

## **Town and Country Planning Act 1990**

### **OS Parcel 9100 Land Adjoining and East of 'Last House' and North of Berry Hill Road, Adderbury, Banbury, OX17 3HF**

Appeal Against Refusal by Cherwell District Council to grant outline planning permission for a development of up to 40 dwellings (all matters reserved other than access) with associated landscaping, open space and vehicular access off Berry Hill Road, on the southern edge of Adderbury, in north Oxfordshire

Planning Inspectorate Reference: APP/C3105/W/20/3255419  
Local Planning Authority Reference: 19/00963/OUT

Cultural Heritage Note  
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On Behalf of Hollins Strategic Land

June 2021



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## Professional Qualifications and Relevant Experience

1. My name is Kathryn Sather. I am a Heritage Conservation Consultant and the Principal Consultant of Kathryn Sather & Associates (KS&A). Kathryn Sather & Associates, Heritage Conservation Consultants, has been in business for over 27 years.
2. I hold an MSc in Historic Preservation with a Concentration in Architectural Conservation from the Graduate School of Fine Arts, University of Pennsylvania. I have also completed specialist training at the International Centre for the Study of Preservation and Restoration of Cultural Property (ICCROM), Rome, Italy. I have accrued over 31 years of experience in the field of Heritage Conservation, 27 of these as Principal Consultant of Kathryn Sather & Associates. I advise clients on a wide range of heritage matters including preparing Listed Building Consent applications, preparing applications to have a building listed or the listing upgraded, and advising on grant applications. I have been involved in preparing over 27 Conservation Area Appraisals and Management Plans and a great number of Heritage Statements. Prior to private practice, I previously worked at the Preservation Assistance Division, in the United States National Park Service; on the Zanzibar Stone Town Planning Project, for the Aga Khan Trust for Culture; on the International Architectural Conservation Course, part of the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), Rome, Italy and at the Architectural Conservation Laboratory, within the University of Pennsylvania Graduate School of Fine Arts.
3. KS&A's practice works solely in the field of Heritage Conservation. Our work primarily involves producing Conservation Plans, Conservation Area Appraisals and Management Plans, Archaeological Desk-based Assessments, Archaeological Building Recordings and Heritage Statements. In addition, our practice also assists clients advising on fundraising and preparing grant applications.
4. I am a member of the Victorian Society Northern and Welsh Buildings Committee. I represent the Commercial built environment sub-sector on the Heritage Information Access Strategy Advisory Board, convened by Historic England. I also undertake work on a voluntary basis for other national and local conservation organisations and attend specialist conferences. I lecture in Conservation Management Planning to Masters Degree students at Birmingham City University. I am a Member of the Chartered Institute for Archaeologists (MCI(A)). I also undertake continuing professional development training as required of members of IHBC and the CIFA. In addition, I am a member of the Society of Architectural Historians of Great Britain.
5. I confirm that the evidence which I have prepared and provide for this appeal (ref APP/C3105/W/20/3255419) in this Rebuttal is true. It has been prepared and is given in accordance with the codes of conduct and guidance of the IHBC and CIFA. I also confirm that the opinions expressed are my true and complete professional opinions.

## Purpose

6. The appeal concerns an application for outline planning permission (APP/C3105/W/20/3255419) for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)
7. This Cultural Heritage Note is written in response to the Statement of Case received from Cherwell District Council. The LPA (19/00963/OUT) Statement of Case quotes an incorrect reason for refusal and justifies the refusal of planning permission on the basis of harm to heritage assets. The correct reason for refusal does not include harm to heritage assets. Cherwell District Council have since confirmed that they did not intend to include heritage as a reason for refusal in the Statement of Case. Following this confirmation from the LPA, there

has been a failure to agree a Statement of Common Ground to confirm that the LPA did not intend to assert that heritage is a reason for refusal.

## **Background**

8. In August 2019 Kathryn Sather & Associates were appointed to prepare a Heritage Statement to support the planning application for the appeal site (ref 19/00963/OUT). As part of this work, KS&A undertook a full assessment of the history and significance of the appeal site; a review of the character, appearance and setting of the Conservation Area, an assessment of the contribution of the appeal site to the setting of heritage assets and an assessment of the potential impact of the development of the site upon the setting of heritage assets.

## **Issue 1: Heritage Wrongly Used as Justification for Refusal in LPA SoC**

9. KS&A prepared a Heritage Statement to accompany the planning application. Following the initial comments from Historic England, visualisations were submitted to illustrate the retained views of the spire of St Mary's Church. Historic England reviewed the visualisations and confirmed to the LPA that "there are no serious concerns regarding the principle of development on the site in heritage terms" and that "it is possible that a scheme could be achieved without causing harm necessarily on heritage grounds." The LPA reported that Historic England also stated: 'it appears from the indicative plans and layouts that there is a possible proposal that could address their heritage concerns and improved views of the church and publicly accessible public open space.' Following this advice, heritage was removed from the reason for refusal at the Committee meeting.
10. Although heritage was removed as a reason for refusal in the Committee meeting, the LPA Statement of Case included the wrong reason for refusal, which included the heritage grounds. Consequently, the LPA Statement of Case specifically referred to heritage impact several times and appeared to base the justification of the refusal largely on heritage grounds.
11. Following the submission of the LPA Statement of Case, the LPA have confirmed in the draft Statement of Common Ground that heritage is not a reason for refusal, and that the LPA are not introducing heritage as a reason for refusal at the appeal.
12. Notwithstanding the comments in the LPA Statement of Case, the LPA has not presented any analysis of the significance of St Mary's Church (the heritage asset) or any analysis setting out how the development could harm its significance. This is the relevant test pursuant to the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990. The Heritage Statement included an assessment of the significance of St. Mary's Church, as well as an assessment of the impact of the appeal proposals on the significance of the church.

## **Issue 2: Impact on Views to the Church Spire**

13. Due to an incidental view of the listed church spire which is afforded from Berry Hill Road, looking northwards across the proposal site, the proposal site has the potential to affect the setting of the heritage asset. The Heritage Statement assessed the contribution of the proposal site to the significance of St. Mary's Church and the impact of the appeal proposals on the setting of St. Mary's Church following Historic England guidance.
14. In assessing the contribution the appeal site makes to the significance and setting of St. Mary's Church, the Heritage Statement concluded:  

'The proposal site does not make a contribution to the significance of the listed church, as the site has no historic or visual relationship with the asset. There are views of the church spire from within the proposal site, but these are not clearly visible from the south along Berry Hill Road, as the substantial boundary distorts the view. The

proposal site is not assessed as forming part of positive views of the church by the Conservation Area Appraisal.'

15. The Heritage Statement assessed the impact on the setting following Historic England guidance and considered the location and siting of the development, the form and appearance of the development, the wider impacts and permanence of the development. The impact on the setting of the appeal proposals on the setting of St. Marys Church was assessed as follows:

'The significance of the listed church is not associated with or dependent on the land use of the proposal site, and the site does not form part of the immediate setting of the church.'

'The proposed development is located to the south of the wider setting of the Church of St Mary. The proposed development does not form part of identified positive views of the church and will not physically or visually isolate the heritage asset. The views of the listed church from the south will be improved, and the provision of public open space with a play area, will provide access to views of the church which are not currently accessible to members of the public.'

The Heritage Statement concluded that the significance of the designated heritage asset is based upon architectural and historical interests which will remain unaffected by the proposed development.

16. The LPA reported that Historic England advised that in their opinion: 'it appears from the indicative plans and layouts that there is a possible proposal that could address their heritage concerns and achieve improved views of the church and publicly accessible public open space.' Thus, Historic England have advised "it is possible that a scheme could be achieved without causing harm necessarily on heritage grounds." The advice from Historic England that there is a possible scheme which would not cause harm to the heritage supports the conclusion that the appeal proposals will result in no adverse impact on the setting of the Church of St. Mary's, or on existing views of the spire. Conversely, Historic England have advised that the appeal proposals will provide new publicly accessible views of the heritage asset.

### **Issue 3: Third Party Representations**

17. Many of the third party representations raise similar points to the LPA Statement of Case regarding the impact on the views of the church spire from Berry Hill Road. The question of the impact on views of the church spire has been effectively dealt with in the Heritage Statement accompanying the planning application. The assessment of the Heritage Statement that there is no heritage impact has been supported by Historic England who have advised that 'it appears from the indicative plans and layouts that there is a possible proposal that could address their heritage concerns and achieve improved views of the church and publicly accessible public open space.' The LPA have also agreed that heritage is not a reason for refusal in the draft Statement of Common Ground.
18. However, there are additional third party assertions such as: 'The church has recently benefited from £400,000 from the Heritage Lottery Fund to repair and refurbish its spire. These benefits will be totally lost as a consequence of the proposed development.' This is obviously not correct as the grant successfully repaired the spire which was its purpose. It is an insupportable proposition that the significance of the church is entirely dependent on incidental distant glimpses of the spire, such that any slight alteration to one of the numerous distant glimpses completely negates the benefits of repair and conservation work to the church. In any case, Historic England have assessed that the appeal proposals achieve improved views of the church spire.

#### **Issue 4: Previous Appeal**

19. The previous 2007 appeal for the site has been referred to several times by the LPA and third party representations. In the previous appeal the Inspector referred to just one view as being important and attractive, but this was not for heritage reasons, but for countryside, character and appearance reasons. The appeal did not consider heritage; the PPG 15: Planning and the Historic Environment was not referred to in the Planning Policy section and impact on heritage was not a reason for refusal. In the LPA Statement of Case, para 7.33, the LPA refers to the 2007 appeal within a paragraph which considers impact on heritage. The conclusions of the previous appeal for the site are not relevant as the previous appeal scheme was significantly different from the current appeal scheme, which retains existing views and provides additional views.

#### **Conclusion**

20. At the Planning Committee meeting, regarding heritage as a reason for refusal, the LPA Planning Officer stated: 'We advise that that should be deleted on the basis that we don't think that would be a strong argument to defend at appeal given Historic England's position.'
21. It is my professional opinion, as assessed in the Heritage Statement, that the appeal proposals would have no adverse impacts on heritage assets. This assessment is seconded by the comments of Historic England.