

**Application for outline planning permission (detailed matters reserved except access) for the erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access (planning application ref. DC/20/01094)**

**Land on the North Side of Church Field Road, Chilton, Suffolk**

**Critical review of assessment of the impact of the proposal on heritage assets**

**Roy M Lewis BA (Hons), MA (Arch Cons), MRTPI, IHBC**

on behalf of

**Babergh District Council as Local Planning Authority**

**October 2022**

# Contents

	Page
1.0 Introduction	2
<ul style="list-style-type: none"><li>• Scope and purpose of the review</li><li>• Credentials</li><li>• Personal involvement</li></ul>	
2.0 The proposal	4
<ul style="list-style-type: none"><li>• The application</li><li>• Heritage assets potentially affected</li></ul>	
3.0 Key considerations relating to 'setting'	6
<ul style="list-style-type: none"><li>• The setting of a heritage asset</li><li>• The significance of a heritage asset</li><li>• 'Substantial harm' and 'less than substantial harm'</li><li>• Guidance relating to the setting of a heritage asset</li></ul>	
4.0 Review of the assessments of heritage impact	13
<ul style="list-style-type: none"><li>• HCUK Group (on behalf of the applicant)</li><li>• Babergh District Council's Heritage &amp; Design Officer adviser</li><li>• Historic England</li><li>• Michael Collins (on behalf of Lady Hart of Chilton)</li><li>• Historic Buildings and Places (formerly Ancient Monuments Society)</li><li>• The Gardens Trust</li><li>• Suffolk Preservation Society</li><li>• Place Services</li></ul>	
5.0 Conclusions	26

## 1.0 Introduction

### ***Scope and purpose of the review***

- 1.1 The review has been prompted by the wide variation on conclusions in the assessments of heritage impact made by the applicant, the Council's heritage adviser, Historic England, and third parties with regard to planning application ref. DC/20/01094, which proposes a residential and care home development on land on the north side of Church Field Road, Chilton, Suffolk.
- 1.2 My review is restricted to the single issue of assessment of the impact of the proposal on the setting of heritage assets. I do not consider non-heritage impacts or attempt to assess the proposed development in relation to planning policies. The aim of the review is to assess the veracity of the various assessments that have been made and to suggest which conclusions are the most reliable.

### ***Credentials***

- 1.3 I have been a member of the Royal Town Planning Institute (RTPI) since 1980 and the Institute of Historic Building Conservation (IHBC) since its formation in 1997. From 2009-2019, I was a director and employee of Grover Lewis Associates Limited, a specialist town planning and built heritage consultancy. For the majority of the forty-two years I have practiced as a chartered town planner, I have specialised in planning matters relating to the historic environment.
- 1.4 I am currently the Policy Secretary of the IHBC. From 2002-6, I represented the IHBC on the Urban Design Alliance (UDAL). UDAL was a network of seven built environment professional institutes and two campaigning organisations that was formed in 1997 to promote the value of good urban design.
- 1.5 Since 2004, I have been the Historic England (formerly English Heritage) nominated representative on the Roman Catholic Historic Churches Committee for the Nottingham Diocese, which covers the East Midlands. In this capacity, I provide planning and heritage advice on the suitability of proposals that affect listed churches.

- 1.6 Between 2002 and 2008, I was the programme leader for the IHBC recognised undergraduate programme of BA (Hons) Architectural Conservation at the University of Derby. From 2006-9, I was the external examiner for the MSc in Historic Conservation run by Oxford Brookes University in collaboration with the University of Oxford.
- 1.7 My professional experience has included employment as a planning officer and conservation officer in a variety of local authorities, and a consultant in private sector architectural and planning practices. Consequently, I have extensive experience of dealing with development proposals, and in particular proposals that affect the historic environment. My experience has made me conversant with the application of national policies and guidance relating to planning and the historic environment, and in particular the issue of impact on setting.
- 1.8 Over the course of my career, I have provided evidence in numerous planning appeals, acting on behalf of developers, local authorities, and local action groups. In particular, I gave evidence relating to the impact of development proposals on the setting of heritage assets in the Barnwell Manor and Bramshill planning appeals. In both cases, my evidence was considered in both the High Court and Court of Appeal as a result of judicial review and was not found wanting. Barnwell Manor has become a leading legal precedent in relation to 'setting'.

### ***Personal involvement***

- 1.9 I have not had any previous involvement in the proposed development of the land at Church Field Road, Chilton or any other development proposals in Babergh District.
- 1.10 I was approached by Steven Stroud (Strategic Projects and Delivery Manager, Babergh and Mid Suffolk District Councils) on 4 October 2022 with a request to carry out the review of heritage assessments.
- 1.11 I carried out a site inspection on 17 October 2022. This included inspection from Chilton Hall and its grounds.

## 2.0 The proposal

### ***The application***

- 2.1 The planning application proposes the erection of up to 166 residential dwellings, a purpose built care home for up to 60 bedrooms, and associated infrastructure including landscaping, public open-space, car parking and means of access. The application is made in outline with all matters reserved except proposed access to Church Field Road.
- 2.2 The application originally proposed up to 190 residential dwellings. The description has been revised, as have the Development Parameter Plan, Building Heights Plan and Massing Layout submitted with the application for determination. My review considers the assessments of impact of the amended proposal.
- 2.3 The 11.6 hectare application site is an approximately square-shaped block of land, that excludes a recently developed health centre and a three pairs of semi-detached house that occupy the south-western corner of the approximate square. The western site boundary abuts Waldingfield Road (B1115). The southern side abuts Church Field Road, which is an industrial estate road of recent origin. The northern side abuts the grounds of Chilton Hall. The eastern side is separated from open fields by a public footpath and at the southern end, borders a single plot-width of modern industrial units that line the north side of Church Field Road. Tree belts run along the northern and eastern margins of the application site. The main part of the site is open land covered with scrub, which is denser to the west. The level of the land rises from east to west.

### ***Heritage assets potentially affected***

- 3.1 There is general agreement that the potentially affected heritage assets are:

#### Church of St Mary, Chilton (grade I listed building)

A fifteenth century flint church with a substantial red brick west tower, dating from the sixteenth-century. First listed in 1961. On the north side, attached to the chancel, is the early sixteenth-century, red-brick Crane Chapel, which contains table tombs and a wall monument to members of the Crane family. The church was restored in stages by George Grimwood from 1860-75.

The list description states that the church stands about 500 m south of Chilton Hall in isolation, completely surrounded by agricultural land.

However, industrial development has since encroached to the immediate south of the churchyard. The church is located approximately 150 metres to the south-east of the application site.

Chilton Hall (grade II\* listed building)

A two-storey, red brick house surrounded by a deep moat, that is described as newly built in the will of Robert Crane IV, died 1591. The house was built with a suite of high-ceilinged chambers on the upper floor, which originally had large windows in the east and south walls (now blocked) (see 'The Buildings of England: Suffolk-West', Pevsner, 2015, p187). At the south-east corner is an embattled, polygonal staircase tower that rises above eaves level. According to Sandon (Suffolk Houses: A Study of Domestic Architecture, 1977, p212), the roof of the tower provided an embattled observation parapet. The house was an important stronghold with massive walls that replaced an earlier medieval house. The standing building is a remaining wing of a larger house, the major part of which burnt down in about 1800. In the late eighteenth century, the west side of the standing building was given a Georgian façade, with double-hung sash windows and a Georgian-style entrance door. The main approach to the house is from the south by a bridge over the moat.

Garden Wall to East of Chilton Hall (grade II listed building)

A tall red-brick wall about nine feet high with a quasi-castellated capping set into the top of the brickwork. The three sided structure, with walls to the north, south and west, encloses a garden to the west of Chilton Hall, beyond the moat (not the east as described in the listing). There is a pair of Tudor arched recesses on the south side, a single recess on the north side, and a Tudor gateway on the west side. The garden wall is believed to have been built by Sir Robert Crane V (died 1643).

Chilton Hall (grade II registered park and garden)

The registered garden covers an area of approximately six hectares around the moated Chilton Hall, which stands in the southern part of the registered area. The gardens and pleasure grounds cover approximately two hectares and lie predominantly to the south and west of the hall, and include the grade II listed walled garden. A woodland garden to the south of the moat bridge was developed in the 1930s, together with a rose garden in the southern tip of the site. Two large pools between the rose garden and the south wall of the kitchen garden appear on a 1597 Survey and are therefore at least sixteenth-century in origin and were probably medieval fishponds. In the sixteenth century, a large deer park extended to the south east of the present site. By 1839, when the Tithe map was drawn up, the deer park had been turned over to arable.

## 3.0 Key considerations relating to ‘setting’

### ***The setting of a heritage asset***

- 3.2 The impact of development proposals on the settings of heritage assets is a well-established material planning consideration. The National Planning Policy Framework (NPPF) (2021) defines the setting of a heritage asset as:

*“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”* (Glossary, p71)

- 3.3 The NPPF policies relating to conserving and enhancing the historic environment require consideration of impacts on settings as well as direct impacts on the assets themselves. These policies include:

- In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, **including any contribution made by their setting** (194)
- 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**) ... (195)
- Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, **or from development within its setting**), should require clear and convincing justification (200)
- Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, **and within the setting of heritage assets**, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. (206)

(my emphasis)

- 3.4 Furthermore, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it a statutory duty for the decision-maker in considering whether to grant planning permission for development which affects a listed building **or its setting**, to *“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”* (my emphasis).

*“Preserving”* in this context means doing no harm (see *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141).

- 3.5 Consequently, it is essential to understand the nature of the setting of any heritage asset affected by a development proposal and the contribution it makes to its significance, in order to correctly apply the statutory duty and policies in decision-making.

### ***The significance of a heritage asset***

- 3.6 The NPPF heritage policies are predicated on the concept of significance, which is defined (for heritage policy) as:

*“... the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, **but also from its setting** ...”*  
(Glossary, pp71-72, my emphasis)

- 3.7 It is relevant to note that as setting is defined as the surroundings of a heritage asset, setting is not in itself a heritage asset. Nor is it a heritage designation. However, it is made clear from the definitions of both setting and significance that setting can contribute in a positive or negative way to the significance of a heritage asset.

### ***‘Substantial harm’ and ‘less than substantial harm’***

- 3.8 The NPPF heritage policies seek to avoid harm to heritage significance. Furthermore, in relation to designated heritage assets, the NPPF heritage policies distinguish ‘substantial harm’ from ‘less than substantial harm’. Consequently, a decision-maker initially has to determine whether or not a proposal would cause any harm to a designated heritage asset. If so, the decision-maker must then determine whether the harm constitutes ‘substantial harm’ or ‘less than substantial harm,’ in order to engage the appropriate policy.
- 3.9 The NPPF does not provide a definition of the terms ‘substantial harm’ and ‘less than substantial harm’. Guidance is provided in the Government’s online national Planning Practice Guidance (PPG) states:



*“Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the National Planning Policy Framework (paragraphs 194-196) apply.*

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

*Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. 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 additions to historic buildings where those additions are inappropriate and harm the buildings’ 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, depending on the nature of their impact on the asset and its setting.”*

(Paragraph: 018 Reference ID: 18a-018-20190723)

- 3.10 The issue of ‘substantial harm’ as a result of development in the setting of a heritage asset has been considered in a number of court cases. In Bedford Borough Council v Secretary of State [2012] EWHC 4344 Admin it was said that for harm to be substantial *“the impact on significance was required to be serious such that very much if not all of the significance is drained away or that the asset’s significance is vitiated altogether or very much reduced”*. This appears to be a higher threshold than the advice in the Government’s PPG (set out above) that ‘substantial’ harm to the significance of a heritage asset can arise where the adverse impact of a development *“seriously affects a key element of (the asset’s) special architectural or historic interest”*. It is however, common ground to both the Bedford judgment and the PPG that

substantial harm is a high test. It should also be noted that the judge in the Bedford case regarded 'substantial' and 'serious' as interchangeable adjectives in this context.

- 3.11 The issue of 'substantial harm' was considered more recently in the case of The London Historic Parks and Gardens Trust v The Minister of State for Housing and Westminster City Council [2022] EWHC 829 (Admin), otherwise referred to as the Holocaust Memorial case. The judgment interprets the PPG terminology as being consistent with the Bedford judgment. It states that the concept of substantial harm would apply if *"the impact of the proposed development was sufficiently serious in its effect that the significance of the designated heritage asset, including the ability to appreciate that asset in its setting, was (if not vitiated altogether) at least very much reduced"* (52). The judgment considered the reference in the Bedford case to significance being *"very much ... drained away"* was no more than an alternative, metaphorical means of expressing the concept of substantial harm.
- 3.12 Accordingly, the judgment concluded that the Bedford case does not import a test of *"draining away"* to the test of substantial harm and that *"a word like 'substantial' in the NPPF means what it says and any attempt to impose a gloss on the meaning of the term has no justification in the context of the NPPF. The policy framework and guidance provide a steer that relevant factors include the degree of impact, the significance of the heritage asset under scrutiny and its setting. It is not appropriate to treat comments made by a Judge assessing the reasoning of an individual decision maker, when applying the test of 'substantial harm' to the circumstances before him/her, as creating a gloss or additional meaning to the test"* (53).
- 3.13 Consequently, it is clear that 'substantial harm' is a high level of serious harm that at the least, very much reduces the significance of the designated heritage asset, including the ability to appreciate that asset in its setting.

#### ***Guidance relating to the setting of a heritage asset***

- 3.14 The Government's online national Planning Practice Guidance (PPG) states that:
- "All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent."*

*The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.*

*The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time.*

*When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation".*

(Paragraph: 013 Reference ID: 18a-013-20190723)

3.15 The Historic England (HE) publication *Historic Environment Good Practice Advice in Planning Note 3 (GPA3): The Setting of Heritage Assets* (Second Edition, December 2017) provides detailed guidance on the nature of settings and the assessment of development proposals that impact on settings.

3.16 Advice in GPA3 of particular relevance to the Chilton case includes:

*“Change over time: Settings of heritage assets change over time. Understanding this history of change will help determine how development within a setting is likely to affect the contribution made by setting to the significance of a heritage asset*

*Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance (para 9).*

*Cumulative change: Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract*

*from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting ... (para 9)*

*Designed settings: The setting of a historic park or garden, for instance, may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site's visual boundary. It can include ... land which is not part of the site but which is adjacent and associated with it because it makes an important contribution to the historic character of the site in some other way than by being visible from it, and land which is a detached part of the site and makes an important contribution to its historic character either by being visible from it or in some other way, perhaps by historical association" (para 9).*

3.17 GPA3 sets out a five step assessment process for proposals that may affect the setting of a heritage asset, namely:

- *"Step 1: Identify which heritage assets and their settings are affected;*
- *Step 2: Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated;*
- *Step 3: Assess the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it*
- *Step 4: Explore ways to maximise enhancement and avoid or minimise harm;*
- *Step 5: Make and document the decision and monitor outcomes"* (para 19).

3.18 In Step 2, GPA3 advice that is particularly relevant to the Chilton case includes the recommendation that the assessment should identify the physical surroundings of the asset, including its relationship with other heritage assets and in this regard should consider a wide number of potential attributes including "openness" and "history and degree of change over time". Additionally in Step 2, GPA3 recommends identification of the way the heritage asset is appreciated and the asset's associations and patterns of use. With regard to these issues, GPA3 advises that, amongst other things, the "surrounding landscape or townscape character", "tranquillity (and) remoteness", and "land use" should be considered (para 26 and related checklist).

- 3.19 In Step 3, GPA3 recommends that the assessment should address the attributes of the proposed development in terms of its location and siting; form and appearance; wider effects; and permanence.(para 33). Considerations with regard to location and siting of the development include *“proximity to the asset”* and the *“degree to which location will physically or visually isolate asset”* and are relevant to the Chilton case. With regard to the wider effects of the development, *“change to general character (e.g. urbanising or industrialising)”* and *“change to land use”* are relevant. With regard to permanence, *“reversibility”* is relevant (checklist, p13).
- 3.20 In Step 4, GPA3 recommends that *“... options for reducing the harm arising from development may include the repositioning of a development or its elements, changes to its design, the creation of effective long-term visual or acoustic screening, or management measures secured by planning conditions or legal agreements”*. However, it is noted that *“for some developments affecting setting, the design of a development may not be capable of sufficient adjustment to avoid or significantly reduce the harm, for example where impacts are caused by fundamental issues such as the proximity, location, scale, prominence or noisiness of a development”* (p14).
- 3.21 The GPA 3 guidance was central to the Court of Appeal judgment in Catesby Estates Ltd and SSSLG v Steer [2018] EWCA Civ 1697. The appellant’s case hinged on the single issue of whether an appeal Inspector was correct in confining his consideration of setting to visual or physical impacts. Whilst the court’s decision supported the Inspector, it was held that the decision-maker has to keep in mind that *“the ‘surroundings’ may change over time, and also that the way in which a heritage asset can be ‘experienced’ is not limited only to the sense of sight”* (29).

## 4.0 Review of the assessments of heritage impact

### ***Assessment by HCUK Group (on behalf of the applicant)***

- 4.1 The applicant's assessment of the revised application by HCUK Group dated February 2021 replaces an assessment of the original application by Heritage Collective dated February 2020. The assessment is clearly based on an awareness of the relevant statutory duty, planning policies and guidance.
- 4.2 The HCUK assessment makes a general statement that *"the proposed application site does not make a particular contribution, or a specific contribution, to the setting of any of the heritage assets described"* (3.11).
- 4.3 In carrying out GPA3 Step 2 with regard to the Church of St Mary, the HCUK assessment identifies the churchyard as the primary positive element of its setting (3.7). The analysis notes that modern commercial development has *"much altered"* the setting of the Church (3.7) and states that some allowance must be made for the effect of buildings that have impinged into the view to the rear (south) (3.12). However, this is not translated into the 'statement of significance' (3.14) or identified specifically as a negative aspect in relation to significance.
- 4.4 Having identified the church tower as a local landmark (3.3), the analysis of the wider setting does not identify the full range of views of the tower (and in some cases the body of the church) from the wider surroundings. From the wider area, the HCUK assessment refers only to the view of the church from the north over pasture and the view of a small part of the church tower from the east side of the proposed site (3.7). The analysis does not identify other views of the Church from the higher level western parts of the application site; the limited but important views from parts of Chilton Hall and its grounds; or the debased views of the church from Church Field Road.
- 4.5 The analysis of the setting of Chilton Hall states that it is best experienced from within its moated enclosure and the footpath that runs to the eastern side of the Hall (3.8). There are in fact numerous views of the Hall from positions beyond the moated enclosure and the footpath. Whilst I agree that the moat and walled garden contribute greatly to significance, as early examples of a designed landscape (3.12), step 2 of the HCUK assessment does not recognise the contribution the character of the wider surroundings makes to the significance of the Hall. Nor does the analysis assess the historic evolution of the Hall and its wider surroundings in any detail, notwithstanding the detailed information contained in the associated



archaeological desk-based assessment submitted on behalf of the applicant. The assessment states that longer views of the Hall are restricted by the filtering effect of trees and plantations (3.8). Whilst this is correct in longer distance views from the south, the Hall can be seen from the footpath that runs through the tree belt that borders the northern part of the application site, due to the thin, spindly nature of the trees. The assessment makes no reference to the suite of high-ceilinged chambers on the upper floor of the Hall or the polygonal corner tower, from which there would almost certainly have been views from the Hall over its associated rural surroundings and towards the Church of St Mary.

- 4.6 The analysis of the setting of the walled garden at Chilton Hall states that it can only be experienced from within the grounds of the Hall. As with the Hall, the garden wall can be seen from the footpath through the tree belt that borders the northern part of the application site, due to the thin, spindly nature of the trees.
- 4.7 The analysis of the setting of the Chilton Hall registered park and garden suggests that there is little of significance beyond the moated enclosure and walled garden and views from a public footpath that passes near the Hall (3.10) other than the Church (3.12). As stated above, the assessment does not include a comprehensive assessment of the historic evolution of the Hall and its surroundings. The Survey Plan of the Manor of Chilton, 1597 contained in Michael Collins' assessment identifies the fields to the north of Chilton Hall and the application site to the south-west, as part of the estate. Whilst these fields may currently have the appearance of modern agricultural land (3.10), and scrub in the case of the application site, they nevertheless have historic interest as a central part of the historic manor of Chilton.
- 4.8 The HCUK assessment notes the spatial and visual inter-relationships of the Hall, the walled garden, and the moated enclosure and that they contribute to the significance of each other (3.13) but does not identify the spatial and visual inter-relationships between the Hall and the Church and the surrounding rural area. A contextual relationship is noted between the Hall and the Church but this is considered "*somewhat abstract*" on the grounds of minimal intervisibility (3.7, 3.8). The setting guidance and interpretation of the concept of setting by the courts set out above make it clear that such attributes of setting are not restricted to visual considerations. Describing them as "*abstract*" does not remove them from the deliberation.
- 4.9 A notable omission in the HCUK assessment is lack of analysis of the character of the surroundings of both the Hall and the Church, past and present, as recommended in GPA3 Step 2. It is clear from cartographic and

photographic evidence (see the historic maps in the archaeological desk-based assessment by Archaeology Collective and the historic plans and aerial photograph (Fig. 3) in Michael Collins' assessment) that until the later twentieth century, the wider setting beyond the immediate grounds of Chilton Hall and the Church of St Mary, was an open, rural and remote setting. The Church was particularly remote, being only accessible by tracks and footpaths. The HCUK assessment notes that the application site was in the same ownership as Chilton Hall at the time of the tithe map of 1839 (3.11) but makes no acknowledgement of its contribution to the open, rural character of the wider surroundings and thus to the significance of the Hall. The open, rural and remote aspect of the setting of the Church of St Mary has been seriously compromised in recent years by the industrial development to its immediate south, which should have been taken into account. The open, rural and remote characteristic of the surroundings is addressed in the HCUK assessment only in comments relating to the Babergh and Mid Suffolk Heritage and Settlement Sensitivity Assessment Report (4.16).

- 4.10 In addressing GPA Step 3, the HCUK assessment of the impact of the proposed development does not find any harm to or erosion of significance to any of the heritage assets considered as a result of the urbanisation of a substantial part of their surroundings. This reflects the fact that the assessment does not identify any contribution to significance by the open, rural character of the wider surroundings in GPA Step 2.
- 4.11 In association with this aspect of the assessment, there is no consideration of the cumulative impact of the proposed development, together with the adverse impact of the existing industrial development along and to the south of Church Field Drive; the health centre and dwellings to the immediate south-west of the application site; and the extensive amount of residential development in existence and planned on the west side of Waldingfield Road. Existing urban development to the south and west has urbanised approximately 50% of the wider rural setting of the Church of St Mary. The proposed development would cause considerably more urban encroachment of its open, rural setting to the west, leaving extensive open land only to the north and north-east of the Church. In my view, the HCUK conclusion that the proposed development would result in no harm as views of the church across open farmland would remain from the north, cannot be justified. It ignores the fact that a significant amount of open land with rural character would be lost to urban development to the west of the Church, leaving it in predominantly urban surroundings. The cumulative impact of the proposed development on the wider setting of Chilton Hall and its grounds would similarly leave the Hall with an extensive open rural setting only on its eastern side.



- 4.12 The suggestion that the change within the setting of the Hall and its registered garden “*would be largely abstract*” (4.9, 4.12) is misleading, as the development would result in a real and permanent harmful impact on the character of their surroundings. The statement in the HCUK assessment states that a 200m gap between the proposed housing and the Hall, together with intervening trees, “*would retain an isolated and rural feel*” (4.16) is wholly unconvincing. The slender belt of open land that is included in the revised proposal would function as a suburban amenity area and would not have rural character. Views to and from the Hall and its grounds would be possible through the intervening tree belt within the application site, due to the thin spindly nature of the trees. It should also be noted that the better quality trees between Chilton Hall and the proposed housing are within the grounds of the Hall and constitute part of its registered garden and that the closest proposed dwelling would be located approximately 50 metres from the southern boundary of the registered garden.
- 4.13 In addressing GPA Step 3, the HCUK assessment of the impact of the proposed development on significance of the Church of St Mary states that “*the proposed buildings would be in scale to their surroundings and would not be very prominent because the land drops*” (4.4). This is unlikely as the highest proposed buildings are located on the higher part of the site. The small field to the immediate west of the Church is at lower level than the church but the level of the application site rises to the west. It is highly likely that parts of the development (such as rooftops) would be visible from the churchyard.
- 4.14 It is also likely that parts of the development would be visible from the footpaths on the open land to the east, in juxtaposition with the registered park and garden. People walking the public footpaths that link the Church of St Mary and Chilton Hall and its grounds would be highly likely to be aware of the existence of the proposed development, hence it would have an impact on their experience of the heritage assets. In the hours of darkness, the development would be noticeable by lighting and activity such as vehicle movements. These considerations are not recognised by HCUK.
- 4.15 The assessment further states that the view of the church tower from the proposed site will remain (4.5), which is not correct in relation to views from the higher western part of the site which are not identified in Step 2 of the HCUK analysis and which would be obscured, except for a single narrow view, as identified in the proposed landscape strategy. The fact that the view onto the Church tower that is retained in a view-cone in the revised plans is not identified in the heritage assessment, highlights the inadequacy of the assessment in relation to views.

- 4.16 The HCUK conclusion that there would be no erosion of significance of Chilton Hall, its walled garden or its registered garden, or the Church of St Mary relies very heavily on screening by trees and vegetation. This would require substantial upgrading of the existing unmanaged, poor quality tree belts within the application site, which would not provide an effective or long-term screen. Whilst this could be achieved by strict planning conditions and enforceable legal agreement, it would not overcome the non-visual impact of the proposal on the open, rural and remote character of the wider setting, the cumulative impact on that characteristic, or the adverse impact on views of the Church from the application site that are not identified in the assessment.
- 4.17 In the light of the above, I do not consider that the HCUK conclusions that that the application site does not make a particular or specific contribution to any of the heritage assets under consideration (3.11) or that the proposed development would cause no harm to or erosion of the significance of any of the heritage assets under consideration (4.4-4.13) are tenable.

***Assessment by Babergh District Council's Heritage and Design Officer***

- 4.18 The Heritage and Design Officer's (H&DO) assessment of the revised application dated 4 May 2021 replaced his assessment of the original application dated 8 April 2020.
- 4.19 In relation to the issue of intervisibility, the H&DO assessment rightly draws attention to the GPA3 advice that setting includes considerations such as the understanding of the historic relationship between places and the PPG guidance that buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.
- 4.20 The H&DO states:

*"The landscape surrounding the complex, which includes the proposed development site, certainly contributes to the medieval and early post-medieval agrarian development of the complex ... I consider that, because of the interrelated cultural, spiritual and probably tenurial nature of the complex the development site, the agricultural land and the formal garden land (to both east and west of the hall) play an important role in the setting of the hall and the church."*

This identifies an aspect of historical importance of the longstanding agrarian character of the wider surroundings, an aspect of significance not given material weight in the HCUK assessment.

- 4.21 The H&DO alludes to cumulative impact by stating *“to remove the site from the equation because some of the ‘historic’ character and visual quality of the land adjacent to it has been diminished might suggest that further redevelopment in the settings of listed buildings could be undertaken if a piecemeal reduction in the apparently historic landscape has already occurred”*. However, the H&DO does not attempt to weigh the degree of adverse impact on the setting of heritage assets that would be caused by the proposed development together with existing urban development. Without reference to any methodical assessment or giving any explanation, the H&DO states that *“the level of impact of the indicative layout might be quite limited, with a consequence that it would result in a low to medium level of less than substantial harm”*. The H&DO refers to pre-application consideration that has not been made available.
- 4.22 The H&DO then goes on to recommend that a smaller scale development nearer Church Field Road would be more suitable. Assessment of such a proposal is not my concern. However, if the conclusion of low to medium less than substantial harm results wholly from the loss of agrarian character (which I would equate with rural character), it is not clear why the H&DO considers a reduction in the scale of the proposed development to the south-west and *“could ensure the significance of the assets is preserved”*, as that would require the development to cause no harm (see South Lakeland definition of preservation). He goes on to state *“move the dwellings back towards the south western corner and the level of harm will naturally reduce”*. He does not state that harm will be avoided, just reduced, which is inconsistent with his claim that significance could be preserved. Furthermore, a development to the south-west would not seem to take account of the potential adverse impact that a development in this area would be likely to have on the setting of the Church of St Mary, especially given the existing views of the church from the higher ground in the western part of the application site and the potential proximity of dwellings to the Church. Whilst it is not an aim of this report to assess alternative schemes, this aspect of the H&DO’s comments questions the veracity of his judgement of harm through impact on setting.
- 4.23 The H&DO also comments on the conclusions of Michael Collins assessment, stating that *“substantial harm is very rare and is usually related to a catastrophic loss of significance, such as the demolition of a listed building, rather than the diminution of those aspects of a setting which contribute to significance”*. This is not consistent with the advice in the PPG that substantial harm can relate to a key element of significance or the judgment in the Holocaust Memorial case that substantial harm is a high level of serious harm that at the least, very much reduces the significance of the designated heritage asset, including the ability to appreciate that asset in its

setting. A catastrophic loss of significance suggests a higher test. This indicates a misunderstanding by the H&DO of the assessment of the level of harm that an impact on a setting can make.

- 4.24 In conclusion, whilst I agree that the proposal would result in harm to significance through loss of agrarian character and historic interest as open landscape, I do not consider the H&DO provides an adequate justification for his conclusion that the proposal *“will result in a low to medium level of less than substantial harm to the settings and therefore the significance of all the assets described”*. His comments indicate an inaccurate understanding of the level of harm that can result from an adverse impact on the setting of a designated heritage asset.

### ***Assessment by Historic England***

- 4.25 The Historic England (HE) assessment of the revised application dated 31 March 2021 replaced an assessment of the original application dated 9 April 2020. Cross reference is made to the earlier letter, which contains greater analysis of the Church, The Hall and its grounds. In particular, the earlier letter drew attention to the contribution to the significance of Chilton Hall and the Church of St Mary made by the wider rural landscape setting of these assets. The encroachment of the industrial estate to the south of the church is noted, with an implication that the encroachment increases the value of the surviving open landscape to the north of the churchyard.
- 4.26 The HE assessment states that *“the landscape between the hall and church allows views between the two”*. My site inspection concluded that there are limited views of the church from the Hall, which appears to have been designed to provide views from large upper storey windows (now blocked) and the polygonal tower, but no views of the Hall from the Church (other than from the top of the church tower, which is generally inaccessible and in my view of no consequence). I do however agree that the existing footpaths connect the Hall and the Church and offer access around the perimeter of the application site, enabling the Hall and the Church to be experienced in a rural setting.
- 4.27 The HE assessment of impact acknowledges the removal of some built development from the Chilton Hall boundary in the revised proposal but nevertheless considers that the proposed development would fundamentally change the character of the site from open rural land to that of a large, built development. It goes on to state that *“the loss of the field would mean the hall and its landscape were no longer encircled by a rural landscape as it has been throughout its existence”*. This is not entirely accurate as recent

housing development on the western side of Waldingfield Road extends as far as the grounds of Chilton Hall. Nevertheless, I think it is reasonable for HE to draw the conclusion that the proposed development would significantly erode the surviving rural setting of Chilton Hall.

- 4.28 The HE assessment of the impact on the Church of St Mary notes the key views of the Church from the application site and concludes that the loss of part of the rural landscape that survives to the north of the churchyard would undermine the link between the church and the hall. This is a reasonable conclusion that is not undermined by the fact that development is not proposed directly between the Hall and the Church.
- 4.29 The HE assessment makes reference to GPA3 and the comments made (with the exception of the 'buffer' reference) align with the guidance. The HE assessment concludes that the proposal would result in harm to the significance of the heritage assets in question due to the erosion of their rural setting which, although it would be less than substantial, would be of harm of a considerable level.
- 4.30 On the basis of the analysis, I consider it reasonable for HE to conclude that the proposal would result in less than substantial harm to the heritage assets in question. I will consider the matter of the degree of harm within the category of 'less than substantial harm' in my conclusions.

***Assessment by Michael Collins (on behalf of Lady Hart of Chilton)***

- 4.31 The assessment of the revised application by Michael Collins (MC) dated April 2021 replaced his assessment of the original application dated May 2020. The assessment has been produced on behalf of Lady Hart of Chilton, the occupant of Chilton Hall.
- 4.32 MC's assessment of significance states that the open rural landscape between the Hall and the Church has been maintained since the sixteenth century, noting that the application site largely equates to a field identified as The Hyde on a survey of the Hall manor dated 1597 (Fig. 4). The assessment notes the urban encroachment to the south and notes that an industrial estate has been brought to the edge of the churchyard and within a single field of the grounds of the Hall (006). MC considers that the remaining single fields to the south-west and south-east of the Hall preserve the open rural landscape setting between the Hall and Church, as it existed in the sixteenth century, making it fundamental to the appreciation of that significance (006, 007).

- 4.33 MC's assessment notes the proposed area of open space adjacent to the Chilton Hall boundary in the revised application, stating *"this will be a suburban area of landscaping and, quite apart from being set against considerable built development, it will look very different from the current open, rural setting"* (002). I would agree that the proposed swathe of land adjacent to the eastern site boundary would not have rural character.
- 4.34 MC identifies the loss of the open rural landscape to the south-west of the Hall as the principal adverse impact (008, 009). He notes the need to have regard to cumulative change and the erosion of the sense of remoteness and tranquillity (012) and draws the conclusion that as the proposal would erode an open rural landscape setting that has existed since the sixteenth century it would result in substantial harm to the significance of Chilton Hall and the Church of St Mary.
- 4.35 MC's assessment makes no specific reference to GPA3 but his process is generally consistent with the recommended assessment steps and the detailed guidance. In my view, his assessment of the contribution of the wider rural setting to the significance of Chilton Hall and the Church of St Mary is well made. I agree that the loss of the open, rural setting caused by the proposed development would be an adverse impact that would harm to significance.
- 4.36 However, I do not consider that MC has made a convincing case that the adverse impact justifies a conclusion of 'substantial harm', in NPPF terms. As discussed above, if the open rural (agrarian) remote character of the wider surroundings of the Hall, its grounds and the Church are considered to be a key element of the significance of the assets, the proposal would have to result in a high level of serious harm that at the least, very much reduces the significance of the experience of the assets. In gauging this, the fact that open, rural land would continue to exist to the north-east of the Church and to the east of the Hall has to be taken into account. This has to be balanced against the cumulative adverse impact on the setting caused by the industrial development to the south, the health centre to the immediate south-west of the application site and the extensive amount of residential development that is consolidating the urbanisation of the wider area to the west of Waldingfield Road.
- 4.37 MC's conclusions are relied upon in letters submitted to the Council by Town Legal LLP making representations with regard to the planning application on behalf of Lady Hart of Chilton.



***Historic Buildings and Places (formerly Ancient Monuments Society)***

- 4.38 The Ancient Monuments Society (AMS) commented on the original application by email dated 1 April 2021. The comments on the re-consultation on the revised proposals were made in the new name of Historic Buildings and Places (HB&P) by email of 15 June 2022.
- 4.39 The HB&P comments on the revised proposal cross-referred to the original AMS comments that objected to the proposal due to the significant impacts the proposed development would have on Chilton Hall, its listed garden wall, and registered park and garden, as well as the Church of St Mary, stating that the additional information does not address the heritage and conservation issues previously raised.
- 4.40 The original AMS comments stated that the development would fill in a large area of open land which has formed an important rural setting for these highly graded assets. The comments drew attention to the significant urban expansion that has already extended to Church Field Road and stated that the cumulative impact of this additional development, together with the approved 1,150 new homes at Chilton Woods will dramatically erode and alter the remaining rural setting of the Hall, gardens and the church and cause a considerable degree of harm to the significance of these structures and their historic rural setting.
- 4.41 The AMS went on to disagree with the statement in the application that a vegetative buffer will fully mitigate these impacts or preserve the rural character around the Hall.
- 4.42 The AMS/HB&P responses do not explain the analysis that led to these conclusions but nonetheless align with the views of all others, with the exception of the applicant's assessment, that the proposal will result in harm to significance as a result of loss of rural setting. Furthermore, the AMS/HB&P rightly draw attention to the need to consider cumulative impact.

***The Gardens Trust letter dated 9 June 2022***

- 4.43 The Gardens Trust (GT) responded to the revised proposal on 30 April 2021, cross-referencing comments made on the original response dated 13 May 2020. The GT made further comments on the revised proposal, dated 9 June 2022.

- 4.44 The GT concurs with the Historic England assessment of impact, and points out that the proposal would permanently erode the landscape surroundings, substantially damaging the setting of the suite of heritage assets affected.
- 4.45 The GT makes reference to GPA3, pointing out the need to consider the implications of cumulative change and that *“the setting of a historic park or garden ... may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site’s visual boundary. It can include: land which is not part of the park or garden but which is associated with it by being adjacent and visible from it”*, which the GT considers entirely relevant to this case.
- 4.46 The GT concludes that permitting the development would *“seriously damage the setting of all the assets. The group of assets taken together will no longer be set in a rural landscape for the first time in their entire existence, and the experience of and significance of the RPG in particular, will be significantly adversely affected by the development in the immediately adjoining field”*.
- 4.47 Other than the references to *“serious damage to the setting”* and that the group of assets *“will be significantly adversely affected”*, the GT response does not make clear the category or level of harm to the significance of the assets that it considers the development would cause.
- 4.48 However, the GT response further reinforces the view that the proposal will have an adverse impact on the rural character of the setting of the group of assets. It also draws attention to the permanence and irreversibility of the impact.
- 4.49 The original GT response dated 13 May 2020 stated that the assets in question *“constitute an important cohesive group which interrelate with one another in a shared landscape. They should therefore be considered as a single entity as far as significance is concerned”*. Whilst the historic connections almost certainly amplify the significance of each and they may well have overlapping settings, I consider that each asset has its own individual significance.

### ***Suffolk Preservation Society***

- 4.50 The Suffolk Preservation Society (SPS) commented on the revised proposal by letter dated 29 March 2022, having commented on the original application by letter dated 11 May 2020.



- 4.51 The SPS consider that the revised proposals “*went some way to preserving the historic relationship between Chilton Hall and St Mary’s Church*” but “*the remaining developed area to the north of the proposed green corridor is disjointed from the rest of the site and will impact Chilton Hall and its designated Park and Garden*”. The SPS state that Chilton Hall “*largely retains a sense of its original rural setting to the north of Sudbury (and) development close to Chilton Hall with associated increased lighting and traffic movements will have a significant impact on this setting*”.
- 4.52 It is clear that the SPS considers that the retention of a sense of Chilton Hall’s original rural setting is an important consideration and that the proposal would have an adverse impact on that characteristic of the setting.
- 4.53 The SPS response to the revised proposals does not make any substantive comments regarding the impact of the proposal on the setting of the Church of St Mary. In contrast, the SPS comments on the original scheme made it clear that they related to Chilton Hall and its registered park and garden together with the Church of St Mary.
- 4.54 The SPS does not suggest which category of harm to significance (in NPPF terms) would result from the impact of the proposed development on the setting of Chilton Hall and does not attempt to quantify the degree of harm. However, the SPS response to the original proposal stated that it would result in ‘less than substantial harm’, in NPPF terms. It is reasonable to assume that the harm caused by the smaller revised proposal would fall into the same category.
- 4.55 SPS’s recommendation that a further revised scheme with greater separation between the development area and Chilton Hall might be acceptable indicates that SPS considers that partial development of the site (subject to appropriate design) would not be harmful to the significance of the Hall. No explanation is given as to why partial development of the site would not be harmful.
- 4.56 With regard to cumulative change, the SPS response notes that “*the health centre to the south west corner of the site and industrial development on Church Field Road have urbanised this area to a degree, it is arguably more important to retain remaining rural agricultural land to ensure the significance of these heritage assets is preserved*”.
- 4.57 Whilst the SPS’s conclusion that Chilton Hall’s original rural setting would be adversely impacted by the proposal is consistent with all other assessments other than the applicant’s assessment, the failure to explain why partial

development of the site would not be harmful and the lack of any reference to the potential impact of partial development on the Church questions the accuracy of the SPS assessment.

***Place Services***

- 4.58 The letters from PLACE Services dated 22 October 2021 and 23 May 2022 simply draw attention to the comments of the District Council's H&DO and make no additional representations relating to the potential impact of the proposed development on the setting of heritage assets.

## 5.0 Conclusions

- 5.1 For the reasons set out in Section 4.0, I consider that the applicant's assessment of impact by HCUK that the proposed development would cause no harm to or erosion of the significance of any of the heritage assets under consideration is not credible. In my view, the HCUK assessment should have acknowledged that the open, rural character of the application site makes a contribution to the significance of the heritage assets in question and that the location in a rural setting is a longstanding historic characteristic. Similarly, I consider that the assessment should have acknowledged the negative impact of existing recent development in the surroundings and the cumulative impact of the proposal together with existing and planned development in the surroundings. Additionally, the HCUK assessment should have identified views of the Church of St Mary from the application site that would be affected by the proposal. If these matters had been taken into account, it would have inevitably led to a conclusion that the development would result in a degree of harm to the significance of the heritage assets in question and the way the assets are appreciated in their setting.
- 5.2 At the other extreme, whilst I agree with much of the analysis in the assessment provided by Michael Collins, I am not convinced by his conclusion that the proposed development would result in substantial harm in NPPF terms. MC considers that this would result from the loss of the longstanding open, rural and remote character of the wider surroundings of the heritage assets in question. I would agree that this characteristic is a key element of the heritage assets and the way the assets are appreciated in their setting and that the impact of the proposed development would be relatively high. However, in the light of the High Court judgment in the Holocaust Memorial case (which was determined after MC made his assessments) I would conclude that the impact, even when considered together with the impact of other existing and approved development, would not *"very much reduce the significance of the experience of the assets"* as that rural characteristic would survive in the landscape to the east of the Hall and to the north-east of the Church. Therefore, whilst the cumulative impact of development of the application site might be relatively high, I do not consider the impact would reach the threshold for substantial harm.
- 5.3 Consequently, I am of the opinion that the degree of harm to the significance of the heritage assets in question that would result from development of the application site would constitute less than substantial harm in NPPF (2021) terms and should therefore be considered under the policy set out in NPPF paragraph 202, 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.”*

- 5.4 Less than substantial harm covers a broad spectrum. In order to assist the decision-maker in weighing harm against public benefits, it is necessary to give an indication of the degree of harm within that spectrum. In that respect, I note that the HCUK assessment includes a ‘Scale of Harm’ at Appendix 1. This subdivides less than substantial harm into three categories of low, medium and high. This subdivision would appear to be of the authors own making as it does not reflect published policy or guidance. Furthermore, the definitions of the sub-categories in the scale of harm include reference to harm that would *“vitate or drain away the significance of the designated heritage asset”*. As the Holocaust Memorial case held that the Bedford case does not import a test of *“draining away”* to the test of substantial harm, I do not think the Appendix 1 table is relevant. Furthermore, the issue of sub-categories of harm was considered by the High Court in the case of James Hall & Co Ltd v City of Bradford Metropolitan Council and others [2019] EWHC 2899:

*In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial. There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact.” (34)*

- 5.5 Consequently, the degree of harm within the category of less than substantial harm is a matter of judgement, which to some extent explains the differences in the conclusions of the parties that have made assessments. However, I have identified shortcomings in the assessments made by some.
- 5.6 In this regard, the assessment made by the Council’s H&DO draws its conclusion on the degree of harm without an adequate explanation and does not weigh the cumulative adverse impact on the setting of heritage assets that would be caused by the proposed development together with existing

and planned urban development in the surroundings. The H&DO gives no specific regard to impact on views of the Church of St Mary from the application site. He acknowledges that the agrarian character of the application site plays an important role in the setting of the hall and the church but does not explain why his suggestion of a smaller development could cause no harm whatsoever. Consequently, I do not consider his conclusion that the proposal would result in a low to medium level of less than substantial harm is soundly based.

- 5.7 The assessment by Historic England reflects considerations recommended in the organisation's GPA3. HCUK takes issue with HE's reference to the site constituting a buffer between Sudbury and Chilton Hall. I agree that this is a non-heritage consideration (a buffer being a planning concept rather than a heritage consideration). There is also an inaccurate statement by HE that the Hall can be seen from the Church, which is not correct. Nevertheless, the HE letter states clearly that the proposal would erode the rural setting of the assets, which contributes to the aesthetic and spiritual values of the church and enables the link between the hall and church to be experienced and therefore makes a strong contribution to the significance of these assets. In my view, this conclusion is not diminished by a lack of a view from the Church to the Hall or the limited views from the Hall to the Church. HE also notes that key views of the Church from the application site would be affected. Consequently, I consider that the HE conclusion that the proposal would result in a considerable level of less than substantial harm to the highly graded Church of St Mary and Chilton Hall is justified and reasonable.
- 5.8 The HE conclusion is supported by the response from Historic Buildings and Places, which considers that the proposed development will dramatically erode and alter the remaining rural setting of the Hall, gardens and the church and cause a considerable degree of harm to the significance of these structures and their historic rural setting.
- 5.9 The response from the Gardens Trust further reinforces the view that the proposal will have an adverse impact on the rural character of the setting of the group of assets. It draws attention to the permanence and irreversibility of the impact but it does not provide a clear view of the level of harm, referring only that it would "*seriously damage the setting*" of the assets, which would be "*significantly adversely affected by the development*". This nevertheless, suggests a relatively high degree of harm to the significance of the heritage assets in question.
- 5.10 The Suffolk Preservation Society similarly considers that the retention of a sense of Chilton Hall's original rural setting is an important consideration and

that the proposal would have an adverse impact on that characteristic of the setting. However, SPS goes on to suggest a partial development of the site without an explanation as to why a smaller development would not have an adverse impact on the rural setting, which makes the conclusion unreliable. Furthermore, the absence of a conclusion on the degree of harm to the significance of Chilton Hall or the Church of St Mary, makes the SPS response unhelpful.

- 5.11 The response from Place Services supports the assessment made by the District Council's H&DO. However, I have concluded that the latter assessment should not be relied on.
- 5.12 In relation to the degree of less than substantial harm, I consider the conclusions of HE and HB&P that the proposal would result in a considerable amount of less than substantial harm to be the most reliable. These assessments do not differentiate the assets. As Chilton Hall, its listed walled garden and its registered park and garden are heavily inter-related, I consider it reasonable to conclude that the impact on all three assets would be the same. However, the Church of St Mary is located a considerable distance from the Hall and its setting has suffered a much greater adverse impact as a result of the industrial development that has taken place in recent decades to the immediate south. In my view, the cumulative impact of the proposed development together with the existing industrial development would be greater than the impact on Chilton Hall and its grounds. The adverse impact on the Church would be reinforced by the loss of views towards the grade I listed building across its open setting from the higher level western parts of the application site. Consequently, I consider that the level of harm to the significance of the Church of St Mary would be greater than that assessed for Chilton Hall and its grounds. In my view the level of harm to the significance of the Church would be not far short of substantial.
- 5.13 In summary, I consider that the proposed development would cause a considerable amount of less than substantial harm to the significance of the grade II\* listed Chilton Hall, its grade II listed garden wall, and its grade II registered park and garden, and a level of less than substantial harm to the significance of the grade I listed Church of St Mary not far short of substantial.
- 5.14 It should be noted that all harm, whether substantial or less than substantial should be afforded considerable importance and weight in the planning decision (see *Barnwell Manor* [2014] EWCA Civ 137 (26) and (28-29) and *Jones v. Mordue and others* [2015] EWCA Civ 1243 at (28)).