

**TOWN AND COUNTRY PLANNING ACT 1990**

**SECTION 78 APPEAL**

**AGAINST THE DECISION OF UTTLESFORD DISTRICT**

**COUNCIL TO REFUSE PLANNING PERMISSION FOR**

**AN OUTLINE APPLICATION FOR THE ERECTION OF UP TO 233 RESIDENTIAL DWELLINGS  
INCLUDING AFFORDABLE HOUSING, WITH PUBLIC OPEN SPACE, LANDSCAPING AND  
SUSTAINABLE DRAINAGE SYSTEM (SUDS) AND ASSOCIATED WORKS, WITH VEHICULAR  
ACCESS POINT FROM RADWINTER ROAD, WITH ALL OTHER MATTERS RESERVED FOR  
FUTURE CONSIDERATION**

**AT LAND SOUTH OF (EAST OF GRIFFIN PLACE) RADWINTER ROAD,**

**SEWARDS END, SAFFRON WALDEN, ESSEX, CB10 2NP**

**ON BEHALF OF ROSCONN STRATEGIC LAND AND THOMAS ERIC**

**BAKER AND SALLY ROSE HALL, THE EXECUTORS OF MR E C BAKER**

**AND MRS J BAKER**

**PINS REF: APP/C1570/W/22/3296426**

**LPA REF: UTT/21/2509/OP**

**REBUTTAL PROOF OF EVIDENCE OF BEN STEPHENSON BA (Hons) MA DipHistCon**

**AUGUST 2022**

## 1.0 INTRODUCTION

### **Ben Stephenson BA (Hons), MA & Diploma in Historic Conservation will say:**

- 1.1 I hold a BA (Hons) in Archaeology from Durham University, an MA in Archaeological Heritage Management from York University and a Diploma in Historic Conservation from Oxford Brookes. I am a Member of the Chartered Institute for Archaeologists and member of their Validation Committee. I am director of BSA Heritage Limited. I have more than 25 years' experience working in heritage, having first worked on English Heritage research projects before joining an environmental consultancy specialising in advising developers as an archaeology and heritage consultant in 1999. I formed my own company in 2011.
- 1.2 On 9th August 2022 the Rule 6 Party provided a Proof of Evidence by Corrie Newell, albeit titled a 'Statement of Evidence' (PINS ref. CDF 3). This Rebuttal Proof reviews the Heritage Proof of Evidence and related appendices. It also responds to related criticisms on heritage grounds contained in a total of one hundred and fifty separate Wheatcroft Consultation submissions to the Inquiry.
- 1.3 In preparing my Rebuttal Evidence, I understand my professional duty to the Inquiry. I declare that:
- a) to the best of my knowledge, information and belief, this Rebuttal Proof of Evidence complies with the requirement of the giving of expert evidence and, as a witness, I understand my duty to the Inspector and have complied with this duty;
  - b) I believe the facts I have stated in this Rebuttal Proof of Evidence are true and the opinions I have expressed are correct;

- c) the Rebuttal Proof of Evidence includes all the facts which I regard as being relevant to the opinion which I have expressed and I have drawn to the attention of the Inspector any matter which would affect the validity of that opinion; and
- d) the provision of the Rebuttal Proof of Evidence complies with the Code of Professional Conduct of the Chartered Institute for Archaeologists.

Signed:

Dated: 19/08/2022

## 2.0 REBBUTAL TO RULE 6 PARTY AND OTHER OBJECTORS

### Introduction

- 2.1. There would appear limited disagreement between myself and the Rule 6 party in relation to which designated heritage assets or parts of these might be affected by the proposals. There is also no disagreement that these designated heritage assets are significant. However, the Rule 6 party appears to 'deconstruct' the significance of designated heritage assets which are considered likely to be harmed, in accordance with their interpretation of Historic England Guidance, despite the NPPF making explicit that designation as a listed building or conservation area is the key consideration.
  
- 2.2. The high number of listed buildings and extent of Saffron Walden's main conservation area are a reflection of its historic importance and that a greater proportion of its earlier fabric has survived to this day. Many statements supporting this within the Rule 6 party's evidence are statements of fact.
  
- 2.3. However, there is a clear difference of opinion as to the actual impact or harm the proposals actually represent. The Rule 6 party does not explicitly define what it is about the setting of assets discussed which enhances the significance of the asset or an appreciation of that asset. More importantly, they do not define how the Appellants' site enhances significance.

- 2.4. As ever with such considerations, the key significance of a listed building pertains to its actual fabric. Direct effects which remove or change fabric are likely to be the most harmful. There are no direct effects to listed buildings which would result from the proposals. Many of the attributes of assets identified by the Rule 6 party as adding to their significance could not by their nature be harmed by the proposals.
- 2.5. Change to the setting of a designated heritage asset can result in harm to its significance or an appreciation of that significance, but only where that element of setting can be demonstrated to enhance significance in the first place. This is valid for both listed buildings and conservation areas, where not all of a conservation area will be a positive element of its character and appearance. Change to setting in and of itself does not certainly harm significance, with much change having a neutral effect.
- 2.6. In relation to the main site, it is likely to be the role of the open, agricultural site echoing the historic landscape which could enhance both Pounce Hall and St. Mary's Church's significance, with longer views taking in the dominating church and the site also potentially enhancing it. Within the town's conservation area, physical additions of highways equipment or changes in traffic flows might affect appreciation of the historic fabric.
- 2.7. Inter-visibility is often a major factor where change to setting is being considered. This primacy can lead to confusion between landscape and heritage considerations and this is the case with some of the Rule 6 party's contentions. Indeed, their consideration of the relationship between the site and the Grade I listed St. Mary's Church, which is visible from the site, at times seems to consider the site area a heritage asset in its own right.

2.8. Below follows a more detailed review of policy and guidance relevant to the Rule 6 party's evidence and consideration of their assessment of individual designated heritage assets. Generalised claims of harm to the High Stret and Church Street junction part of Saffron Walden conservation area and listed buildings within it raised by third parties are also considered.

### **Additional Policy and Guidance Considerations**

2.9. The Rule 6 party notes at 6.2 that my original Statement submitted in July 2021 did not take account of the changes to the NPPF of that same month, its 4<sup>th</sup> edition. It is implied that there were changes to the wording of heritage policy at this time. However, it should be noted that there was only one substantive change to the heritage section, adding a policy regarding the removal of statues and monuments (Paragraph 198). This and other changes necessitated a renumbering of all paragraphs in the heritage section.

2.10. The Rule 6 party also quotes *verbatim* Policies ENV1 and ENV2 of the 2005 Local Plan and these are of use in considering the impacts of the proposals on the relevant aspects of the historic environment. Policy ENV1 – Design of Development within Conservation Areas states: *'Development will be permitted where it preserves or enhances the character and appearance of the essential features of a Conservation Area, including plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain or significant natural or heritage features....'*

2.11. Policy ENV2 – Development Affecting Listed Buildings states:

*‘Development affecting a listed building should be in keeping with its scale, character and surroundings. Demolition of a listed building, or development proposals that adversely affect the setting, and alterations that impair the special characteristics of a listed building will not be permitted.’*

2.12. The Rule 6 party seems to have been heavily influenced by Historic England’s 2019 Advice Note 12, relating to ‘Statements of Heritage Significance’.<sup>1</sup> This guidance echoes NPPF Paragraph 205 in stating that the level of detail provided in support of a planning application should be no more detailed than required to understand how significance may be affected. The document provides guidance for all levels of harm which may impact a heritage asset including change to setting, but also more direct effects, including complete demolition of a structure.

2.13. The Guidance confirms that the design process is not always straightforward and that there may be situations where design changes to improve mitigation of potential effects come at a later date (Para. 17). At Paragraph 29 relating to ‘Proportionality’, it states:

*‘While it is important that applicants should take full advantage of opportunities to analyse the significance of their heritage assets, and for local planning authorities to ensure that they have sufficient information to make an appropriate assessment, in the terms of the NPPF, it is also important that the level of detail given in a statement of heritage significance is*

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<sup>1</sup> The 2019 document refers to the 3<sup>rd</sup> edition NPPF paragraph numbers.  
Rebuttal Proof of Evidence of Ben Stephenson

*proportionate to the impact of the proposal. However, while that analysis should be as full as necessary to understand significance, the description provided to the LPA need be no more than sufficient to understand the potential impact of the proposal on significance.'*

- 2.14. Having set out guidance on the production of Statements of Heritage Significance, under a short section on the assessment of impact on significance, the Guidance notes that:

*'Where the proposal affects the setting, and related views, of a heritage asset, or assets, clarify the contribution of the setting to the significance of the asset, or the way that the setting allows the significance to be appreciated. This may include the impact of the location of new development within the setting, of the impact on key views, the impact on the relationship of the heritage asset to its setting, etc.'*

- 2.15. Given evidence submitted by the Rule 6 party, I feel it is also useful to reiterate part of the 2017 Historic England *The Setting of Heritage Assets* relating specifically to churches:

*'Being tall structures, church towers and spires are often widely visible across land- and townscapes, but where development does not impact on the significance of heritage assets visible in a wider setting or where not allowing significance to be appreciated (sic), they are unlikely to be affected by small-scale development, unless that development competes with them, as tower blocks and wind turbines may. Even then, such an impact is more likely to be on the landscape values of the tower or spire rather than the heritage values, unless the development impacts on its significance, for instance by impacting on a designed or associative view.'*



### **Response to Rule 6 Party Proof**

- 2.16. I do not take issue with much of what is set out in the early parts of the Rule 6 Party's Proof, although I would not agree that cellars which have survived for hundreds of years are highly sensitive and '*vulnerable to damage from vehicles*' (7.9).
- 2.17. There is no doubt that Saffron Walden is of considerable historical interest given a relatively well preserved medieval core and numerous early buildings and the designation of a large conservation area and many listed buildings, including at the higher grades, recognises this significance.
- 2.18. It is certainly the case that the Grade I listed parish church of St. Mary has a prominent topographical position and is widely visible from higher ground which encircles the town (7.12). It is certainly good practice to avoid unnecessary signage within conservation areas as well (7.11). I am not sure that all of the features mentioned in the early part of the Proof are '*highly significant*' in relation to the town's historic interest, but they are certainly part of its history.
- 2.19. It is not the case, as stated at 7.21, that a change of use from agricultural to residential is proposed for the whole site, with a large area across the highest parts of the site proposed to be landscaped public open space.

### **The Common (Castle Green)**

- 2.20. My original assessment of the site and likely proposals' potential to harm designated heritage assets discounted any harm to the Saffron Walden Town Centre Conservation Area given distance, with a minimum of approximately 700 metres between the eastern edge of the conservation area, the town's Victorian cemetery, and the western edge of the site. The Common itself, an long-standing area of open space, lies more than a kilometre distant.

- 2.21. The Rule 6 Party notes that roofs within the Linden Homes development west of the site can be seen from within the open space of The Common and provides images of this (CDF 4 Heritage Appendix CD 3). However, the evidence provided also confirms that this open area is enclosed by mature trees and beyond that lie roads with development beyond.
- 2.22. The unzoomed images provided by the Rule 6 Party, Figures 5 & 6 in CDF 4 Heritage Appendix CN 3 indicate that the proposed development, as that in place, is unlikely to be perceptible by those using the open space. Consideration of maps indicates that the area visible is likely to be the highest part of the Linden development which lies at 90 metres AOD. The image also confirms the highest parts of the Appellant's site are not visible from The Common. It remains my assessment that the proposed development would not harm the character and appearance of the conservation area, including The Common.

### **St. Mary's Church**

- 2.23. It is agreed that St. Mary's Church is a fine parish church which reflects the medieval and later success of Saffron Walden in its scale and opulence. This is recognised in its Grade I listing. It is indeed located on elevated ground and can be seen from the site as well as from many other locations surrounding the town.
- 2.24. The Rule 6 Party includes in their Evidence a photograph originally included in an appendix by the Appellant's arboricultural consultant in which the church looms large (CDF4 Heritage Appendix CN 3, Figure 1). However, this image is zoomed and was taken to illustrate vegetation on the site boundary. Figure 8 provided by the Rule 6 party provides a counter-point to how the church is appreciated with the 'naked eye' at a similar distance (CDF4 Heritage Appendix CN3, Figure 8).

- 2.25. However, stating that the site field currently forms the backdrop to St. Mary's in views from west of the town as the Evidence does, overlooks the considerable intervening distance and development already in this view. It is also not the case that the site field was a *'fundamental aspect of the design or function of the heritage asset'* (7.32).
- 2.26. There can be incidental value in setting terms to the proximity of agricultural fields to a medieval church which was funded by the cultivation of the land around it and where the architecture of the church reflected the piety of the parishioners cultivating those fields. However, that value has arguably been lost in Saffron Walden, given expansive more recent development. That the town sits in a rural context would nonetheless remain evident should the site be developed.
- 2.27. It is implicit in the Rule 6 party's Evidence that the site is not visible from close to the church. Despite its elevated position, surrounding buildings prevent this. Even if the natural topography of the town's environs dictated the position of the church, that topography could still be discerned from locations, such as the Harcamlow Way, once the proposals are built and the church will remain dominant at the heart of the town.
- 2.28. The argument set out in the Rule 6 party's Evidence almost considers the site itself as a heritage asset in its assessment of harm, given that the church is visible from it. The Evidence certainly strays into landscape assessment, incorrectly assessing harm to the significance of the Grade I listed church given loss of views of it from the field.

- 2.29. This is misleading, as the site does not currently enhance the significance of St. Mary's Church. Given this, none of the proposed change within the site would cause harm to the significance of St. Mary's Church or an appreciation of that significance. Nonetheless, it is not the case that open space on the higher ground would be of an 'engineered character' (7.40).
- 2.30. Views to the church have been retained as part of the proposals' design, but these have landscape and amenity value and have not been retained as heritage mitigation. Proposed landscape planting on the edges of the site is also for reasons other than heritage mitigation, although this would be an acceptable response to addressing potential harm (7.50). I believe the comment made at 7.49 is a landscape matter and unrelated to consideration of heritage.
- 2.31. A previous Appeal decision relating to the Essex village of Steeple Bumpstead is appended and referenced at 7.43 (CDF 4 Heritage Appendix CN 10). Although plans are not provided with the appended Inspector's report, it has been possible to consider this situation as compared to that at Saffron Walden through online sources. It is clear that the rejected development lay much closer to Steeple Bumpstead's Grade I listed medieval church.
- 2.32. The Steeple Bumpstead proposals also represented a proportionally larger percentage of the existing settlement. However, the main reason for the Inspector's concern was that people entering the village along Finchingfield Road would have their appreciation of the church affected by the additional modern housing. There are no views of St. Mary's Church available when entering Saffron Walden along Radwinter Road given both mature vegetation, topography, extensive modern development already on the edge of town and the sunken nature of the Radwinter Road as it descends from Swards End.

## Road Junction Improvements

- 2.33. The Rule 6 party discusses two proposals for highways improvements which are required by the Council as mitigation of additional traffic generated by the proposals. One of these, at the junction of Radwinter and Thaxted roads with Chater Hill and East Street, lies on the edge of the Saffron Walden conservation area and is concluded by the Rule 6 party to cause potential harm through loss of trees (7.56 & CDF 4 Heritage Appendix CN 4).
- 2.34. I have not previously considered this element linked to the proposals for land south of Radwinter Road, but have now discussed the proposals with the Appellants' transport consultant, Chris Elliott of Rappor. The proposals would only involve change within highways land, with a filter lane being added and necessitating the loss of a small sliver of currently grassed land on the edge of the conservation area, east of Chater Hill's road and pavement. Some limited loss of highways land just south of the conservation area would also be required.
- 2.35. There would be no loss of trees and these proposals would not harm the character and appearance of the conservation area or its setting given their very limited extent. Improvement to traffic flows might be considered a benefit to the setting of the conservation area. The proposals have been agreed with the Council's highways advisors at Essex County Council.

- 2.36. As set out in my Proof of Evidence, the potential effects on heritage of proposals at the junction of High Street and Church Street in the centre of have been assessed since the Rule 6 party submitted their Evidence. A proposal for traffic lights and related changes at the junction has been agreed with the Council and their ECC highways consultant and a detailed survey of cellars close to the junction informed the proposals so as to avoid any harm to them.
- 2.37. My assessment of the relationship between the proposals, including new traffic lights, signage, paving and road markings and listed buildings and the conservation area in which the junction lies concluded less than substantial harm at a very low level. However, intended improvements in traffic flows would counteract harm from the traffic lights themselves.
- 2.38. I can confirm that the Rule 6 party has considered the same listed buildings as did I. There is agreement too on the listing Grade of these and much of detail of their fabric and age. I am not clear from where the assertion of 'Group Value' at line 6 of 7.57 is derived. However, this comment in listing citations tends to indicate that a listed building is of lower intrinsic significance.
- 2.39. As with other parts of the Rule 6 party's Evidence, some of Saffron Walden's illustrious history may be incorrectly linked to the significance of individual heritage assets. I will also resist the temptation to request individual tourist's names, but think the appraisal of the pragmatic curving of Nos. 14 and 16 perhaps imbues the architecture with greater purpose than deserved under 'Architectural and artistic interest' on Page 20.

- 2.40. As with St. Mary's Church, the significance of both the listed buildings and the conservation area of which they form an important element is not contested. However, the level of harm the proposals represent is disputed.
- 2.41. In this, the Rule 6 party may have been influenced by an error in interpretation of the proposals which does not take account of the circa 0.75 metres of new posts which would be sub-surface; in effect, the posts will be three quarters of a metre shorter than stated and shown. This may have led to the Rule 6 party's contention that the entablature of No. 14 High Street and a sign at No. 12 would be directly affected by a post and traffic light head (7.61 & CDF 4 CN 4).
- 2.42. Graphical limitations also make the proposals appear more dominant they would be in practice in the Rule 6 party's appendix, although existing posts provide a good guide in this. The red rectangle shown on the future image for No. 14 is incorrect; this would simply be the button mechanism for the crossing, not a traffic light.
- 2.43. The transport consultant has also reiterated that the precise location of signal posts and heads and control box can be varied at a later date to avoid any sensitive heritage elements they conflict with. Signal heads would all hang down from the posts, so that their height represents a maximum. Swan neck poles could be employed to avoid conflict with building fabric. Given the survey of cellars now completed, this would also inform any changes to ensure no harm to sub-surface parts of the listed buildings.

- 2.44. A substantial number of Wheatcroft Consultation objections submitted to the Appeal also raise traffic and changes to the Church Street High Street junction as harmful to historic buildings and the conservation area.<sup>2</sup> Most of these simply make reference to the ‘conservation area’ and ‘historic buildings, character or centre’. Many make use of pro forma text.
- 2.45. A very small number of the responses have any additional ‘heritage’ comment, with mention of ‘fragile listed buildings’ (39), harm from noise and fumes of traffic (109), additional street furniture being an eyesore (124) and damage to cellars (34).
- 2.46. A small number refer to harm to the wider conservation area and its listed buildings (102 & 105). One correspondent lives in part of the Grade I former Sun Inn further east along Church Street from the junction with High Street, including harm to the fabric of their pargetted home due to greater pollution.
- 2.47. As noted above, I have assessed the current proposals to cause some, less than substantial heritage harm and this will need to be weighed against scheme benefits. However, the proposals would not harm structures directly, including historic cellars and the limited harm assessed due to the introduction of traffic lights should be mitigated by improved traffic flows. Improved traffic flow might also lead to improvements within the conservation area more widely.
- 2.48. The proposals have been agreed with the Council’s highways advisors and a planning condition would ensure that their heritage consultant influences and agrees the final design.

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<sup>2</sup> This includes submissions 1, 2, 11, 12, 14, 24, 25, 31 – 34, 36, 37, 39, 40, 43, 45, 46, 51, 53 – 55, 61, 65, 66, 71, 72, 74, 76 – 79, 84, 86, 91, 95, 99, 100 – 102, 104, 105, 108, 109, 111, 113, 114, 118, 124, 125, 128, 130, 131, 134, 138, 139, 140 & 149. Some others may refer to heritage, but redaction has made it impossible to tell, where another’s comments are referred to.



## **Pounce Hall**

- 2.49. The consideration of the proposals' effect on the significance of the Grade II listed Pounce Hall is aided by the availability of historical sources from Essex Record Office which were unavailable when the assessment was originally completed given closure during the pandemic.
- 2.50. Given the assessment of no harm I reached and the agreement of the Council's heritage advisor, as well as completion of geophysical survey in early 2021, there has been no need to visit the archive more recently. However, the historic maps reproduced by the Rule 6 party in their Heritage Appendix CN 1 have now been considered.
- 2.51. As with listed buildings discussed above, that Pounce Hall is significant is agreed, although the suggestion that there has been continuous occupation since Roman times is tenuous (7.79). It also seems a logical contention that the west facing Pounce Hall was designed to take in the valley to its west and also long distance views of the church as demonstrated in the Rule 6 Party's CN 4 by the zoomed Figure 11 view. Historic maps also confirm the logical assumption that the site land was farmed from Pounce Hall historically.
- 2.52. However, the site cannot be described as part of a designed view from the hall. Indeed, the site does not feature as an incidental view from the hall or close to it, as admitted by the Rule 6 party at 7.77. Their historic map excerpt at page 6 and sight lines figure at page 8 of their Heritage Appendix CN 1 confirm this, with Pounce Hall clearly orientated away, overlooking its formal garden to the west.

- 2.53. The enlarged excerpt on Page 6 of CN 1 also clearly shows ancillary buildings to the south of Pounce Hall, fronting onto Radwinter Road. This is a clear indication that there was no 'polite' designed view taking in the site, regardless of windows in Pounce Hall's southern elevation. Under 'Architectural and artistic interest', the Rule 6 party should make clear that it is the views to the west which are significant in enhancing Pounce Hall's significance, not all landscape views. I would also challenge the statement under 'aesthetic value' that Pounce Hall is a 'landmark building', unless viewed from the west along the valley.
- 2.53. My site visit confirmed that the site lies at a distance from Pounce Hall, with fields in between. Current vegetation is dense to either side of Radwinter Road, with an additional strong screen provided by 'Saintfoine Meadow's southern boundary within the site, as well as structures between Pounce Hall and Radwinter Road. Only limited parts of the existing vegetation would need to be removed to facilitate access to the site and all of Saintfoine Meadow would be retained as an open area, albeit likely containing drainage features.
- 2.54. It was concluded that given this the proposals would not be visible from the site. However, I believe the image produced in the Rule 6 party's Appendix CN 3 is useful in demonstrating that even with some visibility, the proposals would not harm an appreciation of Pounce Hall's significance given distance, vegetation and topography. Suggesting that the proposals would '*look over the river valley*' at 7.85 is certainly misleading.

## **Other Matters**

- 2.55. It had been indicated in the Scott Schedule that the Rule 6 party's evidence might challenge the agreement that the site's sub-surface could be dealt with through a planning condition and that aspects of the local historic landscape might be raised as material considerations, but neither the Evidence of SWTC's heritage or landscape experts mentions these elements.
- 2.56. At 8.5 of the Rule 6 Party conclusions, it is not clear why only heritage benefits are mentioned in relation to benefits to outweigh harm.

## **Conclusions**

- 2.57. The Rule 6 party Evidence considers a number of listed buildings and part of the Saffron Walden Town Centre Conservation Area and the assets considered are those which I have also now considered. In general, I would agree with the key significance assessed for these designated heritage assets.
- 2.58. However, the Evidence does not set out clearly how the setting of the assets is considered to enhance their significance and, in particular, how the site area or changes at road junctions would affect significance or an appreciation of that significance.
- 2.59. It remains my opinion that land south of Radwinter Road could be developed in accordance with heritage legislation, policy and guidance and certainly with the principal heritage objective of the Referendum Neighbourhood Plan set out at 8.2 of the Rule 6 party Evidence.
- 2.60. Some harm to designated heritage may result from associated changes at the Church Street and High Street junction and these would need to be weighed against scheme benefits. However, UDC has agreed a draft planning condition for these proposals.

2.61. The Rule 6 Party has not substantiated any claimed harm that would arise from the granting of planning permission other than the junction element. It remains the case that the very limited impact of the development on heritage would be minimised through scheme design and planning conditions, in accordance with current best practice and policy. This is agreed with both the Council's Essex County Council heritage and archaeology advisors.