

# AGENDA SUPPLEMENT (1)

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**Meeting:** Eastern Area Planning Committee  
**Place:** Wessex Room, Corn Exchange, Market Place, Devizes SN10  
1HS  
**Date:** Thursday 12 July 2018  
**Time:** 3.00 pm

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The Agenda for the above meeting was published on **4 July 2018**. Additional documents are now available and are attached to this Agenda Supplement.

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7b **18/03223/FUL - Browfort Campus, Bath Road, Devizes, Wiltshire SN10 2AP (Pages 3 - 36)**

DATE OF PUBLICATION: 19 July 2018
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## Heritage Statement

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## Foreword

This submission has been prepared by David Beardmore, Principal of Beardmore URBAN instructed by the Planning Bureau on behalf of McCarthy and Stone Ltd. I hold the following academic and professional qualifications; MSc MA DipLD (Dist) DipLArch (Dist) Dip UD Dip Bldg Cons FRTPI CMLI (Design Division) IHBC

I have over 40 years experience in town and country planning, landscape planning and design, conservation of the built environment and urban design, both in private practice and local government. I have twice been a member of a Government Gateway Review Team advising on the progress of the proposed development associated with the Stonehenge World Heritage Site. Furthermore I have published a number of articles, lectured on a variety of urban design, planning and landscape matters and am a visiting lecturer in landscape design at the University of Plymouth.

This report has been prepared after appropriate consultation with the local Historic Environment Record (HER) and the findings referred to where relevant. It has also had regard to recent relevant legal judgments about the interpretation of the heritage legislation and advice. It has also examined the proposed development applying the requirements of the Planning (Listed Buildings and Conservation Areas) Act of 1990 to have 'special regard' in the examination of new development on the setting of listed buildings (S66).

## 1.00 SCOPE AND METHODOLOGY

### Introduction

- 1.01 The development proposed is located on land and buildings on land off Bath Road, Devizes, Wiltshire. It currently contains what was originally a private House ('Browfort') that was subsequently converted to local authority offices and a sizeable modern office building that was built for and last used by the local authority. Both buildings are joined together by a small staircase link.
- 1.02 The appeal site is not within a Conservation Area and therefore the statutory duty under section 72 of the Planning Act 1990 to pay "*special attention*" to the impact of new development on it does not apply. It is however within the setting of certain listed buildings and therefore section 66 of the Planning Listed Buildings etc Act of 1990 is engaged. This requires any decision maker to have 'special regard' to the setting of listed buildings likely to be affected by new development.
- 1.03 If necessary the appeal proposal may also need to be examined in the light of paragraph 133 and 134 of the Framework if any 'harm' is thought to arise from the development in question and the commentary on this point set out in the later NPPG of March 2014. These points are dealt with as necessary in more detail later in this statement.



### Scope

- 1.04 This statement is intended to meet that part of the *National Planning Policy Framework* (the 'Framework' - paragraph 128) that local planning authorities should require applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance. In addition it is essential, insofar as it applies, to address the provisions of the statutory requirements of Section 66 of the *Planning (Listed Building and Conservation Areas) Act 1990* regarding the setting of listed buildings.
- 1.05 The Historic Environment Record for the area has been examined and reference made to it here where appropriate -again as required by paragraph 128 of the Framework.

### Methodology

- 1.06 The site is not itself a designated heritage asset (no part of it is listed or is part of a scheduled monument) nor does it constitute an element within a conservation area so the proposed development would not have any direct impact upon either of the designated heritage assets recognised in the Framework. In other words the application proposal would not have any direct physical impact on either sort. The proposal nevertheless has the potential to impact indirectly upon (by virtue of its presence) on the setting of a number of nearby listed buildings and it is necessary to consider the possible effect on them. Despite the relative proximity of



Recent aerial photograph with the general site area site ringed in white.

the application site to the Devizes Conservation Area it is doubtful if the proposed development would have any material impact upon it. Nevertheless it has been decided to include it in the checklist of possible heritage assets that might be affected by the proposal. In addition there are listed buildings are also embedded (often hidden) within the wider setting of the conservation area and it is considered that these can adequately be assessed when examining the impact of the appeal proposal on the conservation area and that there is no need to consider them separately.

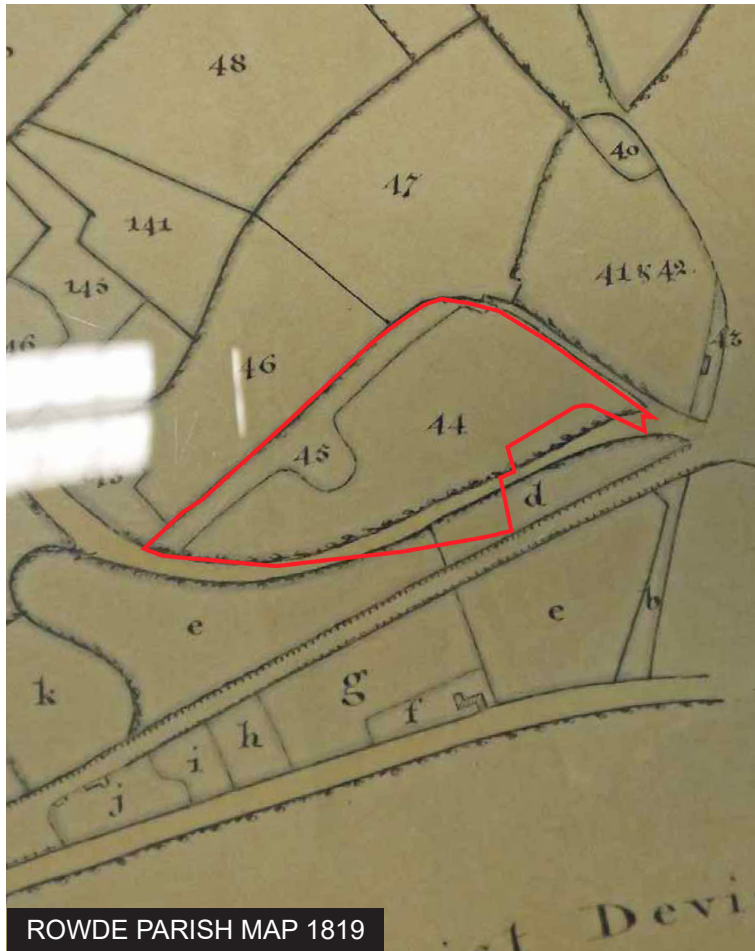
1.07 The concept of the setting of a heritage asset is defined in Annex 2 of the 'Framework' and is referred to in paragraph 3.07 below while '**Significance** (for heritage policy)' is defined as: *"The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting."*

1.08 Whilst the setting of various heritage assets needs to be understood in assessing their significance any attempt to closely define the extent of their setting is of limited usefulness. Setting is not a heritage asset in itself, nor is it a heritage designation; its importance lies in what it contributes to the significance of a heritage asset. Therefore, what is of primary importance is not whether a proposed development is within or beyond the setting but the impact of that development upon the significance of the heritage asset, including its setting.

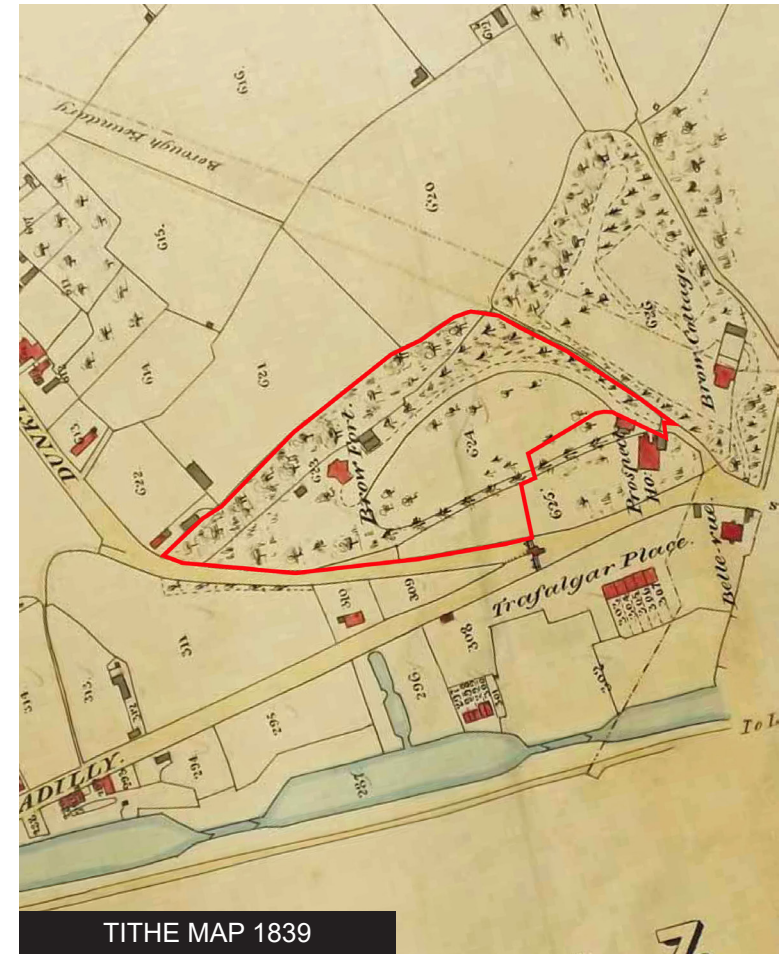
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1.09 Whilst no attempt has been made to define the geographical extent of the setting of the various heritage assets this report seeks to identify whether and to what extent elements of the setting of a heritage asset contribute to the significance of that asset. The impact of the proposed development on the significance of the various heritage assets is then assessed, including any impact on those elements of their settings that contribute to their significance. In assessing significance use has been made of the four categories (archaeological, architectural, artistic and historic) listed in Annex 2 of the Framework have in preference to those suggested on pages 27 to 32 of the English Heritage document, *Conservation Principles, Policies and Guidance*, as the Framework is a central government document and post-dates the English Heritage publication. Nonetheless had regard has been paid to some degree to this and to the Historic England advice document *"The Setting of Heritage Assets"* which was published in March 2015 as Good Practice Advice in Planning Note 3.

1.10 Whilst the HE advice document *"The Setting of Heritage Assets"* advises against being too prescriptive or restrictive in attempting to define setting I have used the general concept of 'immediate' and 'wider' setting for the purposes of analysis. This is useful shorthand and not intended to assume that the former is necessarily more important than the other.



Field boundaries are clear but little else is discernible from this early map



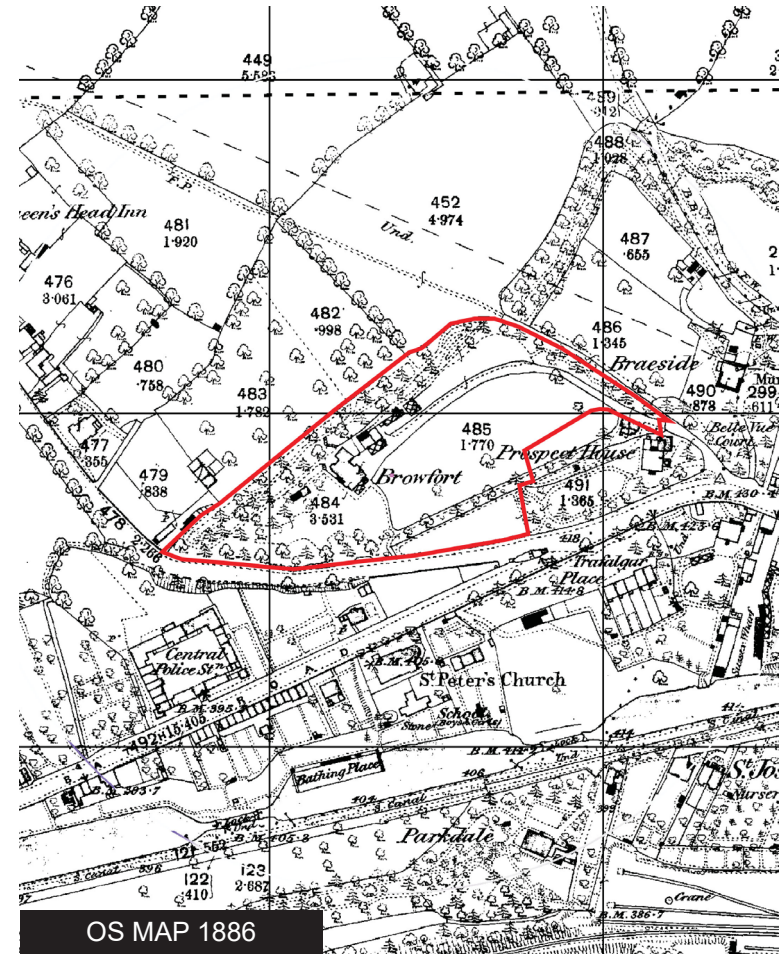
In over 20 years things become much clearer and the earlier 'Brow Fort' is in place, together with boundary tree planting.



2.00 **STATUTORY REQUIREMENTS AND THE DEVELOPMENT PLAN**  
Statutory requirements

2.01 All policies relating to listed buildings and conservation areas need firstly to be understood in the context of the requirements of primary legislation. In this context these are: Section 66 of the *Planning (Listed Building and Conservation Areas) Act 1990* which states that 'special regard' shall be paid to the desirability of preserving the setting of listed buildings and Section 72 that requires that 'special attention' shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The latter part of the primary legislation only affects sites within a conservation area that the appeal site is not and this statutory duty does not apply.

2.02 The Courts have held that the overarching duty in respect of listed buildings (section 66 of the 1990 Act) establishes a presumption against the grant of planning permission if any harm (even if 'less than substantial harm') would be caused to the setting of listed buildings or to the character or appearance of conservation areas. This has been reinforced recently (March 2014) in a decision where the Secretary of State disagreed with his Inspector's findings on heritage matters in the case of a refusal of permission by Melton Borough Council (appeal reference APP/Y2430/A/13/2191290) in the following terms:  
*"...the Secretary of State takes the view that the Inspector's conclusion with respect to that building means that, under*

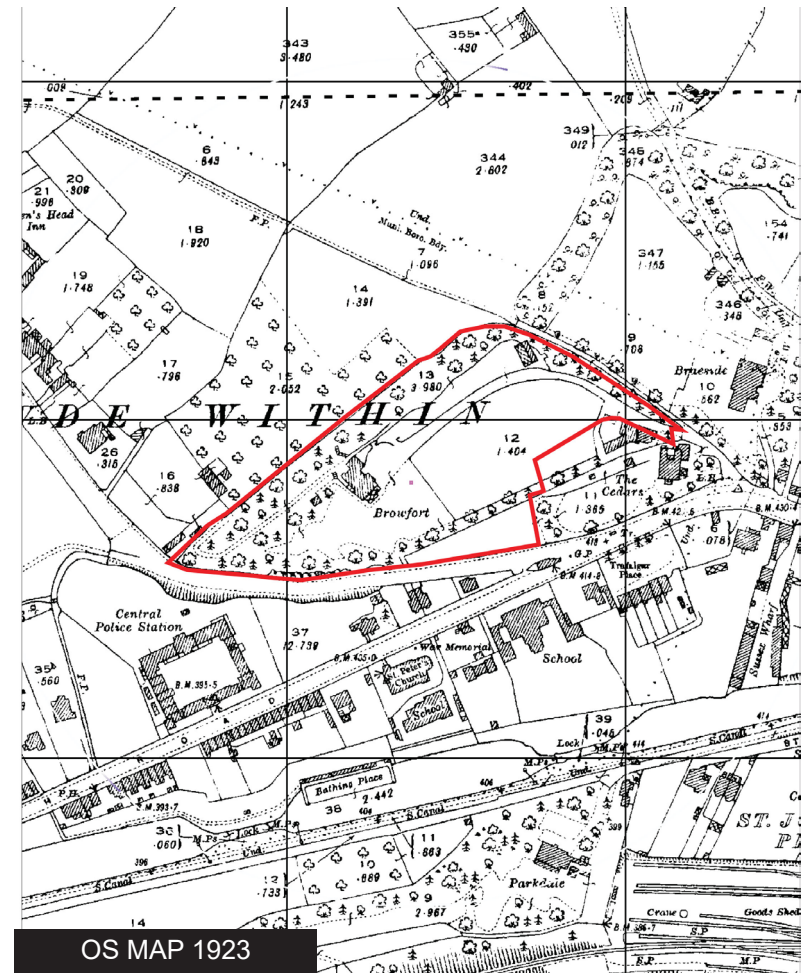


The situation is now much as it appears on later maps. The current 'Browfort' is in place but not Shanes's Castle.

the terms of S66 of the LB Act and paragraph 133 of the Framework, he must give that matter considerable importance and weight.”

2.03 This decision by the Secretary of State was taken in the light of the Barnwell Manor Judgment (March 2013) by Mrs Justice Lang which concerned (in part) the degree to which the statutory provisions of sections 66 and 72 of the *Planning (Listed Building and Conservation Areas) Act 1990* should have been taken into account in an Inspector’s decision. The Court of Appeal has subsequently upheld (February 2014) the earlier Judgment.

2.04 Nonetheless regard must now be had to the Judgment of the court of Appeal (December 2015) that reviewed the case of Mordue against the Secretary of State for Local Government and others in relation to a proposed wind turbine at Poplars Farm, Wappenham in South Northamptonshire. The appeal arose from the decision of the High Court in March 2015 to overturn the Inspector’s decision granting planning permission on the ground that, in the view of John Howell QC (sitting as Deputy Judge), “the Inspector failed to give reasons demonstrating that he had given considerable weight to the harm to the settings of each of the listed buildings that he found would be harmed to some extent by the proposed development and that the failure to provide such reasons has caused the Claimant substantial prejudice.”

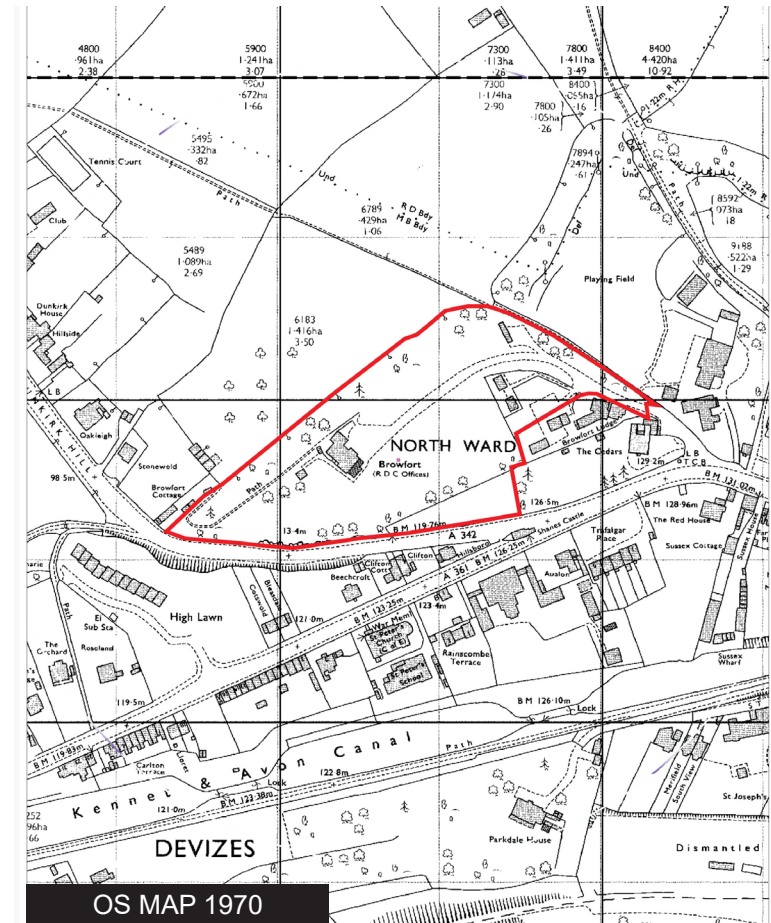


Further changes are obvious from the previous map, notably the central police station

- 2.05 The Court of Appeal however disagreed with this finding and concluded instead that: *“The Inspector was lawfully entitled to assess that the harm to the setting of the listed buildings identified and discussed by him was outweighed by the environmental benefits of the turbine.”* This is taken to be confirmation that the Court of Appeal has confirmed the principle of a decision maker being able to take a balanced judgment as set out in paragraph 134 of the Framework and not be required by Section 66 of the 1990 Planning Act to dismiss the appeal if he found “less than significant harm” of any kind was caused to the identified heritage assets.
- 2.06 Under Section 38 (6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the Development Plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

**Development Plan**

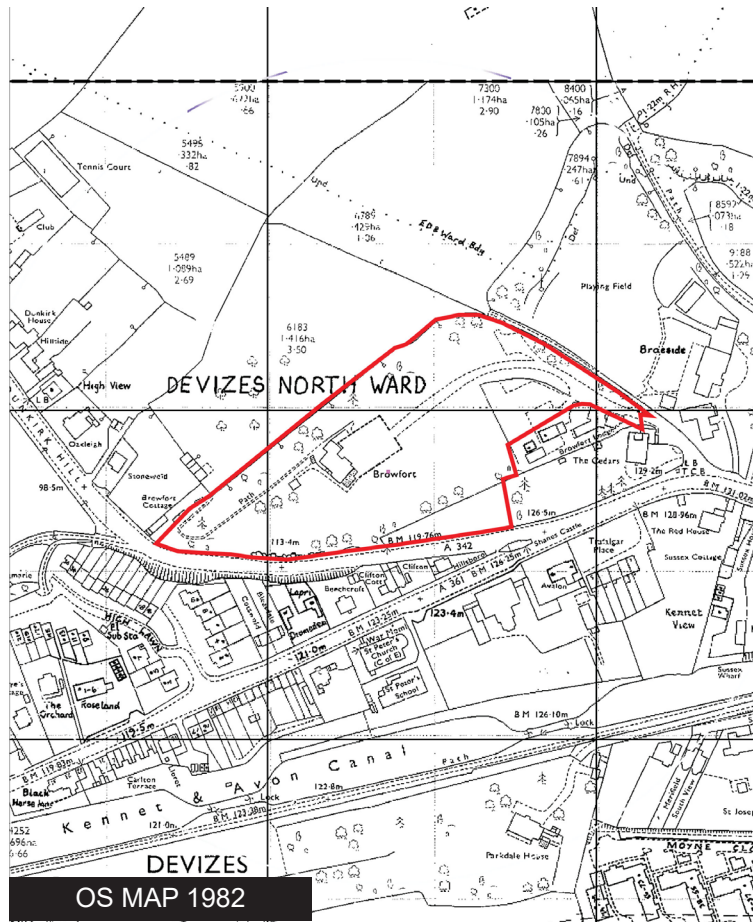
- 2.07 Notwithstanding other set out in Policies in the Wiltshire Core Strategy (adopted in January 2015) those that are most relevant to heritage issues are:
- Core Policy 57 Ensuring high quality design and place shaping**  
A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new



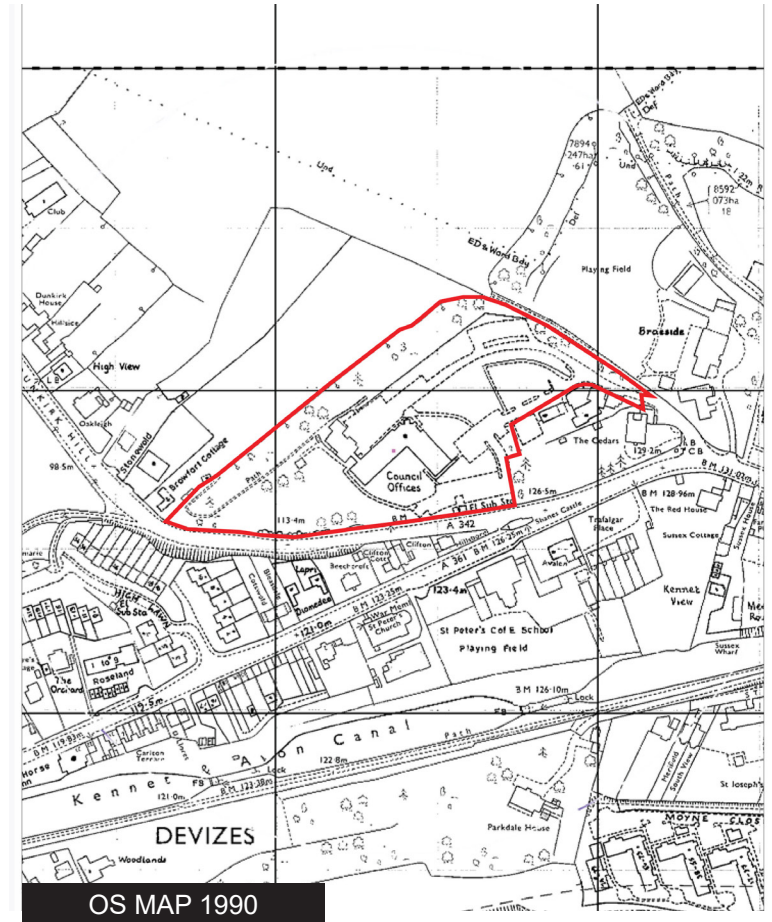
Browfort is shown as the RDC offices but without the current large linked office block

Continued on page 9





There is still no large office block and the site is not referred to as Council Offices - even though it continued to be in this use.



The large office block is now in place and the site is referred to as Council Offices - looking much as it does today..

development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through:

- i. Enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the existing pattern of development and responding to the local topography by ensuring that important view into, within and out of the site are to be retained and enhanced
- ii. The retention and enhancement of existing important landscaping and natural features, (e.g. trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development
- iii. Responding positively to the existing townscape and landscape features in terms of building layouts built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting
- iv. Being sympathetic to and conserving historic buildings and historic landscapes
- v. The maximisation of opportunities for sustainable construction techniques, use of renewable energy sources and ensuring buildings and spaces are oriented to gain maximum benefit from sunlight and passive solar energy in accordance with Core Policy 41 (Sustainable Construction and Low Carbon Energy)
- vi. Making efficient use of land whilst taking account of the



The front (east) elevation of 'Browfort'.



The rear (south) elevation of the late twentieth century office building.



- characteristics of the site and the local context to deliver an appropriate development which relates to the immediate setting and to the wider character of the area
- vii. Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)
  - viii. Incorporating measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area through the creation of visually attractive frontages that have windows and doors located to assist in the informal surveillance of public and shared areas by occupants of the site
  - ix. Ensuring that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe and accessible in accordance with Core Policy 66 (Strategic Transport Network)
  - x. The sensitive design of advertisements and signage, which are appropriate and sympathetic to their local setting by means of scale, design, lighting and materials
  - xi. Taking account of the needs of potential occupants, through planning for diversity and adaptability, and considering how buildings and space will be used in the immediate and long term future
  - xii. The use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm
  - xiii. The case of major developments, ensuring the are



*The original front entrance to 'Browfort' with raised ramp to left to provide disabled access.*

accompanied by a detailed design statement and masterplan, which is based on an analysis of the local context and assessment of constraints and opportunities of the site and is informed by a development concept, including clearly stated design principles, which will underpin the character of the new place

xiv. Meeting the requirements of Core Policy 61 (Transport and New Development.)

**Core Policy 58 Ensuring the conservation of the historic environment**

- 2.08 Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:
- i. Nationally significant archaeological remains
  - ii. World Heritage Sites within and adjacent to Wiltshire
  - iii. Buildings and structures of special architectural or historic interest
  - iv. The special character or appearance of conservation areas
  - v. Historic parks and gardens
  - vi. Important landscapes including registered battlefields and townscapes.
- This policy should be consistent with the Framework because its adoption post-dates it.
- 2.09 Wiltshire Council are currently preparing a new Local List, but although this intention is referred to in the Core Strategy



View westward from entrance drive with the 1876 'Browfort' to the right and the modern office block in the left foreground



Rear (west) elevation showing link block between original 'Browfort' on LH side and modern office block to RH side



document, no reference to the procedure for this, nor any draft documentation could be found on their website.

- 2.10 The Devizes Town Centre Design Code was adopted as Supplementary Planning Guidance in June 2007, and has been informed the analysis of the Devizes Conservation Area in the absence of an adopted Appraisal document.

### 3.00 CENTRAL GOVERNMENT POLICY AND GUIDANCE

- 3.01 Central government policy on planning issues is set out in the *National Planning Policy Framework* (the 'Framework'). In addition, the advice from English Heritage in *Understanding Place: Conservation Area Designation, Appraisal and Management*; *The Setting of Heritage Assets* and *Conservation Principles, Policy and Guidance for the Sustainable Management of the Historic Environment* are also of relevance but these predate the Framework which was published in 2012. Regard should also be had to the National Planning Policy Guidance that was published in March 2014 which it is intended to periodically update and if necessary amend the government's interpretation of the Framework.

#### Framework

- 3.02 Paragraph 14 of the Framework makes it clear that there is a presumption in favour of granting permission for sustainable development unless specific policies in the Framework (see footnote 9) indicate that development should be restricted. One of the twelve core planning principles set out in



Rear of Cedar House from Dunkirk Hill side



The former Browfort Lodge (RH middle ground) and the Cedars further to the left

paragraph 17 of the Framework is to, ‘*Conserve heritage assets in a manner appropriate to their significance ....*’ Further details are provided in Section 12 (paragraphs 126 to 141), which is specifically concerned with conserving and enhancing the historic environment. Paragraph 129 states that:

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

- 3.03 Paragraphs 133 and 134 make a distinction between proposed developments that will lead to ‘... *substantial harm to or total loss of significance ....*’ of a designated heritage asset (paragraph 133) and proposals which will have ‘... *less than substantial harm ....*’ (paragraph 134). Both of these paragraphs require that any harm should be weighed against the public benefits of the proposed development or, in the case of paragraph 133, that other criteria apply.
- 3.04 Similar advice is contained within the National Planning Practice Guidance published in March 2014. Under ‘Conserving and enhancing the historic environment’, Section 3, which deals with ‘Decision-taking: historic environment’, states (under the heading, ‘How to assess if there is substantial harm’):



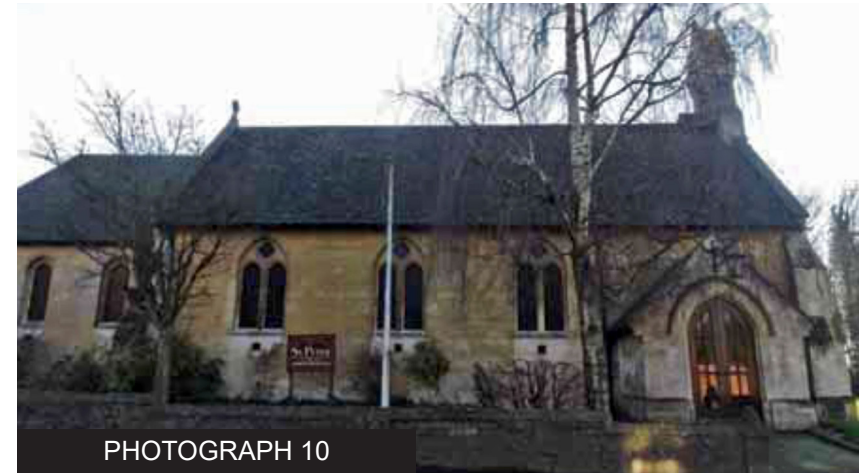
PHOTOGRAPH 8  
Trafalgar Terrace - 1-5 Bath Road



PHOTOGRAPH 9  
Shanes’s Castle seen from the southern boundary of the site with Dunkirk Hill (out of site) between them

*“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.”*

- 3.05 With regard to heritage considerations therefore the Framework starts with the presumption (paragraph 14) in favour of sustainable development. The decision maker is then required to see whether *“specific policies in this Framework indicate that development should be restricted.”* In this context paragraphs 133 and 134 of the Framework (see paragraph 3.03 above) are particularly relevant. This requires an assessment to be made as to whether any harm to a designated heritage will arise and if so whether the ‘harm’ would be *“substantial”* or *“less than substantial”*. If no harm arises then the policy is not breached but if ‘harm’ is judged to result then if it is *“less than substantial”* it may be outweighed by the other factors described. This then is the balanced judgment that has to be taken if *“less than substantial harm”* is thought to arise. None of these considerations however detract from the parallel need to also meet the statutory requirements of the *Planning (Listed Building and Conservation Areas) Act 1990*, insofar as they apply.



St Peter's Church, Bath Road



The Red House, Bath Road. This view is from inside the boundary wall/hedge.



## The Setting of Heritage Assets

### *The Setting of Heritage Assets*

- 3.06 The English Heritage (now Historic England) document (March 2015) *'The Setting of Heritage Assets'* also makes it clear in Section 8 that:  
*"Setting is not a heritage asset, nor a heritage designation. Its importance lies in what it contributes to the significance of the heritage asset."*
- 3.07 This document also provides a five step approach (section 11) for assessing the implications of a development proposal (pages 15 to 24), namely:  
Step 1: Identifying the heritage assets affected and their settings;  
Step 2: Assessing whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);  
Step 3: Assessing the effect of the proposed development on the significance of the asset(s); Step 4: Maximising enhancement and minimising harm; and  
Step 5: Making and documenting the decision and monitoring the outcomes.
- 3.08 This assessment has adopted this approach although the fifth step is outside its scope.
- 3.09 Section 8 of this document helps to further interpret the Framework but does not have the same status. For the

*Continued on page 17*



PHOTOGRAPH 12  
*The date of 1876 is just visible at the head of the recessed archway*



PHOTOGRAPH 13  
*The north elevation of Browfort*



PHOTOGRAPH 14

The main staircase appears to be original but has no great originality



PHOTOGRAPH 15

Interior of bay upper window on north elevation of Browfort



PHOTOGRAPH 16

An room in the original Browfort with some (skirting boards and architraves) original features remaining but otherwise anonymous



avoidance of doubt the Framework refers to setting as:  
*“Setting of a heritage asset: 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.”*

- 3.10 In *Conservation Principles, Policy and Guidance for the Sustainable Management of the Historic Environment* reference is made to ‘Understanding Heritage Values’ these then being examined under the headings of evidential, aesthetic, historic and communal value. This definition is similar but not identical to the definition of ‘significance’ in the Framework that mentions *“The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.”*
- 3.11 Section 8 of *‘The Setting of Heritage Assets’* (March 2015) sets out the factors that should be taken into account when assessing the setting of heritage assets and its influence on their significance. These include:
- Cumulative change
  - Change over time
  - Appreciating setting
  - Buried assets and setting
  - Designed settings

- Setting and urban design
- Setting and social and economic viability

3.12 Where appropriate these matters are addressed in this assessment although not necessarily under specific topic headings.

*Conservation Principles, Policy and Guidance for the Sustainable Management of the Historic Environment*

3.13 This document was published in April 2008, ie sometime before the Framework of 2012. This earlier document may be helpful if it helps to further interpret the Framework but not if it introduces issues not addressed in it.

3.14 In the context of the historic and archaeological value of the site these issues were dealt with in the separate archaeological report prepared by CgMs consultants.

3.15 Architectural and artistic values relate principally in this context to matters of setting and are addressed here but without direct use of those headings which are not appropriate or helpful in this case, because the site contains no buildings and there are no structures or above ground artefacts to be considered.

#### 4.00 EXISTING BUILDINGS ON THE SITE

##### Age and architectural merit

4.01 The original building known as Browfort (Brow Fort on the earliest OS map) assuming the datestone over the former front entrance is correct, dates from 1876. It is of



minor architectural interest with some noteworthy neo Gothic features and patterns of brickwork. Strangely the rear elevation is slightly more elegant and better proportioned than the front even though it has been extended at the rear with a single storey addition. This has been sympathetically designed and probably dates from the time (late 1970's onwards) that the building was part of the HQ of the former Kennet District Council.

4.02 Internally the layout of the building has been relatively little altered with most rooms (judging by surviving cornices etc) remaining in their original form. Door furniture and light fittings have been replaced but many of the doors and the main staircase appear to be original. Windows are also the original double hung sashes. The glazed link to the much newer and dominant office building fits onto the flank of Browfort without real damage to its structural and design integrity.

4.03 Given its age and lack of distinctiveness there is very little prospect of it being statutorily listed since it has none of the 'special' architectural or historic interest required by the Historic England criteria. It might be argued that the use of the building as part of the use as Council Offices (Devizes RDC followed by Kennet DC) for a large number of years gives it some particular local interest but that should not be overstated.

4.04 It is understood that the Antarctic explorer Ernest Shackleton lived in the house in one of the two lengthy periods he spent in England between his major expeditions to the South Pole. It is not clear which of the periods (although possibly sometime between 1909 and 1914) were spent in Browfort but it appears he was a tenant and not the owner of the building.



*The modern office building, west elevation*



*Browfort, west elevation*

- 4.05 There is a Lodge at the entrance drive adjoining The Cedars that appears to have been built for Browfort and was not part of the curtilage of the listed building. As a result it has no protection as a heritage asset by being a 'curtilage structure.'
- 4.06 Pre application consultations with the Council record the Conservation Officer as stating that Browfort is regarded as a non designated heritage asset. No record has however been found of it being included on a Local List of buildings of architectural and or historic interest. Annex 2 of the Glossary to the Framework clearly states that heritage assets include those *"identified by the local planning authority (including local listing)."* This does not however extend the power to 'identify' non designated heritage assets to the opinion of an officer of the Council. Indeed the NPPG (March 2014) describes such non designated heritage assets in the following way:  
*"These are buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formally designated heritage assets. In some areas, local authorities identify some non-designated heritage assets as 'locally listed'."*
- 4.07 Despite the assertion of the Conservation Officer there is currently insufficient evidence available to the applicant to be persuaded that Browfort is indeed a non designated heritage asset. In any event even if it was proved to be one it would have to be considered in accordance with paragraph 135 of the Framework, which requires a 'balanced judgment' to be made in cases that affect them.

*Continued on page 21*

## 5.00 IMPACT ON HERITAGE ASSETS

### Site Description

- 5.01 **T**he site comprises 2.66 hectares and includes buildings formerly in office use and with associated car parking for approximately 175 spaces. Overall the site has a mature landscape setting. It is not affected by any landscape or ecological designations. The buildings making up the office complex include:
- New Browfort – three storey office block with lift access
  - The original Browfort – four storey house converted to offices.
- 5.02 Neither building is listed nor within the Devizes Conservation Area that lies to the east, nearly 200 metres away at the nearest point. The land falls away sharply along the north western boundary. A private road serves the site and is accessed directly off the A361 Bath Road. The lawn garden to the west of the property provides the setting for the former dwelling of The Cedars.
- Heritage Assets**
- 5.03 As indicated above, the proposed development would not have any direct impact (ie any physical effect) on any designated heritage assets. It is however near but not adjoining the Devizes Conservation Area which lies to the east. The potential impact of the proposed development on the character and appearance of the conservation area, its setting and its significance is accordingly relevant.



Proposed site plan



5.04 The nearest listed building to the proposed development and whose setting may be most affected by the development proposals is the Cedars (grade II\*) less than 50m from the eastern site boundary. Other listed buildings in the vicinity that also may be affected are: Shanes’s Castle, Bath Road; 1-5 Trafalgar Terrace, Bath Road; the Red House, Bath Road and The Church of St Peter, Bath Road.

- Shanes’s Castle, Bath Road;
- 1-5 Trafalgar Terrace, Bath Road;
- the Red House, Bath Road;
- The Church of St Peter, Bath Road

5.05 In order to inform this assessment general use has been made of the methodology set out in the Historic England document *The Setting of Heritage Assets* and to the English Heritage publication *Conservation Principles Policy and Guidance (for the Sustainable Management of the Historic Environment)*. This was published by EH in April 2008 and as such predates the Framework. It should be noted that neither document has the force of central government policy.

5.06 It would therefore be unreasonable to criticise any heritage assessment for not using the format suggested in these documents provided the issues set out in the Framework are properly addressed. Indeed section 1 (Introduction) of the March 2015 ‘Setting’ document makes clear that:  
*“Alternative approaches may be equally acceptable, provided they are demonstrably compliant with legislation, national policies and objectives .”*

5.07 *Step 1 – Identify the heritage assets*

- The Devizes Conservation Area and the following listed buildings:
- The Cedars, Bath Road

*Continued on page 23*

5.08 *Step 2 – Assessment of setting*  
The relevant heritage assets that may be affected by the development of the appeal site are mentioned above. The (non-exhaustive) checklist on page 3, paragraphs 6, 7 and 8 of *The Setting of Heritage Assets*, include (among others) the following possible attributes of the setting of heritage assets which may make some contribution to experiencing their significance:  
*Views which contribute more to understanding the significance of a heritage asset include:*

- those where relationships between the asset and other historic assets or places or natural features are particularly relevant
- those with historical associations, including viewing points and the topography of battlefields;
- those where the composition within the view was a fundamental aspect of the design or function of the heritage asset; and
- those between heritage assets and natural or topographic features, or phenomena such as solar and lunar events.

*7. Assets, whether contemporaneous or otherwise, which were intended to be seen from one another for aesthetic, functional, ceremonial or religious reasons include:*



The east flank of The Cedars seen from the access drive to Browfort



View west from Northgate Street with the conservation area a little way behind the viewer. The site is behind the trees at the end of the vista. None of the identified heritage assets can be seen.

- *military and defensive sites;*
- *telegraphs or beacons;*
- *prehistoric funerary and ceremonial sites;*
- *historic parks and gardens with deliberate links to other designed landscapes, and remote 'eye-catching' features or 'borrowed' landmarks beyond the park boundary.*

*8. Particular views may be identified and protected by local planning policies and guidance. This does not mean that additional views or other elements or attributes of setting do not merit consideration. Such views include:*

- *views identified as part of the plan-making process, such as those identified in the London View Management Framework (LVMF, Mayor of London 2010) and Oxford City Council's View Cones(2005);*
- *views identified in character area appraisals or in management plans, for example of World Heritage Sites;*
- *important designed views from, to and within historic parks and gardens that have been identified as part of the evidence base for development plans, such as those noted during English Heritage's 2001 upgrading of the national Register of Historic Parks and Gardens; and*
- *views that are identified when assessing sites as part of preparing development proposals.*

5.09 Very few, if any of these attributes and factors apply to the appeal site and the identified heritage assets. For example

*Continued on page 25*

only part of paragraph 6 relating to “relationships between the asset and other historic assets or places or natural features” may be said to be relevant.

*Setting and Significance of the Devizes Conservation Area in relation to the application site*

5.10 Devizes Conservation Area was designated in 1970 and covers the historic core of the town – see accompanying map. To the north the boundary is formed by the Kennet and Avon Canal, with the western boundary running along the rear of plots fronting onto the main route through the town, comprising of Northgate Street, St John Street and Long Street. To the west of St John Street the boundary extends roughly in an ovoid shape to include the Scheduled Monument of Devizes Castle. To the south the boundary is formed in part by Southbroom Road, from which it moves eastward to include ‘The Green’ and the triangle of land enclosed by Estcourt Road and Church Walk and gardens of properties fronting them. To the northeast the boundary was originally drawn along Commercial Road, but was extended in 2007 to include development in Victoria Road.

5.11 The Conservation Area divides could be subdivided into character areas with the one being most relevant to the application site being the western approaches to the town from Bath Road, The application site however lies on the northern side of Bath Road and north of the Kennet and Avon Canal whereas the conservation lies to the south of both. This difference and the change in direction of Bath Road to form Northgate Street, tend to create a strong visual separation between the application site and the conservation area. Only



Proposed Elevations A



by standing opposite the existing vehicular access into the site can the site and the edge of the conservation area be viewed together. Even then the majority of the site and its existing not insubstantial buildings cannot be seen from Bath Road. The buildings on the edge of this part of the conservation area are varied. They include an original canalside building (listed) that was probably a lock keeper's cottage; a terrace of cottages (unlisted), The former Court House together with Judge's Lodging on opposite sides of the Northgate Street but both listed grade II\*; and a public house and Wadworth's Brewery (north side of the road) both grade II. There are further listed buildings further to the east along Northgate Street but these are distant from the application site and are not really within its setting and vice versa.

- 5.12 The Devizes Conservation Area is a heritage asset of regional significance which derives from strong evidential value of archaeological, architectural, historic and artistic importance. Its setting derives very little from the application site as the two are so disconnected in form, age and distance. The latter severely restricts intervisibility between the two.
- 5.13 *Setting and Significance of The Cedars, Bath Road in relation to the application site*  
The Cedars is an asset of high significance, with more than special interest as a grade II\* listed building. Its importance derives principally from its strong evidential value of architectural, historic and artistic importance. Its location and design illustrates the evolution of this part of the town's plan form of Devizes in the eighteenth century. It has however

been subject to twentieth century additions that reduce its architectural and historic significance.

- 5.14 The setting of the building is relatively tightly defined because the presence of extensive planting and its set back from Bath Road give it a limited interrelationship with the surrounding area. The application site has some connection to the setting of The Cedars because the latter has to be passed en route to both the original and new Browfort buildings. The contribution of the site to the setting of The Cedars is currently neutral to moderately positive, largely because much of the grounds of the former local authority offices are well landscaped and open.

*Setting and Significance of Shanes's Castle, Bath Road in relation to the application site*

- 5.15 This building lies at the apex of the junction between Bath Road and Dunkirk Hill, both of which carry large volumes of traffic. It is of national importance through its grade II listing and has an unusual (for Devizes except at the Castle) Gothic style. It is a heritage asset which has strong evidential value that supports its architectural, historic and artistic importance. Additionally it has, through its intervisibility, a greater relationship (as part of its setting) with other listed buildings that lie to the south and west of Bath Road than the application site. Whilst the latter only lies across the width of Dunkirk Hill away from Shane's Castle it is cut off from it by a strong tree and hedgerow belt which even in winter restricts views to glimpses.



5.16 The application site thus has an extremely limited role in the setting of Shanes's Castle and even then the relationship is largely confined to glimpses of the new Browfort, seen through the tree belt and across car parking in the foreground. On balance the application site in its existing condition probably makes a neutral contribution to the setting of this listed building.

*Setting of 1-5 Trafalgar Terrace, Bath Road in relation to the application site*

5.17 Again this is of national importance through its grade II listing. It is early nineteenth century in origin and built of Bath Stone with strong evidential value that supports its architectural, historic and artistic importance. Like Shanes's Castle it has a greater relationship (as part of its setting) with other listed buildings that lie to the south and west of Bath Road than the application site. Looking north from the front of the building towards the application site, views of development are limited owing to the heavy tree-screening along Bath Road/Dunkirk Hill, but from the entrance off Bath Road there is some limited intervisibility which varies to some degree with the seasons. The application site thus has an extremely limited role in the setting of 1-5 Trafalgar Terrace with the relationship largely confined to glimpses of the new Browfort, seen through the tree belt and across car parking in the foreground. On balance the application site in its existing condition probably makes a neutral contribution to the setting of this listed building.

*Setting and Significance of the Red House, Bath Road in relation to the application site*

5.18 The Red House lies opposite the entrance to The Cedars and Browfort on the southern side of Bath Road. It is of late eighteenth century origins and grade II listed. Like the other listed buildings already described there is strong evidential value of its architectural, historic and artistic importance.

5.19 The Red House is set well back from the Bath Road frontage from which it is separated by a stone wall and mature tree and shrub planting immediately behind the wall, some of it evergreen. The result is that it is almost completely hidden for most of the year from the main road and its relationship with the application site is negligible. Moreover the buildings on the latter are largely hidden by The Cedars and its other outbuildings. In its existing condition the application site probably makes a neutral contribution to the setting of this listed building.

*Setting and Significance of The Church of St Peter, Bath Road in relation to the application site*

5.20 As far as this designated asset is concerned (the Church of St Peter) this is clearly of national significance because of its listing. It is of late nineteenth century origins and built of Bath and Ham stone. It does not have a tower or steeple but there is a bellcote on the west gable. As far as architectural, artistic and historic significance is concerned the Church has considerable local significance, reflecting the role of religious faith in the life of the community for over a century.

5.21 Despite being close to the southern boundary of the application site it is separated from it by Bath Road and the dwellings that front its northern side, beyond which is Dunkirk Hill, albeit at a lower level. Again peripheral planting along the southern boundary of the application site substantially reduces the intervisibility between the two. Most of this listed building's setting derives from its relationship to Bath Road and its neighbouring buildings there and to a far lesser extent its aspect southwards to the Kennet and Avon Canal. Once again the application site its existing condition probably makes a neutral contribution to the setting of this listed building.

*Step 3 – Effect of the proposed development -Overview*

5.22 The proposed accommodation is arranged along two spine corridors, together with a communal lounge area, restaurant and kitchen facilities, staff accommodation, office space and a wellness suite. The proposed building is to be of brick construction with walkout balconies to all units and windows, doors, soffits and rainwater goods to be white UPVC. The roof layout and materials are not specified, nor is any information regarding the appearance of the elevations provided. Provision for fifty-four parking spaces is located on two existing car parks configuration with central landscaping features. All existing trees on the application site would be retained, with the removal of the current parking provision to the southern boundary of the Site, and the reinstatement of the area laid down as lawn.

5.23 The most obvious effect of the proposal will be to redevelop already largely developed land (ie the application site) within the built-up area of Devizes, on the edge of the built-up area. Its elevated position makes it visible from a number of viewpoints although these are restricted by the extensive tree and shrub planting and the nature of the townscape. The development proposed on the site is well illustrated and explained in the Design and Access Statement (DAS) that accompanied the application. This clearly indicates the form and layout of uses and built development intended. It is important to note in my view that the proposed built development would only be directly seen from some but not all of the designated heritage assets.

5.24 It is appreciated that the advice of Historic England ("The Setting of Heritage Assets" March 2015) does not to seek to interpret the concept of setting too narrowly and this approach is to some extent maintained in the NPPF definition of setting referred to in paragraph 1.05 above. Unlike the EH document however the NPPF makes clear that:

*"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."*

It must be the case however that the 'significance' (again author's emphasis) of this 'not fixed' - or wider - setting, cannot usually be considered as being equally important as the 'immediate.' This is because it is a fundamental plank of the Framework advice that the viewer is able to appreciate significance. If therefore one of the elements is hidden it

is difficult to claim that it has the same significance as one where all the elements are in full view. If all aspects of setting were thought to be equally important this would contradict the underlying concept of proportionality that underpins the Heritage Section (12) of the Framework. This point is further reinforced by the NPPG (March 2014) where it states:

*“A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.”*

*Effect of the proposed development on the Devizes Conservation Area*

5.25 As noted above the setting of the Devizes Conservation Area derives little or no significance from its relationship with the application site. It is only because it forms part of the western approaches to the town could it be said to have any connection at all. Providing any proposed development on the application site maintains the peripheral screen planting and is not materially different in built form, siting and extent of development it should make no material difference to the setting and significance of the conservation area. The overall impact should accordingly be neutral.

*Effect of the proposed development on The Cedars, Bath Road*

5.26 The contribution of the application site in its current state is considered to be moderately positive with regards to the setting of the heritage asset, given that it helps to protect the historic wooded landscaping element of the asset’s setting.

*Continued on page 30*

The proposals, by retaining broadly the current footprint of the asset to the southwest and south-east, and by reducing the height of built form to two-storeys, maintain current levels of screening and therefore are considered to have no impact on the contribution made by the setting to the asset’s significance. The contribution of the application site to the significance of this listed building will therefore be maintained and the impact neutral.

*Effect of the proposed development on Shanes’s Castle, Bath Road*

5.27 In its current state the application site has neutral effect on the setting of this heritage asset and no effect on its significance. The proposals, by retaining broadly the current footprint of the asset to the southwest and south-east, and by reducing the height of built form to two-storeys, maintain current levels of screening and therefore are considered to have no impact on the contribution made by the setting to the asset’s significance. The contribution of the application site to the significance of this listed building will therefore be maintained and the impact neutral.

*Effect of the proposed development on 1-5 Trafalgar Terrace, Bath Road*

5.28 With the application site currently considered to make a very small positive contribution to the significance of this asset, through its reinforcement of the historic, wooded landscape of its wider setting, development of the Site along the proposed lines will have no impact on this level of contribution, as tree screening will remain unaffected. It is considered that no



harm will therefore be visited upon the asset, and the impact of development is at most negligible. The contribution of the application site to the significance of this listed building will therefore be preserved.

*Effect of the proposed development on the Red House, Bath Road*

5.29 The provision of the historic landscape garden provided by the application site is considered to make only a neutral contribution to the significance of this heritage asset, although it is within its wider setting. The secluded nature of both sites means that their interrelationship is extremely limited. It is proposed to develop the application site in a way that would reduce the level of built form perceivable from the south-west. This is likely to mean that there would be no intervisibility between the site and this asset. Accordingly there would be no impact on or harm to the significance of the asset.

*Effect of the proposed development on The Church of St Peter, Bath Road*

5.30 Currently the application site makes a neutral contribution to the significance of this heritage asset. Whilst the proposals would extend the façade of the building to the south-west, the accompanying reduction in height proposed will serve to reduce the massing of the building as perceived from Bath Road. Taken together with the dense tree-cover to the south-west of the application site this will reduce any perception of the building's increase in length. It is therefore considered that the impact of proposals on the significance of the building

would be neutral. It follows that the contribution of the application site to the significance of this listed building will be preserved.

5.31 Step 4 – Maximising enhancement and minimising harm  
The DAS sets out clearly the proposals in this context. In particular the proposed design and the introduction of small landscaped pockets will enhance the proposed development and safeguard the wider setting of the town. The development will have no adverse effect on the setting of the relevant heritage assets because the appeal site makes only a limited contribution to their setting. Accordingly the setting of the assets will not change significantly and the effect will be neutral to moderately positive.

**6.00 CONCLUSIONS**

6.01 From any informed examination of the heritage and design value of the application site in its present use and form it's already developed part (the former local authority office complex) makes a generally neutral to moderately positive contribution to the Devizes Conservation Area. From the perspective of its heritage value (as defined in the NPPF) the key is what significance should be attributed to it. One of the main judgments required in the case of proposals for a new building on this site remains that set in paragraph 129 of the NPPF, ie "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)..." It is clear that this requires

the assessment to be made against the existing setting of any heritage assets.

- 6.02 It is appreciated that the advice of English Heritage (“The Setting of Heritage Assets” March 2015) does not seek to interpret the concept of setting too narrowly and this approach is to some extent maintained in the Framework definition of setting referred to in paragraph a.aa above. Unlike the EH document however the NPPF makes clear that:

*“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.”*

- 6.03 It must be the case however that the ‘significance’ (author’s emphasis) of an asset’s ‘wider’ setting cannot normally be considered as being equally important as the ‘immediate’ since it is fundamental to the NPPF advice that the viewer is able to appreciate significance and if one of the elements is hidden it is difficult to claim that it has the same significance as one that is in full view. If it was thought to be equally important this would contradict the underlying concept of proportionality that underpins the Heritage Section (12) of the Framework. This point is further reinforced by the NPPG (March 2014) where it states:

*“A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.”*

This latter point is particularly relevant to the question of the original (1876) Browfort which the local authority officers claim is a non designated heritage asset. While the applicant has found no evidence to support this claim (in the terms set out in the Framework and the NPPG) even if it was its loss would have to be subject to the “balanced judgment” required by paragraph 135 of the Framework and not the more onerous test of sections 66 and 72 of the 1990 Planning etc Act 1990 or that of paragraphs 133 and 134 of the Framework.

- 6.04 The starting point must be a comparative one of how the current site affects the setting of the relevant heritage assets (ie the Devizes Conservation Area and the listed buildings already identified above) and how they would be changed by introducing the proposed development. The earlier sections of this report sought to establish the way in which the setting of those assets (all “designated heritage assets” in their own right) would be affected by the building proposed. As mentioned at the outset regard should also be paid to the general advice contained in the Framework (paragraph 58) that new development, irrespective of its context should *“respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.”*
- 6.05 The proposed development not only needs to meet the basic statutory requirements that it will ‘preserve or enhance’ the character and appearance of the Devizes Conservation Area and not adversely affect the setting of the other listed buildings



identified but it must also pass the tests laid down by the NPPF. These effectively require new development to have (at worst) a neutral effect on the setting of heritage assets and preferably a more positive one than that which currently exists. In reaching a judgment on this matter it is a question of the acceptability or otherwise of the building now proposed having regard to the appropriate tests discussed earlier.

- 6.06 It is concluded that in terms of the Devizes Conservation Area the proposed development would not create any harm because it would maintain the essential character and appearance of it. With regard to the impact on the listed buildings identified in this report the proposal this can again be described as causing no 'harm' and probably having at worst a neutral impact when compared to the setting contributed by the current buildings currently on the site and in some limited respects arguably moderately better. The design and appearance of the proposed building is in any event of a sufficiently high quality to ensure that the 'special regard' that is required by section 66 of the 1990 Act is met but section 72 and the need to pay 'special attention' to the setting of the conservation area is not engaged.

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