



Land at Tidcombe Hall, Tiverton

Proof of Evidence of:

Edward Oakley

BA (Hons), MA, PhD. MCifA

In respect of:

Heritage

On behalf of:

Tidcombe Holdings LLP

PINS Ref

APP/Y1138/W/24/3358001

LPA Ref

24/00045/MOUT

Volume III

SUMMARY TEXT

April 2025

Report Reference

edp8995_r003

Document Control

DOCUMENT INFORMATION

Client	Tidcombe Holdings LLP
Report Title	Proof of Evidence of Edward Oakley in respect of Heritage Matters – Volume III
Document Reference	edp8995_r003

VERSION INFORMATION

	Author	Formatted	Peer Review	Proofed by/Date
003	EOa	MWI	ESt	GGi 220425

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Section 1 Summary Text

- 1.1 My evidence addresses heritage matters set out in the Council's Statement of Case (SoC), and specifically the alleged harm to the Grand Western Canal Conservation Area and the non-designated Tidcombe Hall, both directly and in terms of their setting, and the Grade II listed Tidcombe Farmhouse by virtue of change within its setting.
- 1.2 Having assessed the Appeal Proposals, it is my conclusion that their implementation would result in less than substantial harm to the Grand Western Canal Conservation Area and the Tidcombe Farmhouse Grade II listed building. It is my conclusion that the Appeal Proposals would give rise to 'no harm' to the non-designated Tidcombe Hall.
- 1.3 It is recognised and accepted that the Appeal Proposals would give rise to 'harm' in respect of two out of the three heritage assets identified by the Council as being affected and cited in Reason for Refusal (RfR) 3 of its SoC, and therefore this 'less than substantial' harm engages paragraph 215 of the National Planning Policy Framework (NPPF) along with part 'd' of Policy DM25 of the local plan.
- 1.4 Notwithstanding this, it is still of course correct to conclude that the acceptability of those effects and that harm is a matter for the decision-maker to decide upon and nothing in legislation, case law or planning policy (nationally or locally) proscribes the outline application's approval and the grant of planning permission.
- 1.5 As far as legislation and case law is concerned, even the "*strong presumption against*" the grant of planning permission in the Forge Field judgement is still accepted in the same judgement as not being an "*irrebuttable*" presumption and one where factors of sufficient weight to do so can outweigh it. In a similar way, the Barnwell Manor judgement requires a decision maker to apply "*considerable importance and weight*" to the desirability of preserving a listed building and its setting, but it again still does not preclude development that would cause harm. It is true to say that the strong presumption may tilt the balance against the approval of harmful proposals, but it still remains a matter for the decision maker to weigh and then determine.
- 1.6 Paragraph 212 of the NPPF (2024) identifies that "*great weight*" should be given to the desirability of conserving designated assets and qualities that the weight afforded should be proportionate to the significance of the asset or assets.
- 1.7 Even so, it remains the case that paragraph 215 of the NPPF (2024) and Policy DM25 of the Local Plan both advise the decision maker to weigh the 'less than substantial harm' against the public benefits that the Appeal Proposals would bring forward and deliver, mindful of the 'special regard' duty set out in s66(1) of the *Planning (Listed Building and Conservation Areas) Act 1990*. Hence, in and of itself the finding of less than substantial harm to two designated heritage assets does not necessarily proscribe or preclude the grant of planning permission.

- 1.8 Moreover, the Appeal Proposals would deliver heritage benefits to the relevant heritage assets by securing the Optimum Viable Use of Tidcombe Hall and its contribution to the Grand Western Canal Conservation Area (as per paragraph 215 of the NPPF and paragraph: 016 Reference ID: 18a-016-20190723 of the PPG) and removal of traffic from Tidcombe Lane. These should be considered as heritage benefits within the paragraph 215 balance.
- 1.9 In addition to these heritage benefits, the wider public benefits should also be taken into account within the balancing exercise in paragraph 215 of the NPPF and Policy DM25 of the Local Plan Review. It is for my colleague, Mr. Kendrick (covering planning matters on behalf of the appellant) to detail the wider public benefits of the Appeal Proposals. Neither of these two policies countenances against the grant of planning permission in this case so long as the benefits of doing so are of sufficient weight.
- 1.10 In coming to the determination of the Appeal Proposals, in delivering heritage benefits it is my opinion that paragraph 210 of the NPPF should also be engaged in this instance, in that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.
- 1.11 In terms of Policies S1 and S9 of the Local Plan Review, it is noted that proposals are required to 'preserve and enhance' the historic environment. It is my belief that this is not complaint with legislation or the NPPF as: a) there is no requirement to enhance; and b) there is no indication of any balance in the event that the 'enhancement' requirement is not met. The policies also conflict with the Council's own Policy DM25, which allows for a balance of heritage harms against benefits of the proposals. Notwithstanding this, should a positive balance in relation to paragraph 215 and Policy DM25 be achieved, then these policies will be satisfied.
- 1.12 Policy DM1 of the Local Plan relates to high quality of design. However, it should be noted that the proposals are submitted only in outline and that matters of design can be considered at reserved matters stage. It is my judgement that detailed design of the proposals could be secured in a manner that satisfactorily address this policy.
- 1.13 Turning to policy TIV13, it is the Council's contention in their SoC that:

"Policy TIV13 contemplated development of part of the appeal site and the adjacent field to the west, with a total amount of up to 100 dwellings. Therefore the TIV13 policy contemplates a lower density of development which would allow for the potential to create a landscape buffer around sensitive designated heritage assets, namely Tidcombe Farmhouse, the Grand Western Canal Conservation Area and the Non Designated Heritage Asset Tidcombe Hall. The appeal proposal introduces the entire quantum of development contemplated by TIV13 onto approximately half of the TIV13 site area, and moreover the most sensitive parts of the TIV13 site area adjoining designated and undesignated heritage assets. Therefore resulting in built development being located in areas of land best used for buffers to heritage assets. The result being that the appeal proposal would result in an intrusive urban form of development that is harmful to the setting and significance of the heritage assets."

- 1.14 It is worth considering the relative contribution of the whole TIV13 allocation to the conservation area. The parcel to the south of Tidcombe Hall lies outside the Appeal Site, but lies directly to the south of the conservation area, represented here by Tidcombe Hall and its grounds. The parcel gains heightened interest in consideration of the historic links to Tidcombe Hall (see paragraphs 3.104-3.107 Vol I), the evidence of the former designed views across from the southern frontage and its possible use as designed parkland. As such, this parcel is considered to make a positive contribution to the conservation area and is the part of its setting where there is evidence for a designed view rather than incidental experiences.
- 1.15 It is my professional opinion that the development proposals are not located in the most sensitive parts of the of the TIV13 allocation in relation to the designated heritage assets. The evidence presented in Vol I shows how the western field of the allocation was likely part of a designed view south from Tidcombe Hall, potentially as part of its parkland, which raises the sensitivity of this part of the TIV13 allocation in relation to the setting of the hall and conservation area.
- 1.16 In any event, Policy TIV13 of the Local Plan is entirely silent on the need to address the setting of Tidcombe Farmhouse, and instead it only mentions the Grand Western Canal Conservation Area and Tidcombe Hall (within the conservation area).
- 1.17 Whilst I cannot assess any alternative proposals as there are none before me, based on policy and legislation, it is clear to me that the principle of the removal of both agricultural fields of the TIV13 allocation to built form would involve a level of harm to either the Grand Western Canal Conservation Area, Tidcombe Farm or Tidcombe Hall, and that would have been part of the consideration when deciding to allocate the site. In the absence of any reference to Tidcombe Farm in the policy it is arguable that the Appeal Proposals are more policy compliant by only developing the eastern field.
- 1.18 In addition, the Council's supporting documents for the adopted Local Plan include a Sustainability Appraisal (January 2015 CD8.4) and an Historic Environment Appraisal of Proposed Allocations (December 2016 CD4.9). The Sustainability Appraisal identifies that the TIV13 site would have a minor negative impact in relation to the historic environment. The Historic Environment Assessment of the allocation site also recognises the heritage impact by giving the Appeal Site an Amber rating.
- 1.19 As such, it is quite clear that such minor impacts as have been identified within this Proof of Evidence have previously been accepted by the Council and found sound by an Inspector in the adoption of the Appeal Site as a contingency allocation.
- 1.20 Accordingly, it is concluded that, subject to the application of the paragraph 215 planning balance within the NPPF in respect of the identified less than substantial harms and the identified public benefits, with regard to historic environment matters overall, there are no matters that could prevent the Appeal Proposals from proceeding.



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