

# Heritage Statement



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## Land at Summer Lane and Pagham Road, Pagham

**On behalf of:** Foreman Homes Group

**Date:** January 2022

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**Cogent Heritage Ref:** 0477

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# PART I: Introduction

1. This Heritage Statement has been produced by Ignus Froneman of Cogent Heritage, on behalf of Foreman Homes. The author is a qualified heritage professional with over 20 years of experience in the historic environment.
2. The report supports two reserved matters applications (refs. P/167/21/RES & P/153/21/RES, both with similar layouts, see **Figs 2 & 3** overleaf) following the approval of an outline application under ref. P/140/16/OUT for a mixed use development comprising of up to 400 dwellings; a care home with up to 70 beds; a Local Centre comprising up to 2000m<sup>2</sup> of sui generis floorspace; provision of land for a primary school (with sufficient space for expansion to 2FE); provision of land for a scout hut; safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses, including public open space & allotments (illustrative masterplan at **Fig 1**).
3. Both reserved matters applications are for the erection of 375 dwellings, together with public open space, play space, drainage, parking and associated infrastructure, landscaping, ancillary and site preparation works, with access off Pagham Road (application P/167/21/RES is an alternative to P/153/21/RES).

## Purpose, scope and structure of the statement

4. The purpose of this document is essentially twofold. It firstly provides an assessment of the significance of relevant heritage assets, to a proportionate degree of detail to enable an understanding of the potential impacts, in accordance with paragraph 194 of the National Planning Policy Framework (NPPF). The potential impact of the proposed development is then assessed against the significance of the heritage assets, in accordance with NPPF paragraphs 194 & 195.
5. In relation to the impact assessment, it is important to bear in mind that the application site is an allocated site within the Arun Local Plan, and the principle of the proposed development has already been established through the grant of outline permission. The grant of outline permission was subject to a Judicial Review (*Pagham Parish Council v Arun District Council* [2019] EWHC 1721 (Admin) (04 July 2019)), in which Andrews, J BDE found that the Officer's conclusion in the Committee Report, which found that there would be no harm to any listed building and which recommended that permission be granted subject to conditions, was legally sound.
6. This impact assessment for the reserved matters application therefore does not need to revisit the principle as to whether a development on this land would be acceptable (as per the allocation), or whether the specific layout as indicated in the outline application would be harmful (indeed, Condition 6 of the outline approval requires that the reserved matters scheme demonstrably reflect the Illustrative Masterplan and the Density Plan, amongst others, or the outline application).
7. The purpose of this Heritage Statement is to now assess whether the detailed reserved matters application would materially change the previous conclusion in relation to harm to the heritage assets, arising from the minor differences between the applications (i.e. compare **Fig 1** with **Figs 2 & 3**).
8. This report should be read alongside the application drawings and all other submitted information. Reference is also made in places to information contained in the Heritage Statement submitted as part of the outline application.



**Figure 1:** The illustrative masterplan for the approved outline application (ref. P/140/16/OUT).

# PART I: Introduction



**Figure 2:** The proposed layout for application P/167/21/RES.



**Figure 3:** The proposed layout for application P/153/21/RES.

# PART I: Introduction

9. The relevant legislation and policy framework applicable to this application is set out at **Appendix I**. This report accords with Historic England's guidance on heritage assessments *Statement of Heritage Significance: Analysing Significance in Heritage Assets* Historic England Advice Note 12 (October 2019) as well as Historic England's setting guidance *Historic Environment Good Practice Advice in Planning Note 3* (Second Edition).
10. The remainder of the report is structured as follows:
  - Part II:** A summary of the consideration of the outline permission, including the Heritage Statement submitted as part of the outline application and the Committee Report, followed by a 'Step 1' setting assessment (see methodology below).
  - Part III:** An assessment of significance and contribution.
  - Part IV:** An overview of the proposed development and impact assessment.
  - Part V:** Conclusions.
11. The assessment was informed by a site visit, in January 2022, when the heritage assets were externally inspected from the application site and publicly accessible land. Photos were taken on the site visit, including drone photos. A selection of photos have been included to illustrate the report; they have not been altered, aside from cropping or annotation in some instances.
12. Additional documentary research (in addition to that in the Heritage Statement submitted as part of the outline application) was not undertaken.

## Assessment methodology

13. The assessment follows the basic, stepped approach propagated in Historic England's *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (GPA 3), albeit slightly adapted. The stepped approach GPA 3 are set out below:
  - Step 1:** Identify which heritage assets and their settings are likely to be affected (this has already been done in the consideration of the substantially similar outline permission and is reviewed in Part II of this report).
  - Step 2:** Summarise the significance of the heritage asset (this is an additional component of Step 2) and assess the contribution of the setting to the significance of the heritage asset (this is done at Part III of this report).
  - Step 3:** Assess the likely potential effects of the proposed development on significance (this is done at Part IV of this report).
  - Step 4:** Explore the potential ways to avoid or minimise harm (because of the outline permission in place, this has already been carried out in determining the development parameters and accompanying illustrative layout).
  - Step 5:** Make and document the decision and monitor outcomes (this is not relevant to the assessment in this report).
14. For this assessment, the GPA 3 Step 1 assessment was broken down into two parts or stages. The first stage of the GPA 3 Step 1 assessment, undertaken as part of this study, involved a desk based exercise whereby the designated heritage assets around the

application site were identified, and this included consideration of the assessment of the outline permission.

15. The GPA 3 Step 1 assessment included considering the nature of the heritage asset (e.g. the type of structure) and its significance, the nature of its setting, and the degree of change that would likely result from the proposed development (bearing in mind that change does not necessarily equate to harm to significance, and impacts may be neutral or negligible, rather than harmful *per se*). Some of the heritage assets have been grouped, where relevant, for ease of assessment, but in all cases individual heritage assets have been identified and considered.
16. The second stage of the GPA 3 Step 1 assessment, undertaken as part of this assessment, involved a site visit see the heritage assets, and/or their settings and experience the situation on the ground.
17. Where it was considered that potential impacts could be anticipated, following the GPA 3 Step 1 assessment, the relevant heritage assets were brought forward for more a detailed assessment in Parts III & IV of this report. The assessments are proportionate to the significance of the heritage asset, and sufficient to understand the potential impact of the proposal on its significance. The list descriptions were consulted, but are not replicated in full in the assessment text. Historic Ordnance Survey and earlier historic maps were also consulted, but have not been replicated.

## PART II: Summary of the outline permission and 'Step 1' assessment



## PART II: Summary of the outline permission and 'Step 1' assessment

### The submitted Heritage Statement

18. The submitted Heritage Statement was Appendix II of the *Archaeological Desk Based Assessment Study of land at Pagham South, Pagham, West Sussex*, produced by Neville Hall BA MIFA & C. A. Pine MA BSc. and dated November 2016.
19. This Heritage Statement identified the following heritage assets: one Scheduled Ancient Monument c. 400 metres from the southern boundary of the development site; 10 grade II listed buildings and one grade I listed building. The listed buildings are set out below:
  1. Martins Cottage, Summer Lane.
  2. Nyetimber Forge, Pagham Road.
  3. White Rock House, Pagham Road.
  4. Church Farm Club, Pagham Road.
  5. The Old Cottage, Church Lane.
  6. The Parish Church of St. Thomas a Becket, Church Lane.
  7. Millstone Cottage, Church Lane.
  8. Little Welbourne, Church Lane.
  9. Former Vicarage, Church Lane.
  10. The Salt House at Little Welbourne.
20. A supplemental Heritage Impact Assessment was submitted in December 2016, produced by Richard K Morriss MA(Hons) MSocSc of Mercian Heritage Series and this was referred to in the Judicial Review. The findings of this assessment are summarised below. Section 7.2 of the report considered the potential impact on designated heritage assets adjacent to the development site, starting in case with a description, then a summary of significance, then a consideration of the asset's setting followed by an impact assessment. The latter two components of each assessment is replicated below (all emphasis added).

#### **Becket's Barn Scheduled Ancient Monument and listed building**

*The scheduled ancient monument and the upstanding listed elements of the Barn are approximately 400m to the south of the southern edge of the proposed development. In between there are modern developments on both sides of Church Lane, as well as mobile homes around the Barn itself. Consequently there are no reciprocal views between the scheduled ancient monument with its listed building and the proposed development area.*

*Evidently the proposed development area makes no contribution to the setting of the scheduled ancient monument or listed building within it. The proposed development will not be visible from the scheduled ancient monument or listed building and will have no impact on the fabric, character, setting or significance of either.*

#### **Martin's Cottage & Summer Lane Cottage**

##### *Setting*

*The building is close to a few other historic listed buildings in the vicinity but there is*

*very little left of the setting or pre-20th century character of Nyetimber and no clear appreciation of its past is possible from the visual evidence alone. The setting of the cottage has been completely eroded and it is hemmed in by late-20th century developments. Immediately to the north, facing onto Pagham Road, is a tall group of shops with accommodation over; immediately to the west on the north side of Summer Lane are modern houses and there are more modern houses along the south side of the lane opposite to the cottage. At the junction to the east of the cottage its original garden has been reduced in size to improve the visibility splay and to create safer pavements. Despite its proximity to a handful of other older properties in the area, therefore, this plays little or no part in its present setting - and that setting plays little or no part in its significance.*

##### *Heritage Impact Assessment*

*The nearest part of the proposed development site is about 180m to the south of the listed building, and its main elevation faces that direction. However, there are no views of the proposed development site because of the modern buildings in between. It is considered that the development site plays no role in the setting of the listed building and that for the reasons outlined, the proposed development will have no impact on its character, setting or significance.*

#### **Nyetimber Forge**

##### *Setting*

*The house is one of a handful of older properties in Nyetimber completely surrounded by later-20th century development that has eroded any remnants of their historical setting to such a degree that their setting is no longer of any significance. It does have some lingering relationships with the adjacent public house to the west, however.*

##### *Heritage Impact Assessment*

*The building is within 300m or so of the nearest part of the proposed development site but there are no reciprocal views because of the modern developments in between - and the development site makes no contribution to the setting of the listed building. Consequently, the proposals will have no impact on the character, setting or significance of the listed building.*

#### **White Rock, Pagham Road**

##### *Setting*

*The house was, until the later-20th century, fairly isolated, with only one property just to the north nearby. This setting was not particularly important in the building's significance, it simply occupying a narrow plot of land by the road. Subsequently, all of the opposite side of the Pagham Road has been developed. To the rear the large open fields remain but are screened from the house by a tree belt clearly planted to improve the privacy of the gardens.*

##### *Heritage Impact Assessment*

*White Rock is the closest listed building to the proposed development site, its rear garden boundary being just about 20m away. However, the proposals for the southernmost section of the site adjacent to White Rock is for open ground and allotments - and as a result the open aspect of the fields to the west will be retained to a large degree. Views to the north-west from the property - towards the built section of the proposed development - are partly obscured by later outbuildings and hedgerows and further hedge screening is in the plans.*

## PART II: Summary of the outline permission and 'Step 1' assessment

*Overall it is considered that the impact of the proposed development will result in negligible harm to its setting, character or significance.*

### **Church Farm Club**

#### *Setting*

*The setting of the listed building has, however, been compromised. It is no longer a rural setting as the house and surviving farm buildings have been incorporated into the holiday camp. Unfortunately, this means that the principal elevation faces directly into very large modern buildings containing some of the more important leisure facilities of the site - and the house is abutted by more such buildings to the east. The remnants of the former farmyard to the northeast is now taken up by carparking and, immediately to the west, is the main entrance into the camp with modern developments slightly further away beyond. Immediately opposite the building to the north-west - where Pagham Road turns to become Church Lane - is another modern building. It is considered that the setting now makes little contribution to the significance of the listed building and instead, in heritage terms, detracts from it.*

#### *Heritage Impact Assessment*

*The listed building is approximately 100m to the south-east of the proposed development site - and about 200m from the nearest of the proposed new houses. There will be some views towards the site from the rear of the building at higher floor levels but these will be restricted by existing modern buildings, trees and hedges. It is not considered that the proposed development site makes any contribution to the setting of the listed building, or that the proposed development will impact harmfully on its character, setting or significance.*

### **The Old Cottage**

#### *Setting*

*The house is built directly onto the edge of the lane and has some land to each side as well as mature attractive private gardens to the rear. The aspect to the lane is an important element in the surviving village feel in the views along the lane from the east that include this property, the church, and Millstone Cottage to the west. The reciprocal view from the west is compromised in this respect by the two modern properties and car parks and the views to the south-east are dominated by more later-20th century housing on the south side of the lane.*

*In the longer distance views across the fields from the north the cottage is difficult to see because of the mature trees and hedges of its gardens and, because of the adjacent modern properties and their fairly extensive outbuildings, does not stand out at all in the landscape. The overall setting of the listed building is considered not to make a particularly significant contribution to its heritage values.*

#### *Heritage Impact Assessment*

*The cottage is approximately 200m to the south-west of the nearest part of the proposed development and 300m from the nearest proposed new buildings - the area in between being set aside as open land. Between the proposed development and the gardens of the house is another hedged field.*

*The proposals will not impact the important surviving aspects of the views along Church Lane. Whilst there would be some change in the views north-eastwards from the upper windows of the rear of the property, it is considered that these are limited and that overall the proposals*

*would have negligible impact on the character, setting or significance of this listed building.*

### **The Parish Church of St. Thomas a Becket**

#### *Setting*

*The church fronts Church Lane and in close-up views along the lane that include The Old Cottage and Millstone Cottage (q.v.), it is still just possible to visualise the character of the decayed settlement of Pagham as it was up until the start of the 20th century. However, whilst these views are important elements in the close-setting of the northern side of the church and contribute to its character and significance, they are also deceptive.*

*Immediately to the south and west of the churchyard, almost abutting its walls, are the rows of mobile homes, access paths and carparks of the huge Church Farm chalet complex (see pls.x and y, above); to the south-east is more of the same with, to the east, a small estate of mid-20th century detached houses. On the opposite side of Church Lane to the north is one older property - The Old Cottage (q.v.) - next to which are two modern houses. Next to those to the west are two large walled carparking areas serving the needs of the church.*

*As a result the churchyard is effectively surrounded by residential developments or carparking and there are no clear views from the church or out of the churchyard to the surrounding countryside. In this respect the close setting of the church has been severely compromised by the modern developments, leaving only those views along and from Church Lane to make a positive contribution to its significance.*

*Because of the flat and fairly featureless nature of the large fields to the north of the church, its tower is a landmark visible from long distances. These vistas do contribute to the wider setting of the church, despite the modern properties that lie immediately in front and to the side of it which tend to blend into the background. There is a broad sweep of such views from the group of buildings at Little Wellbourne to the north-west to Pagham Road to the north-east.*

#### *Heritage Impact Assessment*

*The northern boundary of the churchyard is approximately 220m to the south-west of the nearest part of the proposed development, and the church itself is set back further from the lane. There are no views to the development from the church because of the new properties and their grounds on the opposite side of Church Lane, as well as The Old Cottage.*

*The proposed development will obviously not impact on the character or fabric of the church. It will also not impact on the close setting of the church - including the significant views along Church Lane which have echoes of the village's character prior to the beginning of the 20th century.*

*There will be a slight reduction in the full extent of the longer distance views of the church tower from the fields to the north. Most of these vistas will be retained, including the more important ones from the north and north-west. Those views eastwards are terminated by the hedgerow and the roof tops of the continuous row of housing along Pagham Road; the proposed development will marginally alter the detail of that termination but not its general effect.*

*There will be a slight reduction in the angles of view from the north-east from Summer Lane - where it is not developed for housing - and through the hedgerow along the west side of Pagham Road just to the south of Nyetimber. This impact is considered to cause only very slight harm to the wider setting of the church under the relevant guidelines.*

## PART II: Summary of the outline permission and 'Step 1' assessment

### **Millstone Cottage**

#### *Setting*

*The house is built directly onto the edge of the lane and this aspect is a contributory element in the surviving village feel in the views along the lane. However, its historical setting has otherwise been effectively eliminated. This is due to the modern additions on three sides of the original small cottage and the modernisation of the remaining side. Additionally, to the west and south the remaining grounds are abutted by the mobile homes in the holiday camp that continues for some considerable distance in both of these directions. Consequently, its setting is considered to make very little contribution to the significance of the listed building.*

#### *Heritage Impact Assessment*

*Millstone Cottage is around 350m to the south-west of the proposed development site with a large arable field in between as well as the two walled carparks and the modern dwellings with their extensive outbuildings on the opposite side of Church Lane; these will limit any reciprocal views between the listed building and the development site and it is clear that the proposed development site makes no significant contribution to the setting of the listed building.*

*It is considered that because of the lack of contribution to the setting made to the cottage by the proposed development site, the distances involved, and the lack of reciprocal views, the proposals will have no impact on the character, setting or significance of the listed building.*

### **Little Welbourne**

#### *Setting*

*The house is set in extensive grounds between the end of Church Lane to the east and the water's edge to the west and forms part of a grouping of buildings by Pagham Harbour – several of which are also listed. The position of the house by the Harbour is an essential part of its setting and that setting, in turn, contributes to the significance of the building and its heritage values. The view of the older part of the house from the end of Church Lane, behind its tall boundary wall, is also an important part of the setting and the way in which the house can be appreciated.*

*However, otherwise the grounds are quite private and with extensive tree cover and mature boundaries; they also have modern facilities such as a tennis court and swimming pool and are designed for the enjoyment of the inhabitants rather than being deliberately 'historic' to match the character of the house.*

#### *Heritage Impact Assessment*

*The property is nearly 0.6km from the proposed development site and the site makes no contribution to its setting. Any views from the upper windows of the property towards the development site that are possible through the trees in the front garden are presently terminated by the continuous housing along Pagham Road in the far distance. The proposed development, at the distances involved, will not make any significant difference to such views. It is considered that the proposed development will therefore have no impact on the character, setting or significance of the listed building.*

### **The Former Vicarage**

#### *Setting*

*The most important aspect of its setting is its position by the edge of Pagham Harbour. Otherwise the setting is very introverted and private - consisting of its well-maintained and extensive grounds. The fields to the south and east are deliberately screened by a dense tree belt.*

#### *Heritage Impact Assessment*

*The Former Vicarage is around 0.7km south-west of the nearest portion of the proposed development site. The main aspects of the house face north or south and even in oblique views from its east end there are no views from the listed building to the development site because of the intervening tree belt, the gardens, modern outbuildings and a renovated barn structure along Church Lane.*

*The proposed development site makes no contribution to the setting of the listed building and the proposals will have no impact on its character, setting or significance.*

### **The Salt House**

#### *Setting*

*The obviously important aspects of the setting of the building are its position between the two drainage sluices immediately to the north and Pagham Harbour to the south - as well as the north wall to the west. All of these features relate directly to the land reclamation and drainage systems that the building was presumably built for.*

#### *Heritage Impact Assessment*

*This diminutive building is about 650m to the west of the nearest part of the proposed development site. There are no views to the development site because, immediately next to the building and in the way is a modern or modernised outbuilding, as well as the tree-lined grounds of Little Welbourne and trees on both sides of the track to the east of those grounds. The proposed development site makes no contribution to the setting of the Salt House and the proposed development will have no impact on its character, setting or significance.*

### **The Garage of Little Welbourne**

#### *Setting*

*There is little significance remaining in its setting other than its proximity to Pagham Harbour. The rest of the setting within the grounds of the Little Welbourne is considered to be of relatively little significance, especially as the gardens have changed considerably even since the late-19th century mapping and the present.*

#### *Heritage Impact Assessment*

*The property is over 0.6km from the proposed development site and the site makes no contribution to its setting. There are no views to the site because the main house, Little Welbourne, is in the way. Clearly the proposed development will have no impact at all on the character, setting or significance of this listed building.*

## PART II: Summary of the outline permission and 'Step 1' assessment

21. The Heritage Impact Assessment then separately considered, at section 7.2.2.12, other designated heritage assets—all grade II listed buildings—within 500m of the northern edge of the site boundary in Nyetimber: 225 Pagham Road, 'Greensleeves' and Nyetimber House, as well as other listed buildings that are more embedded in modern developments and further away, including The Lion public house on Nyetimber Lane and Barton Manor; further to the north are the Nyetimber windmill and Mill Cottage.
22. The assessment found that none of these would be impacted by the proposed development.
23. At section 7.3, the Heritage Impact Assessment then considered potential impacts on non-designated heritage assets adjacent to the development site, i.e. The Lamb public house on the junction of Pagham Road and Barton Close, and No.25 Pagham Road. The assessment found no harm to the significance of these.

### The Council's consideration of the development

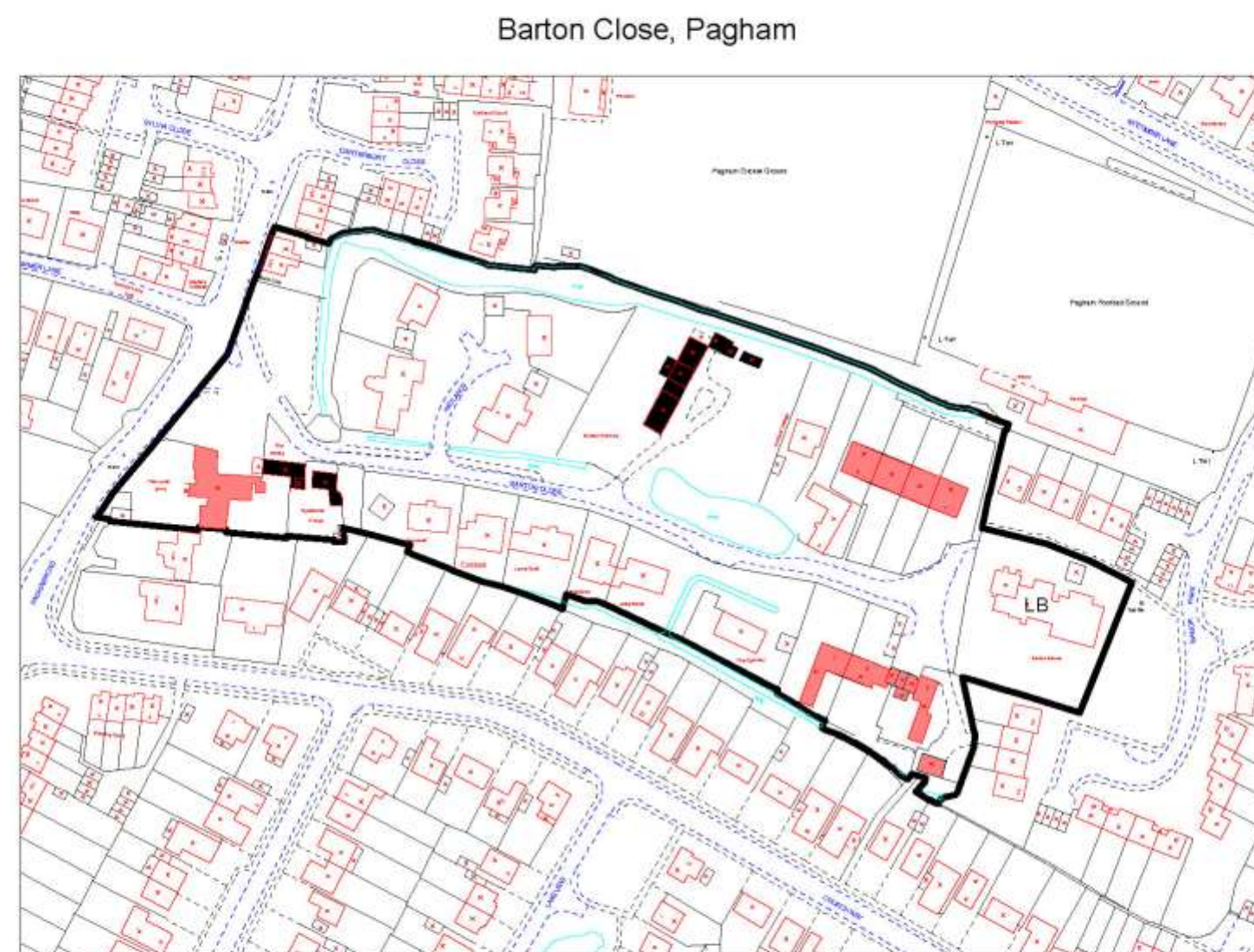
24. The comment from the Conservation/Design Officer (dated 8 June 2017) stated that the impacts of the proposed development on listed buildings in close proximity to the site are reviewed elsewhere in the planning process (i.e. that was done in the Committee Report). The Officer noted that the application site is located some distance to the south-west of a designated Area of Special Character (ASC) (see **Fig 4**), but found that since the application site is some distance from the ASC, and modern housing development and an open green amenity space intervene between the two, there are few long views in to, or out of the ASC and the proposed development would have little impact on its locally distinctive qualities.
25. The Committee Report highlighted that this was an outline application, which only relates to access and therefore with layout, scale, appearance and landscaping being reserved matters. It acknowledged, therefore, that the layout plan submitted in support of the application was only indicative. However, it also noted that the indicative layout showed that the site can accommodate the scale of development proposed, whilst providing adequate open space provision and respecting the site's location on the edge of the settlement. The Officer noted that the indicative layout showed the application site subdivided into two separate parcels to the north and south of the site with the school, commercial centre and playing fields situated centrally.
26. In terms of the listed buildings, the Committee Report stated the following:

*There are a number of listed buildings situated within close proximity to the application site. White Rock (21 Pagham Road) is situated in closest proximity and is sited on the eastern boundary of the southern portion of the site. The proposed built development will be situated approximately 50m to the north of White Rocks and by virtue of this separation distance and boundary screening proposed by the indicative layout plan, it is considered that the proposal will not result in unacceptable harm to the setting of White Rock.*

*Further to the south of the application site is St Thomas a Becket, a Grade I listed medieval church which was restored in 1837. The listed building sits within a verdant churchyard on Church Lane and enjoys a sense of enclosure from the boundary walls and mature trees. The church is situated on the edge of the built up area boundary and is*

*accessed via a semi-rural lane. Further to the south and separated from the church by Church Farm Holiday Village is Becket's Barn, the remains of a former archbishop's palace designated as a scheduled monument and listed building. The church and former archbishop's palace have a clear historic relationship and reflect the medieval importance of the settlement of Pagham.*

*Immediately adjacent to the church is Old Cottage, an 18th Century thatched cottage which together with the church forms a picturesque grouping. Despite the more modern infill bungalows along Church Lane, it has been identified that the church and other cottages along the lane keep the old character remarkably well. This small group of listed buildings along Church Lane and Pagham Road forms the 'historic core of Pagham'. The rural character of the lane and open fields to the north assist in helping to understand and appreciate the origins of St Thomas a Becket church and the historic core of Pagham and contributes positively to their setting.*



**Figure 4:** The Barton Close ASC.

## PART II: Summary of the outline permission and 'Step 1' assessment

27. The report then summarised and dealt with comments made by Historic England. It went on to state:

*Views of the church are restricted from Pagham Road due to the height of boundary screening along the eastern boundary of the application site, with the church spire becoming visible at the southernmost end of Pagham Road, where it meets Church Lane. The development will have a limited impact within the street scene of Church Lane by virtue of the proposed residential development being situated approximately 255m to the north of Church Lane. Which in conjunction with the hedgerows and built form to the north of Church Lane will limit the development's visibility from the Grade I listed building.*

*It is acknowledged that the proposed development will impact upon views of the Grade I listed building from footpath 101 to the north but it is considered that whilst, the development will have an impact upon The setting of the Grade I listed church that this impact is not substantial or significant.*

*To the north-east of the application site is a cluster of listed buildings and the Barton Close area of special character (ASC).*

*The application has been the subject of consultation with the Council's Conservation and Design Officer who has raised no objection. It was acknowledged that the application site is situated some distance to the south-west of the ASC by the Council's Conservation Officer, that there are few long terms views into the ASC, and as such the proposed development will have little impact upon its locally distinctive qualities.*

*Therefore, it is considered that the proposed development will preserve the setting of listed buildings surrounding the site and as such would accord with policies HER SP1, HER DM1 and HER DM4 of the Arun Local Plan. It should also be considered that the proposed development makes a significant contribution to the Local Planning Authorities housing land supply and is an allocated site within the Arun Local Plan. Therefore, it is considered that the public benefits of the development would outweigh any harm to the setting or significance of heritage assets in accordance with paragraphs 196 and 197 of the NPPF.*

28. The subsequent Judicial Review (*Pagham Parish Council v Arun District Council* [2019] EWHC 1721 (Admin) (04 July 2019)) found that the Officer's conclusion in the Committee Report, i.e. that there would be no harm to any listed building and which recommended that permission be granted subject to conditions, was legally sound.

### Summary

29. In summary, therefore, the Heritage Impact Assessment found negligible harm to the grade II listed White Rock, and very slight harm to the wider setting of the grade I listed Parish Church of St Thomas a Becket, whereas the Officer's conclusion in the Committee Report was that there would be no harm to any listed building.

### GPA 3 'Step 1' assessment

30. As part of this assessment, the submitted Heritage Statement and the supplemental Heritage Impact Assessment as well as the Officer's Report were reviewed, against the baseline of a recent winter (i.e. a 'worst case' in terms of leafless conditions) site visit by the author.
31. In accordance with the assessment methodology described at Part I of this report, and following a site visit and review of the reserved matters applications, it was concluded that the majority of the heritage assets in the vicinity of the application site would be unlikely to be affected by the proposed development. This conclusion is supported by the conclusions in relation to the outline permission, reached in the supplemental Heritage Impact Assessment (and the Committee Report) but is was reached independently following a fresh review on the heritage assets and the proposals.
32. The only heritage assets where potential impacts could reasonably be anticipated, and therefore taken forward for a detailed assessment, are:
- The grade I listed Parish Church of St Thomas a Becket.
  - The grade II listed White Rock on Pagham Lane.

## **PART III:** Assessment of significance and contribution



## PART III: Assessment of significance and contribution

### The Parish Church of St Thomas a Becket

33. The church was listed on 5 June 1958, at a time when some list descriptions were very short, and that is the case for St Thomas a Becket. The brief descriptive text from the list entry, from Historic England's National Heritage List, is quoted in full below:

*"Cruciform church with aisles to the nave and north west tower with broached shingled spire. Medieval building, restored by John Elliott in 1837. Chancel C11-12, remainder C13, restored."*

34. As a starting point, grade I buildings are considered to be of exceptional interest and comprise the top tier of listed buildings; only 2.5% of all listed buildings in England are grade I. In NPPF terms, it is a heritage asset of the highest significance. The *Pevsner* entry (see overleaf) gives a detailed analysis of the church and notes significant early fabric and features, e.g. font, piscina, fragments of early fabric, stained glass windows and monuments, all which contribute to the significance of the building, in addition to its general form and fabric.
35. The significance of the church is now set out under the four strands of heritage significance as described in the NPPF.
36. **Archaeological Interest:** This report does not comment on archaeological matters, aside from some observations about the fabric of the church. The fabric of the church holds evidential value of the changes that have occurred over the centuries, and unexposed parts of the fabric will almost certainly contain further valuable archaeological information about the building's use and adaptation over the centuries. It is possible to discern



**Photo 1:** A close frontal view of the church from the north.

different phases, represented by different fabric and built form, but it is likely that further, less obvious evidence will also be present and this will be of archaeological value and interest.

37. **Artistic Interest:** The church was not internally inspected, but any medieval/post-medieval carving and decorative architectural features can be regarded as having some artistic interest, and in addition the church has a good deal of aesthetic value. However, the significance of the church does not substantially derive from its artistic interest or aesthetic value. That is to say, the building would not have been listed (at any grade) purely for artistic or aesthetic reasons, and neither can the high grading of the church be ascribed to it.
38. **Architectural interest:** As a medieval church of 11 or 12th century origins, and with much retained medieval fabric, the Church of St Thomas a Becket can lay claim to considerable architectural interest as a good example of early English medieval ecclesiastical architecture.
39. As is commonly the case with medieval churches, the building has undergone alterations over the centuries, including restorations; the history of alteration and restoration is in itself of some interest, and may be said to add to the interest and time depth of the building (even though, conversely, some of this would have affected authenticity and the intactness of earlier fabric).
40. **Historic interest:** The early origins and relative intactness of the medieval fabric indicates clear historic interest; the church is a building of considerable historic interest. Historic England's (formerly English Heritage) *Conservation Principles*<sup>1</sup> describes how historical value derives from the ways in which past events, people, and aspects of life can be connected to the present through a building or place (paragraph 39).
41. Illustrative value illustrates aspects of history—the perception of a place as a link between the past and present—and has the power to aid interpretation of the past through making connections with, and providing insights into, past communities and their activities through shared experience of a place (paragraph 41). This explanation essentially summarises the historic value of the church.
42. The church is easily recognisable as a historically significant structure and it is capable of evoking the past, and making strong connections between the medieval origins of Pagham and the present-day. As is so often the case, the parish church is the oldest building in the settlement and it is a significant and defining focal element of the residual historic settlement.
43. As noted in the Heritage Impact Assessment for the outline scheme, the church is the only building in the parish that properly reflects the medieval importance of Pagham. It was also obviously associated with the adjacent archiepiscopal palace, which gives it additional significance although, as can be seen from the aerial view at **Photo 2**, that has been somewhat marred by intervening and surrounding modern development.

1. *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* English Heritage (April 2008). Consultation on an updated version closed on 2 February 2018, but as yet the 2008 version has not been updated.

plan with an enormous four-bay Ionic porte cochère. Contemporary T-shaped LODGE to the SW in Picturesque style with round-headed windows. Dated 1848 on the porch.

8090

## PAGHAM

The 'plotlands' established along the harbour before 1914 – Nairn's 'half-built bungalow town' – have been joined since 1961 by more solid houses behind and reaching E to Bognor. A new kind of makeshift settlement – hundreds of static caravans round the tidal lagoon of Pagham Harbour – has almost engulfed the church, which stands on an ancient religious site.\* It was the centre from before Domesday Book of the Archbishop of Canterbury's Aldwick (originally Pagham) Hundred estates, and remained a peculiar until the C19.

**ST THOMAS A BECKET.** Bigger than usual for this area for the reasons outlined, with aisles, long and broad transepts, NW tower with shingled spire and a dedication familiar for churches connected to Canterbury. The nave walls and herringbone masonry in the S part of the chancel indicate a long aisleless church of c. 1100, successor to an important C10 or early C11 building from which a cross fragment survives.† The NW tower was added in the late C12, but the bell-openings are C19, part of a weird restoration of 1837–8 for the Rev. Edward Goddard by John Elliott (perhaps with Joseph Butler, who illustrated the scheme in 1838). It tinkered with the architecture, mainly the W end and transepts, but was surprisingly responsive to the spirit of the building. Very convincing wall arcade on the W wall but the rose window above is a surprising interloper; its source is Palermo Cathedral, perhaps via Goddard, who travelled widely. Otherwise outside, plain C13 lancets and small two-light clerestory windows of the C14 or C15.

The inside, ceiled and plastered and given a W gallery by Elliott, has outstandingly happy and comfortable proportions in spite of the fact that chancel and N and S transept arches are also 1830s. The late C12 tower arch (i.e. W arch of the N arcade) has scalloped capitals. The rest of the N arcade is C13: round pier but shafted responds with small stiff-leaf capitals. The S arcade is plainer, just three bays with round piers. Both arcades have the arches unchamfered but with complicated keeled roll mouldings. The transepts, largely rebuilt, have plain lancets robbed of their shafts. The C13 E extension to the

\* Bronze Age and Anglo-Saxon cremation burials were found here c. 1995; displayed in the church a Bronze Age burial urn.

† Excavations (1976) revealed an aisleless structure (nave or W tower) reaching W to the W transept walls, its E extent unknown.

chancel just a little more ornate, three E lancets stepped and shafted, the rere-arches shafted too, with dogtooth ornament on the arches. Roof rebuilt from 1671 (1682 on W tie-beam). Chancel re-fitting, 1899 by G.P. Allen, a parishioner, removed 1984 except for some panelling and flooring. SW chapel c. 1996 by Geoffrey Claridge of Stanley Roth & Partners for meetings, toilet etc., well matched to existing work.

**FONT** (N transept). Late C12 square bowl. As well as arcading, foliage carving, perhaps C13. – **Double PISCINA** within a straight-headed niche, its single shaft with a waterleaf capital. C13. – **CROSS FRAGMENT** (S transept). Section of a probable memorial cross, C10 or C11, unique in Sussex. Of limestone from the Paris region, perhaps reused Roman, carved with plaited decoration. Found beneath nave floor (1976). – **COMMANDMENT BOARDS**, moved to above the chancel arch. Probably 1830s. – **STAINED GLASS**. E end, a bright show, C16 Flemish from a church in Rouen (Adoration of the Christ Child, the Magi, and Presentation in the Temple with, over them, God the Father and the Holy Ghost and a sun and moon), to which in 1837 William Miller added arms to fill the gaps (Bishop Otter and Archdeacons Howley and Manning, friends of Goddard); arms moved to centre by Martin Travers, 1939. Three other C16 pieces (N aisle); three C17 Flemish fragments (S aisle). – S chancel. Three windows by Law & (G.P.) Allen for Hodgkinton (Marylebone Glassworks), 1902. – **Transepts**. By E.A. Fellowes Prynne for J. Jennings (S 1918, N 1919); excellent figures in rich Pre-Raphaelite style. – W, pleasing colour by Wilfred Drake, 1929, given by Sir Arthur du Cros in memory of the convalescence of King George V at Craigweil House (Bognor Regis). – **MONUMENT** (S transept). Edward Darrell of Barton Manor, Nyetimber, †1573/5, Elizabeth I's Clerk of the Caterie of the Household. Armorial tablet with compressed lettering.

**BECKET'S BARN**, SE of the church within Church Farm Holiday Village. The stone hall of the medieval rectory house, probably C13 with two-light window, blocked doorway and fireplace in the N wall, and traces of an E solar; it was linked to farm buildings known through excavation. W by the harbour, the large former VICARAGE with well-preserved C18 features.

**BARTON MANOR**, ¾ m. NE at Nyetimber, another of the Archbishop's manors. Medieval, terribly obscured and added to. Remains of two separate blocks at right angles to one another: that is, hall and chapel forming two N wings and flanking a courtyard where a chamber once stood. Joined to make one house since at least the C17. The thick-walled HALL is probably c. 1100. In its gabled S wall the semicircular head of a former doorway or archway, with much herringbone masonry W of it inside and more in the E wall; the thin W wall probably C17. Of the CHAPEL only the E part remains, clearly C13, with lancets in the sides and a group of three plain lancets in the E end, just like a small Sussex parish church. Plain trefoil-headed piscina. More herringbone masonry here and there, visible inside.

## PART III: Assessment of significance and contribution

44. **Contribution of setting to significance:** The church fronts Church Lane and its immediate setting includes the two nearby listed buildings (The Old Cottage and Millstone Cottage), with which it has group value and which provides a sense of a historic character to this part of the settlement, despite the many modern buildings, including the houses opposite the church (this can all be seen on **Photo 2**).
45. The church is seen with modern houses at **Photo 3** and with the two listed buildings (on the right and in the distance in the centre) at **Photo 4**. The immediate setting of the church, with the mobile homes, access paths and carparks close by can be seen on **Photo 2**, although their presence is at least very much reduced due to their low height and intervening vegetation/structures when standing on the ground.
46. As noted in the Heritage Impact Assessment for the outline scheme, the church has a degree of group value with the historic components of the Church Farm complex.
47. As can be seen from **Photo 2**, the churchyard is effectively surrounded by mostly residential developments or car parking and there are no clear views from the church or out of the churchyard to the surrounding countryside, although there is very much still a sense of a rural setting to the north, albeit experienced mostly in fragments from the immediate surroundings of the church. It is the close views of the church, and taking in the older residual buildings, that best reveal its significance.



**Photo 2:** An aerial view of the church in its immediate setting from the north.



**Photo 3:** A view of the church in its immediate setting from the east, on Church Lane.



**Photo 4:** A view of the church in its immediate setting from the east, on Church Lane.

## PART III: Assessment of significance and contribution

48. The large fields and low lying, flat topography means that the church tower is visible from a wide area and over long distances (e.g. **Photo 5**). This is a good juncture at which to highlight what is said about church spires and towers in the text box at the top right of page 7 of GPA 3:

*“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, they are unlikely to be affected [...] 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 [added emphasis].”*

49. These are incidental views, in which the tower acts as a local landmark, but they do not enhance or reveal the significance of the building. Just because the tower is visible, in the distance, does not mean its visibility adds to, or reveals the significance of the building. There is a difference between marking the location of the building, and experiencing its significance. It is easy to practically test this proposition. In some of the views, and some places or angles, the tower is wholly or partially obscured by the canopies of deciduous trees, or vegetation lining the footpath to the NW. The church does not materially lose some of its significance when, or because, the trees obscure the tower in places. Neither would the church have materially lost its significance if the heights or arrangement of the surrounding vegetation were arranged differently, such that the tower was not visible from some or all of the positions from where it can presently be seen.

50. Having said that, the sense of the church in the remnants of a rural context adds to the experience of the building which, despite the modern buildings nearby and opposite, still provides for something of the rural context it would have had historically. On the other hand, the settlement of Pagham cannot be ignored, and there is of course an acute awareness that the setting of the church also includes the swathes of modern development now part of the seaside town.

51. The application site forms part of the broader rural context and wider setting of the church. As can be seen from **Photos 6 & 7** overleaf, there is nothing particularly notable about the application site, which is part of the sweeping rural context to the north of the church. Although the tower can be seen alongside and across the application site, there is nothing particularly important, or revealing, or notable, about such views, which reveal context, rather than significance as such.

52. The closest, southernmost part of the application site forms part of the rural context of the church that is best experienced alongside the building and this component of the application site can be said to positively contribute to the sense of openness and rurality in which the church is experienced. The northern parts of the application site do not have the same proximity or role, and make no specific or appreciable contribution to the significance of the church.

53. When seen from Pagham Road (**Photos 8 & 9**), there are occasional glimpsed views of the church, but it is hardly noticeable. These views do not add to its significance; had the vegetation been more consistently thick enough to obscure the church altogether, the building would not have suffered a loss or reduction of its significance.



**Photo 5:** A long view of the church in its context, seen across the fields from the NW.

## PART III: Assessment of significance and contribution



**Photo 6:** A long view of the church in its context, seen from the footpath to the north, with the application site on the left.



**Photo 7:** A long view of the church in its context, seen from the NE across the application site.

## PART III: Assessment of significance and contribution



**Photo 8:** A long view of the church, glimpsed in a gap between the trees on Pagham Road across the application site.



**Photo 9:** A long view of the church, glimpsed in a filtered view behind intervening trees in a gap along Pagham Road, seen across the application site.

## PART III: Assessment of significance and contribution

### White Rock

54. White Rock was listed on 20 September 1984 and it too only has a very brief list description. The descriptive text from the list entry, from Historic England's National Heritage List, is quoted in full below:
- "Early C 19. Two storeys. Three windows. Stuccoed. Eaves brackets cornice. Slate roof. Glazing bars intact. Small porch with slender Doric columns."*
55. The building has historic interest as an relatively high status early 19th century house and as part of the historic settlement pattern at Pagham. The formal symmetry of the façade and multi-pane sashes architecturally speaks of Georgian influences (**Photo 10**), which was not uncommon to see in the early 19th century, and the house has architectural interest as an example of a well-design provincial late-Georgian dwelling of some status. Any internal historic features (e.g. joinery and plasterwork, chimneypieces etc.) and residual layout/plan form will add to its significance.
56. **Contribution of setting to significance:** The house was historically relatively isolated, albeit with the property to the north nearby. This setting was not particularly important in the building's significance; its primary relations is clearly with the road frontage, which it was designed to formally address. Beyond its plot to the rear, the large open fields remain, including the adjoining part of the application site (**Photos 11 & 12**), but this is largely screened from the house by intervening vegetation. The modern houses opposite, on the east side of Pagham Road (**Photo 12**), provides for a modern context, though the significance of the listed building has not been affected to any notable extent by the presence of this highly visible modern development.



**Photo 10:** A frontal view of White Rock from Pagham Road.



**Photo 11:** An aerial view of White Rock from the east.



**Photo 12:** An aerial view of White Rock from the west.

## PART III: Assessment of significance and contribution

57. In terms of its relationship with the application site, White Rock has its back turned towards the site, and there is a clear sense of visual and physical separation between the two (**Photos 3 & 14**). There is no discernible relationship, aside from context, between White Rock and this land, and it is unlikely that there ever was a meaningful relationship between the two. Aside from representing a broader open context, the application site makes no contribution to the significance of this building.



**Photo 14:** A zoomed-in and enlarged detailed view of the photo below.



**Photo 13:** A long view of White Rock in its context, seen from the west across the application site.

## **PART IV:** Impact assessment



# PART IV: Impact assessment

## Principle and overview of the proposed development

58. As has been noted in the introduction, it is important to bear in mind that the application site is an allocated site within the Arun Local Plan, and the principle of the proposed development has already been established through the grant of outline permission. The Adopted Arun Local Plan 2018 states at paragraph 8.5.21 that *"Significant residential development is planned to take place to the west and north-west of the Greater Bognor Regis Urban Area"* at three locations, which include Pagham South and Pagham North. The application site is identified as Pagham South, allocation SD1, for 400 homes. The allocation is governed by Policy H SP2a, part b. of which requires development to *"be designed to take into account nearby heritage assets"* (note that this policy does not require, as a matter of fact, development to avoid causing harm to heritage assets, but instead to take them into account).
59. The grant of outline permission was, in accordance with the allocation, for a mixed use development comprising of up to 400 dwellings; a care home with up to 70 beds; a Local Centre comprising up to 2000m<sup>2</sup> of sui generis floorspace; provision of land for a primary school (with sufficient space for expansion to 2FE); provision of land for a scout hut; safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses, including public open space & allotments.
60. The allocation of Pagham South (allocation SD1) already envisages the principle of a residential development on this land, of the a similar quantum as the reserved matters application (in fact slightly greater). The granting of outline permission has dealt with the way in which this quantum of residential development can be accommodated on the application site. The reserved matters application provides the detail of the layout, which very much aligns with that found acceptable in the outline permission.
61. The aerial **Photos 15 & 16** overleaf graphically illustrate, in approximate terms, the differences in the layouts of the closest residential components of the reserved matters application, compared with that of the outline permission, in the context of the two closest listed buildings. The aerial photos allow for an appreciation of a sense of the spatial relationships between the land and the listed buildings.
62. The impact assessment for the reserved matters application therefore does not need to revisit or rehearse the principle as to whether a development on this land would be acceptable (as per the allocation), or whether the specific layout as indicated in the outline application would be harmful (indeed, Condition 6 of the outline approval requires that the reserved matters scheme demonstrably reflect the Illustrative Masterplan and the Density Plan, amongst others). The purpose of this Heritage Statement is to now assesses whether the detailed reserved matters application would materially change the previous conclusion in relation to harm to the heritage assets, arising from the minor differences between arrangement of the proposed development in the two applications. However, because the outline permission did not fix the layout of the proposed development, the assessment again covers this in relation to the heritage assets assessed here.
63. The following assessment therefore covers the specific layout of the reserved matters application, despite the fact that the acceptability in principle of development as is now being proposed has already been firmly established.

## Assessment

64. In accordance with part b of Policy H SP2a of the Adopted Arun Local Plan 2018, the proposed development has been designed to take into account nearby heritage assets, through the incorporation of an area of undeveloped open land at the southernmost part of the application site, which is closest to both the Church of St Thomas a Becket and which adjoins the rear garden of White Rock.
65. This land will be given over to allotments and open space, so that when standing on the ground in the context of the heritage assets, the present sense of this land being open, undeveloped and rural would remain unaffected. To the extent that this land features in views from or of the heritage assets, or allow views of them, the views and experience of the heritage assets would remain materially unaffected.
66. As can be seen from **Photo 16**, the land to the north, on the east side of the public footpath, would become developed. As is envisaged in allocation SD1 and in accordance with the outline permission, there would be development visible along the side of the footpath when looking south towards the church. The reserved matters application shows a slightly different footprint of this development, which expands slightly further towards the south and east. However, that does not affect the degree to which the church can be seen from here (i.e. the changes do not interfere with views of the church). As with the outline permission (and allocation SD1), the character of the field to the east of the footpath would change, from an agricultural field to an expansion of Pagham (see **Photo 6** on page 17). This would not affect the appreciation of the church or its setting, since the building is already experienced juxtaposed with modern development and generally within a seaside town that has expanded and which today has a modern suburban character. The openness and rural 'apron' to the north of the church would be retained. The development would be distant enough from the church to ensure it is not impinged on, or that it would be perceived as being urbanised. The rural northern setting of the church would be preserved, with the distant expansion of Pagham on the application site causing no harm to the setting or significance of the church.
67. From the footpath, White Rock is not discernible (see **Photo 17**) and the change to the views from the footpath would have no effect on this aspect of its setting. Like the church, the openness and proposed allotment use of the adjoining part of the application site would leave the setting of the building largely unchanged, and with no effect on its significance. Neither are there any indications that the proposed development on the field to the north, or the access some distance away on Pagham Road to the north of it, would affect the significance, experience or appreciation of this building in any way.
68. The glimpsed views of the church from Pagham Road (see **Photos 8 & 9** on page 18) would become obscured by the proposed development. However, the church does not derive significance from these views. In the same way that its significance is unaffected by the obscuration of the trees and boundary vegetation along the roadside, the proposed development would not affect its significance.
69. White Rock, when approached from the north, would be experienced in a context where there would be more housing—now on both sides of the road—but its significance would not suffer as a consequence, with the closer modern development opposite it continuing to play a stronger and more immediate role as representative of the expansion of Pagham. There would be no harm in this regard, and neither would views of the building's road frontage be affected.

## PART IV: Impact assessment



**Photo 15:** Aerial view of the church in its wider setting from the north.

## PART IV: Impact assessment



**Photo 16:** Aerial view of the church in its wider setting from the north, annotated to show the approximate application site boundary in dotted red line, and the area to be developed as housing in red shade. The dotted black line across the proposed development area shows the approximate extent of development as shown in the illustrative masterplan for the outline permission. The church and White Rock are highlighted in red outlines and the PROW in green.

## PART IV: Impact assessment



**Photo 17:** A long view towards White Rock (location shown with a red arrow), seen across the application site from the footpath to the west.



**Photo 18:** A long view towards the church (location shown with a red arrow), seen across the northern part of the application site.

70. As with the southern part of the application site (see **Photo 6** on page 17), there are views of the distant church tower across the northern part of the application site (e.g. **Photo 18**). As with closer views across the southern part of the application site, these are incidental views, in which the tower can be seen in the distance, but they do not enhance or reveal the significance of the building. Just because the tower is visible does not mean its visibility adds to, or reveals, its significance of the building. Therefore, the obscuration of the tower in views from the north would leave the significance of the building unaffected.
71. In conclusion, therefore, this assessment has found that the only potentially affected heritage assets are White Rock and the Church of St Thomas a Becket. The assessment has found that the proposed development would preserve the significance of these heritage assets. This is consistent with the Council's allocation of the application site, and the Council's conclusions regarding the outline permission.
72. However, even if it is now considered that the reserved matters application would cause some harm—contrary to the assessment in this report and the Council's earlier conclusions on the outline permission—then any such harm would demonstrably lie at the lowest end of the 'less than substantial' spectrum as described in the NPPF.
73. In the event that there is now such a finding of low level harm, then this would have to be weighed in the overall planning balance against the considerable public benefits of the proposed 375 dwellings, together with public open space, play space, drainage, parking and associated infrastructure, landscaping, ancillary and site preparation works on an allocated site and with outline permission in place.

**PART V:**      Conclusions

## PART V: Conclusions

74. This report contains the result of an assessment of a the potential effects of the detailed assessment of the significance of surrounding heritage assets. This assessment has found that the only potentially affected heritage assets are the grade II listed White Rock and the Church of St Thomas a Becket (listed grade I).
75. The assessment has found that the proposed development would preserve the significance of these listed buildings. This is consistent with the Council's allocation of the application site, and the Council's conclusions regarding the outline permission.
76. There are, therefore, no resulting policy conflicts. The statutory duties under s.66 of the Planning Listed Buildings and Conservation Areas Act 1990 Act are not engaged, and neither are paragraphs 201 or 202 of the National Planning Policy Framework.
77. However, even if it is now considered that the reserved matters application would cause some harm—contrary to the assessment in this report and the Council's earlier conclusions on the outline permission—then any such harm would demonstrably lie at the lowest end of the 'less than substantial' category as described in the NPPF.
78. Should there be such a finding of low level harm, then this would have to be weighed in the overall planning balance against the considerable public benefits of the proposed 375 dwellings, together with public open space, play space, drainage, parking and associated infrastructure, landscaping, ancillary and site preparation works on an allocated site and with outline permission in place.

# APPENDIX 1: Legislation and Policy



## Planning (Listed Buildings and Conservation Areas) Act 1990

### CHAPTER 9

A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.

### ARRANGEMENT OF SECTIONS

#### PART I

#### LISTED BUILDINGS

##### CHAPTER I

##### LISTING OF SPECIAL BUILDINGS

Section

1. Listing of buildings of special architectural or historic interest.
2. Publication of lists.
3. Temporary listing: building preservation notices.
4. Temporary listing in urgent cases.
5. Provisions applicable on lapse of building preservation notice.
6. Issue of certificate that building not intended to be listed.

##### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Control of works in respect of listed buildings*

7. Restriction on works affecting listed buildings.
8. Authorisation of works: listed building consent.
9. Offences.

##### *Applications for listed building consent*

10. Making of applications for listed building consent.
11. Certificates as to applicant's status etc.
12. Reference of certain applications to Secretary of State.
13. Duty to notify Secretary of State of applications.
14. Duty of London borough councils to notify Commission.
15. Directions concerning notification of applications etc.
16. Decision on application.

A



## National Planning Policy Framework

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# APPENDIX 1: Legislation and Policy

## Legislation

1. Legislation relating to listed buildings and conservation areas is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. For the purposes of this application, the relevant considerations are Sections 66 and 72 of the 1990 Act. Section 66(1) of the Act states:  
*"In considering whether to grant planning permission 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."*
2. The Act does not require the preservation of listed buildings or conservation areas *per se*, which is confirmed by the *South Lakeland DC v Secretary of State for the Environment and another* (1992 House of Lords appeal), i.e. legislation *"does not in terms require that a development must perform a preserving or enhancing function."* Rather, it places a statutory duty on decision makers to ensure that the special interest of listed buildings or conservation areas is properly taken into account as material considerations when determining applications affecting their special interest, or the setting of listed buildings. Case law has established that the preservation of the setting of a listed building requires considerable importance and weight (i.e. the *Barnwell Manor* judgement) and that, generally, a decision-maker who has worked through the paragraphs of the NPPF in accordance with their terms will have complied with the statutory duty set out in the 1990 Act (i.e. the judgement in *Jones v Mordue & Others* [2015] EWCA Civ 1243).

## The National Planning Policy Framework

3. The latest revision of the National Planning Policy Framework (the NPPF) was published in July 2021 and constitutes guidance for local planning authorities and decision makers. Applications for planning permission must be determined in accordance with the local development plan, unless it is silent or material considerations indicate otherwise. The NPPF is a material consideration.
4. Section 16 of the NPPF deals with conserving and enhancing the historic environment, in paragraphs 189 to 208. The NPPF places much emphasis on heritage 'significance', which it defines in Annex 2 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."*
5. Paragraph 189 of the NPPF states that heritage assets range from sites and buildings of local historic value to those of the highest significance. It goes on to state that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
6. Paragraph 190 encourages local planning authorities to prepare local plans that should set out a positive strategy for the conservation and enjoyment of the historic environment,

including heritage assets most at risk through neglect, decay or other threats. One of the factors to be taken into account is the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The positive contribution that new development can make is another of these factors to be taken into account.

7. According to paragraph 194, local planning authorities should require applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
8. Paragraph 195 requires a similar approach from local authorities, who should identify and assess the particular significance of any heritage asset that may be affected by a proposal, 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.
9. According to paragraph 197, a number of considerations should be taken into account in determining applications. The first is the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The second is to recognise the positive contribution that conservation of heritage assets can make. The third reiterates the well-established concept that new development can also make a positive contribution to local character and distinctiveness.
10. According to paragraph 199, which applies specifically to designated heritage assets, great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be). This reflects the provisions of the 1990 Act in that it applies irrespective of whether it involves total loss, substantial harm, or less than substantial harm to significance.
11. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. It then deals with substantial harm to, or total loss of significance of, different types of designated heritage assets.
12. Paragraph 201 continues on the subject of substantial harm. Paragraph 196, on the other hand, deals with less than substantial harm. Harm in this category should be weighed against the public benefits of the proposal.
13. The National Planning Practice Guidance<sup>1</sup> (NPPG) describes public benefits as *"anything that delivers economic, social or environmental objectives"*.

<sup>1</sup> <http://planningguidance.planningportal.gov.uk/blog/guidance/conserving-and-enhancing-the-historic-environment/why-is-significance-important-in-decision-taking/>

# APPENDIX 1: Legislation and Policy

## The Development Plan

The Development Plan currently consists of the Adopted Arun Local Plan 2018, with the relevant policies (**Policy HER SP1** *The historic environment*; **Policy HER DM1** *Listed Buildings*; **Policy HER DM2** *Locally Listed Buildings or Structures of Character*; and **Policy HER DM4** *Areas of Character*) set out in full in the text box below:

### Policy HER SP1

#### The historic environment

The Local Planning Authority will grant planning permission or relevant consent for development proposals that conserve or enhance the historic environment of the District, based on the following approach:

Designated heritage assets including listed buildings, structures and their settings; and Conservation Areas will be given the highest level of protection and should be conserved and enhanced in a manner appropriate to their significance.

Non-designated heritage assets including locally listed heritage assets (Buildings or Structures of Character and Areas of Character) and their settings will also need to be conserved and enhanced in a manner appropriate to their significance and contribution to the historic environment;

Development likely to prejudice any of the above, including their settings, will be refused. Any proposals for development will be required to comply with all other relevant policies and reflect any relevant appraisals or management proposals adopted by the Local Planning Authority.

The Local Planning Authority will encourage the re-use of vacant or underused Listed Buildings or unlisted buildings by approving proposals that contribute positively to their conservation either individually or as part of wider strategies for regeneration. Where changes of use are proposed, the Local Planning Authority will consider these in a flexible way but will favour proposals which improve public access where these are not prejudicial to existing character or appearance.

The Local Planning Authority will take a pro-active stance to any heritage assets that may be at risk. This will include working with property owners to find a use that will enable them to be put back in to use.

Development proposals involving the demolition of Listed Buildings or substantial harm to a Conservation Area will not be permitted unless it can be demonstrated that the loss or harm achieves substantial public benefits.

### Policy HER DM1

#### Listed Buildings

Proposals affecting statutory Listed Buildings will be required to:

- a. Preserve or enhance the historic character, qualities and special interest of the buildings;
- b. Be necessary and not detrimental to the architectural and historical integrity and detailing of a Listed Building's exterior;

- c. Protect the architectural and historical integrity and detailing of a Listed Building's interior;
- d. Protect the special interest of buildings of architectural or historic interest; and
- e. Protect, and where possible enhance the setting of the building.

Total or substantial demolition of a Listed Building will only be permitted in wholly exceptional circumstances, and where it meets the following specific criteria:

- f. Clear and convincing evidence has been provided that viable alternative uses cannot be found, through, for example the offer of the unrestricted freehold of the property on the market at a realistic price reflecting its condition and that preservation, in some form of charitable or community ownership, is not possible;
- g. The redevelopment would produce substantial benefits for the community which would decisively outweigh the resulting loss from demolition or major alteration; and
- h. The physical condition of the building has deteriorated, through no fault of the owner / applicant for which evidence can be submitted, to a point that the cost of retaining the building outweighs its importance and the value derived from its retention. A comprehensive structural report will be required to support this.

The Local Planning Authority will support proposals for alternative uses for Listed Buildings which retain their structure and preserve character and setting where the change will provide for the long term conservation of the structure and fabric of the building.

The Local Planning Authority will only support alterations to Listed Buildings in order to mitigate climate change where such proposals respect the significance of the Listed Building and do not have an adverse impact on its appearance, character or historic fabric.

The Local Planning Authority will only approve a proposal for enabling development where there is no other alternative option available, the benefits of such as scheme outweigh any dis-benefits that arise and mechanisms are in place to ensure the conservation of the heritage asset. In determining any application the Local Planning Authority will take into account whether:

- it will materially harm the significance of the heritage asset or its setting;
- it will avoid detrimental fragmentation of management of the heritage asset;
- it will secure the long term future of the heritage asset and, where applicable, its continued use for a purpose sympathetic to its conservation;
- it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid;
- there is a source of funding that might support the heritage asset without the need for enabling development; and
- the level of development is the minimum necessary to secure the future conservation of the heritage asset and of a design and type that minimises harm to other public interests.

# APPENDIX 1: Legislation and Policy

## Policy HER DM2

### Locally Listed Buildings or Structures of Character

The Local Planning Authority will continue to identify and compile a list of locally important buildings and structures which make a positive contribution to local distinctiveness using the following criteria:

- a. Buildings of outstanding design, detailing, appearance or special interest because of the use of materials;
- b. Buildings which are extremely good examples of traditional or established style, or of unusual type;
- c. In special cases, buildings or structures which contribute towards the local townscape or have important historical or social associations;
- d. All buildings must be largely intact and not adversely affected by later extensions or alterations;
- e. Preferably, although not exclusively, they should make a positive contribution to their surroundings or the street scene.

Applications will only be granted for development which results in the loss of existing Locally Listed Buildings or Structures of Character when it can be demonstrated that the building or structure cannot be put to a beneficial use or re-use. Replacement structures will need to be of a high quality design. There may be circumstances where the public benefit from the proposed development outweighs any proposed harm, in such circumstances, the proposal will need to be justified as appropriate.

Proposals for the alteration or extension of buildings on the Local List will be expected to relate sensitively to the building or structure and its setting and respect its architectural, landscape or historic interest. The Local Planning Authority will seek to preserve features of such buildings which contribute to that interest.

## Policy HER DM4

### Areas of Character

Within Areas of Character, as defined on the Proposals Map, planning permission or relevant consent will be granted subject to:

- a. The retention of buildings and other features such as boundary walls, hedges, trees, railings, open spaces, etc. which make positive contributions to the special character of the areas;
- b. The maintenance of an appropriate mix of uses where this is an important element in the character of an area;
- c. New development preserving, and where possible, enhancing the special character of these areas, particularly with regard to the characteristics identified by the Local Planning Authority.