette*
- *Promote permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features*
- *Demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing. The principles set out in The Manual for Streets should be followed*
- *Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*
- *Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation*
- *Be compatible with up to date urban design principles, including Building for Life, and achieve Secured by Design accreditation*
- *Consider sustainable design and layout at the masterplanning stage of design, where building orientation and the impact of microclimate can be considered within the layout*
- *Incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context (also see Policies ESD 1 – 5 on climate change and renewable energy)*
- *Integrate and enhance green infrastructure and incorporate biodiversity enhancement features where possible (see Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment and Policy ESD 17 Green Infrastructure). Well designed landscape schemes should be an integral part of development proposals to support improvements to biodiversity, the micro climate, and air pollution and provide attractive places that improve people’s health and sense of vitality*
- *Use locally sourced sustainable materials where possible.*



***The Council will provide more detailed design and historic environment policies in the Local Plan Part 2.***

***The design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale. This should be demonstrated in the Design and Access Statement that accompanies the planning application.***

***The Council expects all the issues within this policy to be positively addressed through the explanation and justification in the Design & Access Statement. Further guidance can be found on the Council's website.***

***The Council will require design to be addressed in the pre-application process on major developments and in connection with all heritage sites. For major sites/strategic sites and complex developments, Design Codes will need to be prepared in conjunction with the Council and local stakeholders to ensure appropriate character and high quality design is delivered throughout. Design Codes will usually be prepared between outline and reserved matters stage to set out design principles for the development of the site. The level of prescription will vary according to the nature of the site."***

Planning (Listed Buildings and Conservation Areas) Act 1990  
Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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