

Heritage Appendices.

Evidence of Gail Stoten BA (Hons) PG Cert Res MCI fA FSA.

Land East of Froghall Road, Cheadle, Staffordshire.

On behalf of Bloor Homes.

Date: 07 January 2025 | Pegasus Ref: P22-0010

LPA Ref: SMD/2021/0610



Appendix 1: Legislation and Planning Policy

Legislation

Legislation relating to the built historic environment is primarily set out within the *Planning (Listed Buildings and Conservation Areas) Act 1990*,⁴ which provides statutory protection for Listed Buildings and Conservation Areas.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

“In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”⁵

In the 2014 Court of Appeal judgement in relation to the Barnwell Manor case, Sullivan LJ held that:

“Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.”⁶

A judgment in the Court of Appeal (‘Mordue’) has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134 of the 2012 draft of the NPPF, the requirements of which are now given in paragraph 215 of the revised NPPF, see below), this is in keeping with the requirements of the 1990 Act.⁷

Staffordshire Moorlands Local Plan

Policy DC 2 The Historic Environment

1. The Council will conserve and where possible enhance heritage assets, including their setting in a manner appropriate to their significance. This will take into account the desirability of maintaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment.

⁴ UK Public General Acts, *Planning (Listed Buildings and Conservation Areas) Act 1990*

⁵ *Planning (Listed Buildings and Conservation Areas) Act 1990*, Section 66(1)

⁶ *Barnwell Manor Wind Energy Ltd v (1) East Northamptonshire DC & Others* [2014] EWCA Civ 137. para. 24 CD 12.7

⁷ *Jones v Mordue* [2015] EWCA Civ 1243 CD 12.22

2. Protection will be given to designated heritage assets and their settings and non-designated heritage assets as set out in the NPPF.
3. All applications likely to affect heritage assets will require the submission of a heritage statement, including a qualitative visual assessment where appropriate.
4. Where development is likely to affect archaeology, both designated and undesignated, the Council requires the submission of a desk based assessment, and where appropriate, field surveys and trench evaluation by a qualified professional.
5. Where the loss of significance is unavoidable, recording should take place and this should be added to the Historic Environment Record as a minimum, held by Staffordshire County Council.
6. The Council will continue its proactive approach to heritage assets at risk and welcomes development proposals which would result in the sympathetic reuse of these assets in line with NPPF policy.
7. The Council will promote development which sustains, respects or enhances buildings and features which contribute to the character or heritage of an area and those interests of acknowledged importance through the use of Conservation Area Appraisals, Design Guidance and Statements, Archaeological Assessments, Characterisation Studies and Masterplanning.

National Planning Policy Framework (December 2024)

National policy and guidance are set out in the Government's National Planning Policy Framework (NPPF) published in December 2024. This replaced and updated the previous NPPF (December 2023), with little change to policy relating to the historic environment. The NPPF needs to be read as a whole and is intended to promote the concept of delivering sustainable development.

The NPPF sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The NPPF continues to recognise that the planning system is plan-led and that therefore Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application, including those which relate to the historic environment.

Heritage Assets are defined in Annex 2 of the NPPF as:

"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including Local Listing)."⁸

As set out above, significance is also defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural,

⁸ DHCLG, NPPF, p. 73

artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.⁹

Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment'.

Paragraph 208 states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 210 states that, in determining planning applications, local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets by putting them to viable uses consistent with their conservation; and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 215 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 216 confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account, with a balanced judgement undertaken which has regard to the scale of harm or loss and the overall significance of the asset.

National Planning Practice Guidance

The then Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities) launched the planning practice guidance web-based resource in March 2014, accompanied by a ministerial statement which confirmed that a number of previous planning practice guidance documents were cancelled.

This also introduced the national Planning Practice Guidance (PPG) which comprised a full and consolidated review of planning practice guidance documents to be read alongside the NPPF.

⁹ DHCLG, NPPF, pp. 73.

The PPG has a discrete section on the subject of the Historic Environment,¹⁰ which confirms that the consideration of 'significance' in decision taking is important and states:

"Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals."¹¹

In terms of assessment of substantial harm, the PPG confirms that whether a proposal causes substantial harm will be a judgement for the individual decision taker having regard to the individual circumstances and the policy set out within the NPPF. It goes on to state:

"In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm."¹² (my emphasis)

¹⁰ DLUHC, *Planning Practice Guidance: Historic Environment (PPG)* (revised edition, 23rd July 2019), <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>, CD 8.5

¹¹ DLUHC, *PPG*, paragraph 007, reference ID: 18a-007-20190723, CD 8.5

¹² DLUHC *PPG*, paragraph 018, reference ID: 18a-018-20190723, CD 8.5

Appendix 2: Methodology

Key Documents

The key documents that have been used in the preparation of this Heritage Proof of Evidence comprise:

- *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*¹³ (henceforth referred to as 'GPA 2' CD 8.1);
- *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition)*¹⁴, the key guidance of assessing setting (henceforth referred to as 'GPA 3', CD 8.2);
- *Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12*¹⁵ (CD 8.3);
- *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment*¹⁶ (henceforth referred to as 'Conservation Principles' CD 8.4); and

Assessment of Significance

In the NPPF, heritage significance is defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance."¹⁷

GPA 2 gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset.

¹³ Historic England, *Managing Significance in Decision-Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning: 2* (2nd edition, Swindon, July 2015) CD 8.1

¹⁴ Historic England, *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3* (2nd edition, Swindon, December 2017) CD 8.2

¹⁵ Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12* (Swindon, October 2019) CD 8.3

¹⁶ English Heritage, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008) CD 8.4

¹⁷ DHCLG, *NPPF*, p. 78.

In order to do this, GPA 2 also advocates considering the four types of heritage value an asset may hold, as identified in *Conservation Principles*.¹⁸ These essentially cover the heritage ‘interests’ given in the glossary of the NPPF¹⁹ and the PPG which are **archaeological**, **architectural and artistic** and **historic**.

The PPG provides further information on the interests it identifies:

- **Archaeological interest:** *“As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.”*
- **Architectural and artistic interest:** *“These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skills, like sculpture.”*
- **Historic interest:** *“An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation’s history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.”²⁰*

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

The most-recently issued guidance on assessing heritage significance, Historic England’s *Statements of Heritage Significance: Analysing Significance in Heritage Assets*, Historic England Advice Note 12,²¹ advises using the terminology of the NPPF and PPG, and thus it is that terminology which is used in this Proof of Evidence.

Setting and Significance

As defined in the NPPF:

“Significance derives not only from a heritage asset’s physical presence, but also from its setting.”²²

Setting is defined as:

¹⁸ English Heritage, *Conservation Principles* – These heritage values are identified as being ‘aesthetic’, ‘communal’, ‘historical’ and ‘evidential’, see *idem* pp. 28–32. CD 8.3

¹⁹ DHCLG, *NPPF*, p. 78.

²⁰ DLUHC, *PPG*, paragraph 006, reference ID: 18a-006-20190723.

²¹ Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets*, Historic England Advice Note 12 (Swindon, October 2019) CD 8.3

²² DHCLG, *NPPF*, p. 78.

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”²³

Therefore, setting can contribute to, affect an appreciation of significance, or be neutral with regards to heritage values.

Assessing Change Through Alteration to Setting

How setting might contribute to these values has been assessed within this Proof of Evidence with reference to GPA 3 particularly the checklist given on page 11. This advocates the clear articulation of *“what matters and why”*.²⁴

In GPA 3, a stepped approach is recommended, of which Step 1 is to identify which heritage assets and their settings are affected. Step 2 is to assess whether, how and to what degree settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated. The guidance includes a (non-exhaustive) checklist of elements of the physical surroundings of an asset that might be considered when undertaking the assessment including, among other things: topography, other heritage assets, green space, functional relationships and degree of change over time. It also lists aspects associated with the experience of the asset which might be considered, including: views, intentional intervisibility, tranquillity, sense of enclosure, accessibility, rarity and land use.

Step 3 is to assess the effect of the proposed development on the significance of the asset(s). Step 4 is to explore ways to maximise enhancement and minimise harm. Step 5 is to make and document the decision and monitor outcomes.

A Court of Appeal judgement has confirmed that whilst issues of visibility are important when assessing setting, visibility does not necessarily confer a contribution to significance and also that factors other than visibility should also be considered, with Lindblom LJ stating at paragraphs 25 and 26 of the judgement (referring to an earlier Court of Appeal judgement)²⁵:

Paragraph 25 – “But – again in the particular context of visual effects – I said that if “a proposed development is to affect the setting of a listed building there must be a distinct visual relationship of some kind between the two – a visual relationship which is more than remote or ephemeral, and which in some way bears on one’s experience of the listed building in its surrounding landscape or townscape” (paragraph 56)”.

Paragraph 26 – “This does not mean, however, that factors other than the visual and physical must be ignored when a decision-maker is considering the extent of a listed building’s setting. Generally, of course, the decision-maker will be concentrating on visual and physical

²³ DHCLG, NPPF, p. 78.

²⁴ Historic England, GPA 3 p. 8 CD 8.2

²⁵ *Catesby Estates Ltd. v. Steer* [2018] EWCA Civ 1697, para. 25 and 26 CD 12.25

considerations, as in Williams (see also, for example, the first instance judgment in R. (on the application of Miller) v North Yorkshire County Council [2009] EWHC 2172 (Admin), at paragraph 89). But it is clear from the relevant national policy and guidance to which I have referred, in particular the guidance in paragraph 18a-013-20140306 of the PPG, that the Government recognizes the potential relevance of other considerations – economic, social and historical. These other considerations may include, for example, “the historic relationship between places”. Historic England’s advice in GPA3 was broadly to the same effect.”

Levels of Significance

Descriptions of significance will naturally anticipate the ways in which impacts will be considered. Hence descriptions of the significance of Conservation Areas will make reference to their special interest and character and appearance, and the significance of Listed Buildings will be discussed with reference to the building, its setting and any features of special architectural or historic interest which it possesses.

In accordance with the levels of significance articulated in the NPPF and the PPG, three levels of significance are identified:

- **Designated heritage assets of the highest significance**, as identified in paragraph 213 of the NPPF, comprising Grade I and II* Listed Buildings, Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, World Heritage Sites and Registered Battlefields (and also including some Conservation Areas) and non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments, as identified in footnote 68 of the NPPF;
- **Designated heritage assets of less than the highest significance**, as identified in paragraph 213 of the NPPF, comprising Grade II Listed Buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas); and
- **Non-designated heritage assets.** Non-designated heritage assets are defined within the PPG as “buildings, monuments, sites, places, areas or landscapes identified by planning bodies as having a degree of significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets”.²⁶

Additionally, it is of course possible that sites, buildings or areas have **no heritage significance**.

Assessment of Harm

Assessment of any harm will be articulated in terms of the policy and law that the proposed development will be assessed against, such as whether a proposed development preserves or

²⁶ DLUHC, PPG, paragraph 039, reference ID: 18a-039-20190723.

enhances the character or appearance of a Conservation Area, and articulating the scale of any harm in order to inform a balanced judgement/weighing exercise as required by the NPPF.

In order to relate to key policy, the following levels of harm may potentially be identified for designated heritage assets:

- **Substantial harm or total loss.** It has been clarified in a High Court Judgement of 2013 that this would be harm that would “have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced”;²⁷ and
- **Less than substantial harm.** Harm of a lesser level than that defined above.

With regards to these two categories, the PPG states:

“Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.”²⁸

Hence, for example, harm that is less than substantial would be further described with reference to where it lies on that spectrum or scale of harm, for example low end, middle of the spectrum and upper end of the less than substantial harm scale.

With regards to non-designated heritage assets, there is no basis in policy for describing harm to them as substantial or less than substantial, rather the NPPF requires that the scale of any harm or loss is articulated. As such, harm to such assets is articulated as a level of harm to their overall significance, with levels such as negligible, minor, moderate and major harm identified.

It is also possible that development proposals will cause **no harm or preserve** the significance of heritage assets. A High Court Judgement of 2014 is relevant to this. This concluded that with regard to preserving the setting of a Listed building or preserving the character and appearance of a Conservation Area, ‘preserving’ means doing ‘no harm’.²⁹

Preservation does not mean no change; it specifically means no harm.

GPA 2 which states that “Change to heritage assets is inevitable but it is only harmful when significance is damaged”.³⁰ Thus, change is accepted in Historic England’s guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

As part of this, setting may be a key consideration. For an evaluation of any harm to significance through changes to setting, this assessment follows the methodology given in GPA 3, described above. Again,

²⁷ EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council, para. 25 CD 12.23

²⁸ DLUHC, PPG, paragraph 018, reference ID: 18a-018-20190723

²⁹ R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin) CD 12.18

³⁰ Historic England, GPA 2, p. 9. CD 8.1

fundamental to the methodology set out in this document is stating “*what matters and why*”. Of particular relevance is the checklist given on page 13 of GPA 3.

It should be noted that this key document also states that:

“Setting is not itself a heritage asset, nor a heritage designation...”³¹

Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage values that contribute to this significance, through changes to setting.

With regards to changes in setting, GPA 3 states that:

“Conserving or enhancing heritage assets by taking their settings into account need not prevent change”.³² (my emphasis)

Additionally, it is also important to note that, as clarified in the Court of Appeal, whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require Planning Permission to be refused.³³

³¹ Historic England, GPA 3, p. 4 CD 8.2

³² Historic England, GPA 3., p. 8 CD 8.2

³³ *Palmer v Herefordshire Council & Anor* [2016] EWCA Civ 1061 CD 12.24

Appendix 3: Broad Haye Farmhouse Listing Entry

Official list entry

Heritage Category:

Listed Building

Grade: II

List Entry Number: **1374681**

Date first listed: **08-Aug-1986**

List Entry Name: **BROAD HAYE FARMHOUSE**

Statutory Address 1: **BROAD HAYE FARMHOUSE, HAMMERSLEY LEYS ROAD**

Location

Statutory Address: **BROAD HAYE FARMHOUSE, HAMMERSLEY LEYS ROAD**

The building or site itself may lie within the boundary of more than one authority.

County: **Staffordshire**

District: **Staffordshire Moorlands (District Authority)**

Parish: **Cheadle**

National Grid Reference: **SK 01441 44936**

Details

SK 04 SW CHEADLE C.P. HAMMERSLEY LEYS ROAD

6/49 Broad Haye Farm house

– II

Farmhouse. Early C19 with minor alterations. Painted brick; tiled roof on dentil eaves course; end stacks. Three-storey, three-window front; 3-, 2- and 3-light segmental headed C20 casements (flat headed under eaves) in original openings; central entrance with segmental head, overlight and boarded door.

Listing NGR: SK0144144936

Legacy

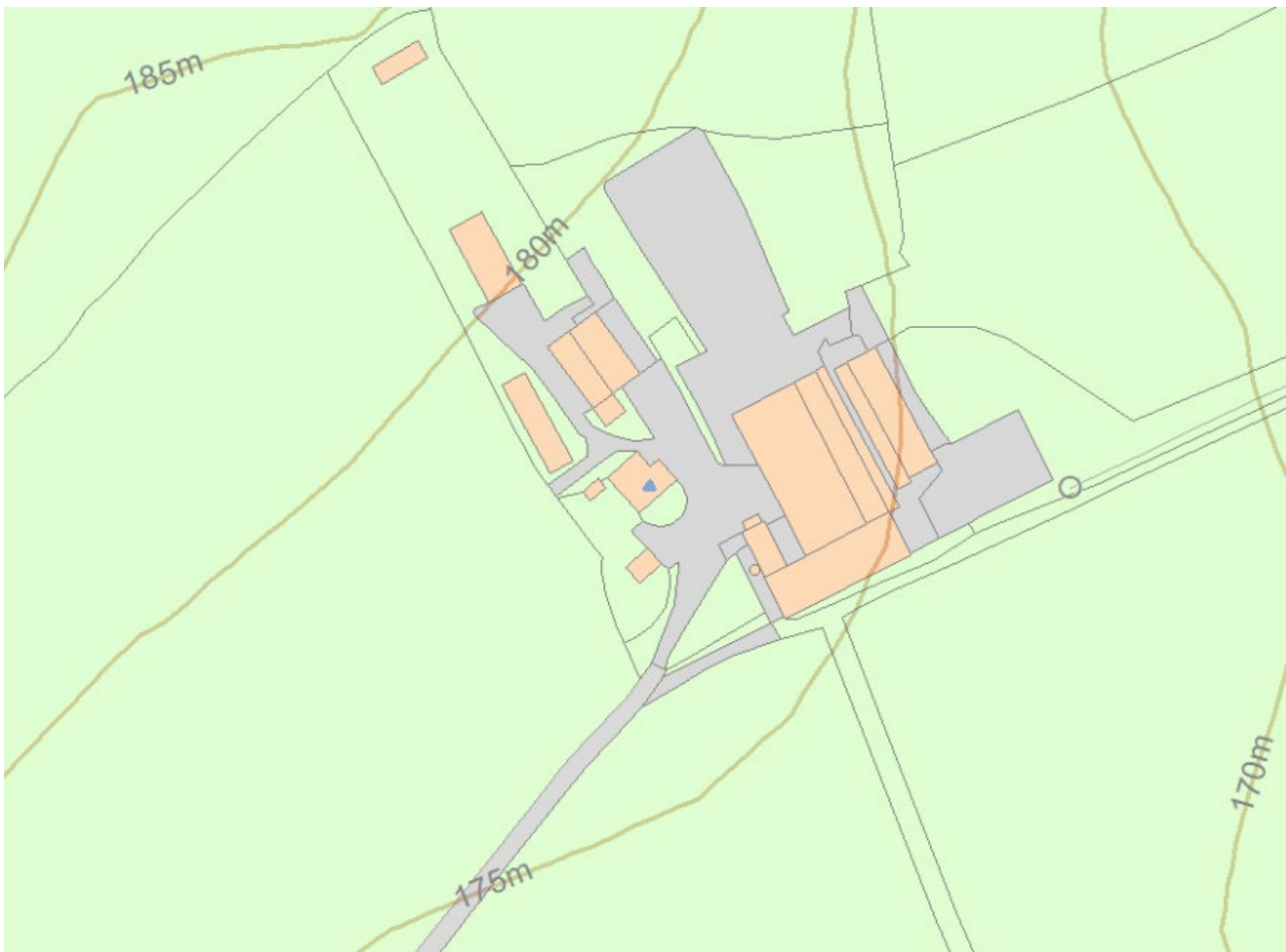
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Legacy System number: **274851**

Legacy System: **LBS**

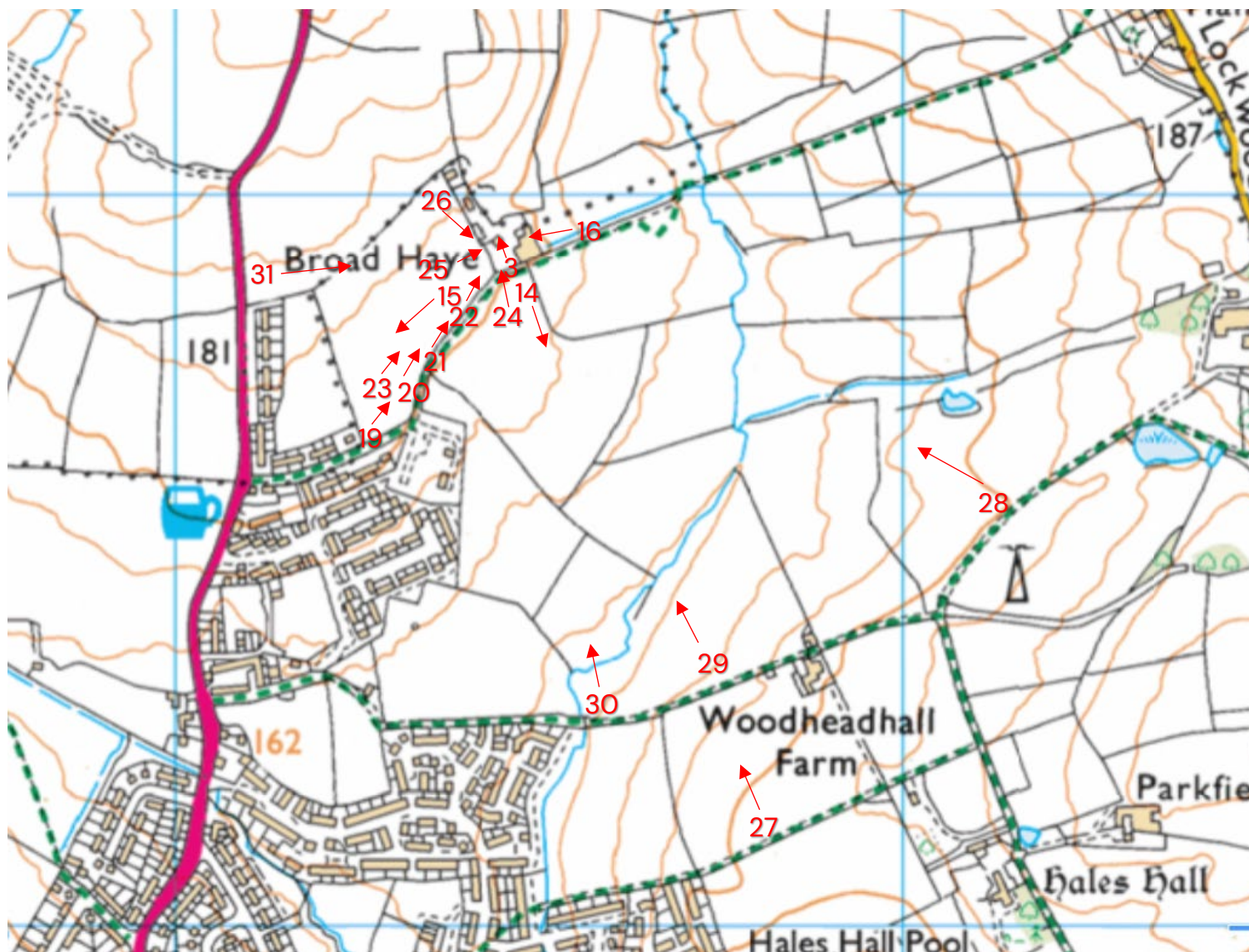
Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



End of official list entry.

Appendix 4: Approximate Photo Location Plan



Cirencester

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