

THE SIZEWELL C PROJECT

(EN010012)

DEADLINE 8

POST HEARING SUBMISSIONS INCLUDING WRITTEN SUBMISSIONS OF ORAL CASE SUBMITTED BY THE HEVENINGHAM HALL ESTATE

LANDSCAPE, VISUAL IMPACT AND TERRESTRIAL HERITAGE

(INTERESTED PARTY NUMBER: 20026675)

1 Introduction

- 1.1 The Heveningham Hall Estate (the **HHE**) appeared at Issue Specific Hearing 13 (**ISH13**) held on 16 September 2021 regarding Landscape, Visual Impact and Terrestrial Heritage and made oral submissions in respect of the following agenda item concerning Terrestrial Heritage:
- (a) Agenda Item 5: Heveningham Hall Estate Impacts
 - (i) Impact on assets and any remaining areas of disagreement
 - (ii) Any additional monitoring and additional mitigation suggestions.
- 1.2 This document summarises and expands on the arguments made by the HHE before the Examining Authority (the **ExA**) at ISH13.
- 1.3 References to documents followed by “EXL” and then a reference number (e.g. **EXL AS-107**) are references to the document’s unique Examination Library reference.

2 Impact on assets and any remaining areas of disagreement

Inadequacy of the Applicant’s assessment

- 2.1 The HHE’s principal concerns regarding the adequacy of NNB Generation Company (SZC) Limited’s (the **Applicant’s**) assessment of the significance of the heritage assets located within the HHE and examination of harm are as follows:
- (a) The Applicant has failed to properly assess the significance of the Cockfield Hall complex or to identify the adverse impact of the Project on that significance:
 - (i) The Cockfield Hall complex of buildings (the **Cockfield Hall complex**) is comprised of 11 listed buildings, most of which are Grade II listed. Cockfield Hall itself is Grade I and there is also a complete mid-16th century gatehouse which is Grade II*. The importance of these assets cannot be underrated. As a Grade I listed building Cockfield Hall represents the top 2.5% of listed buildings in the country, while the Grade II* gatehouse represents the next 2.5% most important listed buildings. Given their significance, considerable importance and weight should be attached to the preservation and enhancement of these assets;

- (ii) While each building comprising the Cockfield Hall complex is individually significant, they also enjoy substantial group value, with strong historical, visual and aesthetic connections, which elevates their importance even further;
 - (iii) Unusually, the Cockfield Hall complex remains in single ownership, which adds to the uniqueness of the site;
 - (iv) The Applicant's approach is to accept that there will be harm to the significance of Cockfield Hall Park (itself a designated heritage asset) but to reject any suggestion of harm to the significance of Cockfield Hall. This is, with respect, obviously erroneous. Cockfield Hal Park is a key aspect of the setting of Cockfield Hall contributing materially to its significance. Even the Applicant accepts that the Project will harm how the significance of Cockfield Hall Park is experienced. That experience forms part of the setting of Cockfield Hall and thus, in accepting harm to the significance of Cockfield Hall Park, it necessarily follows that there will be harm to the significance of Cockfield Hall. Given the inextricable relationship between the two, to suggest that it is possible to harm the significance of the Park but not the Hall defies common sense and is obviously illogical.
- (b) In making the above errors, the Applicant has failed to apply Historic England's guidance properly:
- (i) In assessing the impact of the Project on the setting and significance of the Cockfield Hall complex, the Applicant has failed to interpret and apply correctly Historic England's guidance entitled "The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3" (**GPA3**) (included as **APPENDIX 1**), which expands on the definition of setting included in the National Planning Policy Framework.¹ While the Applicant acknowledges that Cockfield Hall Park (now part of the Yoxford Conservation Area, itself a designated heritage asset) may be affected by the Project, it is not possible – as the Applicant has sought – to draw a distinction between harm to the Park and harm to the Cockfield Hall complex. There are strong historical associations between both elements. In particular, the following guidance included in GPA3 on the assessment of setting is relevant:
 - (A) "Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage;"²
 - (B) "The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration..."³
 - (C) when assessing the degree to which setting makes a contribution to the significance of a heritage asset there are a number of experiential factors to consider and GPA3 includes a "checklist",⁴ as detailed below. The assessment is not limited to visual impacts in isolation.

¹See Annex 2 (Glossary), which defines "setting of a heritage asset" as follows "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".

² Page 2 GPA3.

³ Page 2 GPA3.

⁴ Page 11 GPA3.

“Assessment Step 2 Checklist

The starting point for this stage of the assessment is to consider the significance of the heritage asset itself and then establish the contribution made by its setting. The following is a (non-exhaustive) check-list of potential attributes of a setting that may help to elucidate its contribution to significance. It may be the case that only a limited selection of the attributes listed is likely to be particularly important in terms of any single asset.

The asset’s physical surroundings

- Topography
- Aspect
- Other heritage assets (including buildings, structures, landscapes, areas or archaeological remains)
- Definition, scale and ‘grain’ of surrounding streetscape, landscape and spaces
- Formal design eg hierarchy, layout
- Orientation and aspect
- Historic materials and surfaces
- Green space, trees and vegetation
- Openness, enclosure and boundaries
- Functional relationships and communications
- History and degree of change over time

Experience of the asset

- Surrounding landscape or townscape character
- Views from, towards, through, across and including the asset
- Intentional intervisibility with other historic and natural features
- Visual dominance, prominence or role as focal point
- Noise, vibration and other nuisances
- Tranquillity, remoteness, ‘wildness’
- Busyness, bustle, movement and activity
- Scents and smells
- Diurnal changes
- Sense of enclosure, seclusion, intimacy or privacy
- Land use
- Accessibility, permeability and patterns of movement
- Degree of interpretation or promotion to the public
- Rarity of comparable survivals of setting
- Cultural associations
- Celebrated artistic representations
- Traditions”

- (ii) Applying the above guidance, it is clear that the setting of Cockfield Hall and the complex of buildings is characterised by long distance views and a tranquil, rural environment with limited artificial light. One is therefore able to appreciate the buildings (with all of their interconnectivity) as they first appeared 200 to 300 years ago. The development associated with the Project, and in particular the Yoxford Roundabout, will harm an aspect of the setting contributing to the significance of Cockfield Hall and the related complex of designated heritage assets and therefore its significance by reason of a mix of moving traffic in connection with the roundabout and the Northern Park and Ride site, as well as stationary vehicles leading up to the roundabout, increased light spill via the introduction of lighting columns and progressive urbanisation.
- (iii) In response to the HHE’s submissions, the Applicant relied on the fact its approach has been accepted by East Suffolk Council and Heritage England and that it had considered the effect of traffic movements, with Mr John Mabbitt on behalf of the Applicant concluding: *“So those effects have been considered. They’ve not been assessed in great detail, but they were considered appropriately”*. Mr Hereward Philpott QC, on behalf of the Applicant, also highlighted that Historic England’s primary remit is to advise on the impact of the proposed development on Grade I and Grade II* listed buildings and *“had Historic England thought that there were*

significant concerns about the impact on the Grade I and Grade II assets”, as submitted by the HHE, “one would have expected them to make that clear. Similarly, if they thought that there was a need for specific mitigation, one would have expected them to make that clear too. They have not. They don’t maintain any objection in relation to the impacts or indeed as I understand it to the mitigation offered...” [underlining added]. This approach is flawed. As explained below, Historic England itself recognises that, even with mitigation, there will be harm to the significance of Cockfield Hall, taking the position that harm to Cockfield Hall would be “at the lower end of less than substantial”. This it says would not amount to a significant effect. Whilst the HHE’s primary position is that the effects are significant, even if that is not accepted, any impact on a designated heritage asset, even if negligible or insignificant in EIA terms, attracts the duty to attribute to that impact considerable importance and weight (see *R (James Hall and Company) v City of Bradford DC* [2019] EWHC 2899 (Admin) at para 34). As held by the Court of Appeal in *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, National Trust, The Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 “less than substantial harm to the setting of the listed building” is not the same as “a less than substantial objection to the grant of planning permission” (see paragraphs 28-29 per Sullivan LJ).*

Historic England

- 2.2 Historic England in its Written Representation [EXL REP2-138] submits that with screening the Yoxford Roundabout would not have a significant effect on Cockfield Hall, the gatehouse and the Yoxford Conservation Area (among other things) and that the harm would be at the lower end of “less than substantial”,⁵ but still harm. The impact on the significance of the Cockfield Hall complex is not dependent solely upon the level of intervisibility. Historic England’s guidance GPA3, set out above, clearly refers to the experiential nature of a heritage asset’s significance, which goes far beyond just visibility. The HHE’s position is that given the Applicant itself recognises harm to Cockfield Hall Park and the Park contributes to the significance of the Hall, it is impossible to say that there will be no harm to the Hall’s significance.

Conclusion

- 2.3 As Holgate J made clear in *R (on the application of Save Stonehenge World Heritage Site Limited) v Secretary of State* [2021] EWHC 2161 (Admin)⁶ in order to comply with the duties under Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 (as amended) (the **2010 Regulations**), it is necessary to determine: “*what is the significance of each designated heritage asset affected by the proposed development?*” and “*what is the impact of the proposal on that significance?*” When answering these questions, it is clear that there is an impact on the significance of Cockfield Hall and there is an impact on the parkland, which in turn contributes to the Hall’s significance through its setting. The Applicant’s attempt to disaggregate the two, and to correlate no significant harm with no harm at all is wholly unsatisfactory and wrong in law.

⁵ See paragraph 2.150, which reads: “Although it will result in changes to the overall village and road layout, the development is largely outside of the conservation area, and many of its important attributes are only marginally affected. The quantum of development would not be a significant increase to the existing A12, and therefore would not be significantly different in this context. With additional screening as proposed we consider the development would not have a significant effect, and any harm to the assets described above would be at the lower end of less than substantial.”

⁶ Per Holgate J at paragraph 170: “But ...by whatever means he employs, the decision-maker must ensure that he has taken into account (a) the significance of each designated heritage asset affected by the proposed development and (b) the impact of the proposal on that significance”

3 Mitigation and monitoring

- 3.1 The HHE has raised two issues with the Applicant's approach to mitigation and monitoring:
- (a) the absence of a specific contribution towards heritage mitigation; and
 - (b) the specifics of associated development located close to the HHE, namely the Yoxford Roundabout and the Northern Park and Ride.
- 3.2 By way of an overarching point, the Applicant's approach to mitigating heritage harm appears to be that unless there is a significant harm to a designated heritage asset, no mitigation is required. This makes the same error identified above. It ignores the fact that harm that is 'insignificant' or negligible' in EIA terms nevertheless engages the duty under Regulation 3 of the 2010 Regulations.

Absence of a specific contribution towards heritage mitigation

- 3.3 The HHE disagrees with the Applicant that there is no need for a specific contribution towards heritage mitigation and that applications for awards may instead be made to the Sizewell C Community Fund. While the Applicant advises that there is nothing to prevent such an award, in Document 9.28 – Comments on Written Representations [EXL REP3-042] the Applicant is clear that the Community Fund "*is not intended as mitigation for settings effects*".⁷
- 3.4 There is a clear distinction between promoting the economic and social wellbeing of communities, and mitigating against residual adverse effects on heritage assets. If mitigation is solely to be achieved through the Community Fund, rather than through a separate heritage mitigation contribution, then there is a risk that what the ExA termed "residual" effects on heritage assets (i.e. effects falling below the EIA threshold of significant) may be overlooked. Such effects may, for example, require the installation of secondary glazing to reduce the impact of noise within a listed building or involve cleaning the exterior of a building to address the effects of construction works on its appearance. In its comments on the draft deed of obligation [EXL REP2-284] the HHE proposed a mechanism to address these issues and negate the risk that the cost of such measures must be borne by the owners and the custodians of affected listed buildings and other heritage assets. This will enable these 'residual' effects to be mitigated. The HHE therefore maintains its position that a specific contribution to heritage mitigation is necessary, whether ring fenced within the Community Fund or otherwise.

Mitigating against the impacts of associated development close to the HHE

- 3.5 The HHE has outlined a number of measures to mitigate against the effects of the Yoxford Roundabout and Northern Park and Ride on the Cockfield Hall complex in its comments on the draft Order [see EXL REP2-285]. These proposals include:
- (a) a requirement that the detailed design of the Northern Park and Ride is submitted to East Suffolk Council for approval;
 - (b) extending the monitoring period for the replacement of landscape planting under Requirement 23 (*Associated developments: Landscape planting*) of the Order from five years to 10 years. The need for an extended monitoring period stems from the fact the construction phase is estimated to last 12 years. If the obligation to replace trees or shrub is only limited to five years, then there is a risk that for up to seven years no form of mitigation – which is necessary – will be in place;
 - (c) revising Requirement 24 (*Associated development sites: Removal and reinstatement*) in order to mandate the approval of a reinstatement scheme to ensure (among other things) that the planting and works are in keeping with the historic landscape and setting of this area. The HHE notes that the draft Order at Requirement 24(2) now stipulates that a

⁷ Paragraph 8.2.3 of EXL REP3-042.

scheme “for the land restoration works” must be submitted to and approved by East Suffolk Council;

- (d) the imposition of a new requirement necessitating the approval of soft landscaping details, particularly in relation to the Yoxford Roundabout where that landscaping falls within the Conservation Area. Given the Yoxford Roundabout represents permanent development, it is particularly important that any associated changes to the Conservation Area are considered carefully and approved in detail. While the Applicant may submit that not all parts of the Conservation Area contribute to its significance equally, the fact remains the boundary was specifically extended in 2020 to include three parks, including the park surrounding Cockfield Hall, in recognition of the contribution these parks make to the significance of the Conservation Area.⁸ Any landscaping therefore needs to be designed and executed thoughtfully;
- (e) a requirement for approval of an operational management plan for the Northern Park and Ride given (among other things) its close proximity to Cockfield Hall complex. Effects such as lighting need to be appropriately managed and maintained to avoid and mitigate any unnecessary adverse effects;
- (f) reducing the size of the Yoxford Roundabout generally and certainly during the operational phase of the Project. This point has been raised on several occasions by the HHE within the context of traffic and transport. The roundabout represents a significant piece of infrastructure within a conservation area and the setting of a Grade I listed building. It is therefore very important its size is limited and design carefully considered;
- (g) strengthening the requirement for compliance with approved management plans and strategies. The inclusion of in “general accordance” with wording in the Order provides the Applicant with too much flexibility. Given the risk of harm to the setting of a Grade I designated heritage asset, the complex of other important highly graded designated assets and the Yoxford Conservation Area, precision in terms of how the Yoxford Roundabout and the Northern Park and Ride are designed and mitigated against is essential to ensure that all impacts on these heritage assets are assessed during the examination process. This is particularly the case if one applies the approach in *Save Stonehenge*. The HHE therefore welcomes the most recent amendments to the definition of “general accordance” included at paragraph 1(4) of Schedule 2 to the draft Order.⁹

3.6 It should be noted that:

- (a) in its Deadline 2 response East Suffolk Council indicated that the impact of the localised terrestrial heritage effects of the YROHI should be addressed through the designed mitigation of the Yoxford Roundabout. It referred to minimising signage, planting and boundary alignments, avoiding an overtly urban engineered junction in terms of material choices including planting, road lining, highway boundary fencing and lighting stating that these should acknowledge that the majority of the new highways feature will be within the Yoxford Conservation Area which should be preserved or enhanced.
- (b) Historic England’s position that any harm will be at the lower end of less than substantial is expressly predicated upon the presence of mitigation forming part of the roundabout’s design.¹⁰

⁸ See the Yoxford Conservation Area Appraisal (February 2020) included as **APPENDIX 2**.

⁹ Paragraph 1(4) now reads: “Where any requirement provides that the authorised development or any part of it is to be carried out in ‘general accordance’ with details, or a scheme, plan or other document that is listed in Schedule 22 and certified under Article 80 of this Order, this means that the undertaker will carry out such work(s) in a way that is **substantively** consistent with the information set out in those details, schemes, plans or other document **and in a manner that does not give rise to any materially new or materially different environmental effects to those assessed in the environmental information.**”

¹⁰ **EXL REP2-138** para. 2.150 which says “**With additional screening as proposed** we consider the development would not have a significant effect, and any harm to the assets described above would be at the lower end of less than substantial” (emphasis added)

- 3.7 This only serves to underline the importance of insuring that the mitigation that is to be 'designed into' the Yoxford Roundabout is fully secured. Otherwise, there is a considerable risk of adverse effect to designated heritage assets which has not been assessed. That risk arises because, absent approval from East Suffolk Council, it is impossible to be satisfied that the final design of the Yoxford Roundabout will secure sufficient mitigation to preserve and enhance the significance of the Conservation Area and the designated heritage assets falling within it.

Charles Streeten

Francis Taylor Building