



**Subject:** Bentley Historic Core Conservation Area. Addendum



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Dear Sirs,

Bentley Historic Core Conservation Area. Addendum

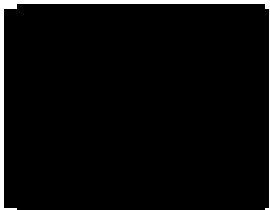
Since I forwarded my views on the proposed conservation area, I have become aware the Tollemache family estate was heavily involved in slavery. They owned of some 1,000 slaves on six estates in Antigua until slavery was bought to an end by the British government. The government later paid substantial compensation for the loss of these slaves to the 1st Barron Tollemache as owner-in-fee.

At the time Bentley Old Hall was part of this estate and the obvious assumption is it was maintained by income from slavery. Further research is currently being undertaken into documentation of local resentment at the time. Evidence is coming to light of a local sugar boycott from the revulsion of the slavery connection.

St Mary's being the parish church to the Tollemache family may also be connected to this odious ownership. The church is essentially a 19th Century rebuild, largely the work of diocesan surveyor Richard Phipson, so very little of anything older has survived. As the church is constantly locked I have been unable to gain access to see if it contains memorials to the Tollemache family for the relevant period. However, I do understand there is a substantial memorial at Helmingham that was originally made for St. Mary's Church.

The current strongly held opinions on slavery do not make this an attractive element for the conservation area. It will further be a source of embarrassment as neither Bentley Parrish nor Babergh councils appear to be aware of this slavery aspect. It appears both councils have actively funded and promoted the proposed conservation area without revealing any of this. If the proposal did go ahead, a slavery warning notice would have to accompany any documentation and promotional material.

Once again, I am totally unable to support this conservation area proposal.



**Subject:** Bentley Historic Core Conservation Area



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Dear Sirs,  
Bentley Historic Core Conservation Area. Public Consultation.

I am disappointed to inform you the notice regarding the consultation was not received by post. I have received a photo copy from another resident on Saturday 11th January. I further note, the consultation period includes the run up to Christmas, Christmas and the New Year holiday period. This and the manner in which it was intended to conduct the public meeting, has left a lot of ill feeling towards Babergh and Bentley Parrish councils. Thankfully, Babergh were alert enough to the strength of public opinion against this proposal to take control of the meeting.

The proposed conservation area is in a pleasant rural location of large flat fields, woodlands and hedging. In which there are a small number of Grade II listed properties, Old Barn, a church, farms, ancillary barns plus other residential properties. This is a description that could be readily applied to much of rural Suffolk and I fail to see what is so special about the proposed Bentley conservation area. I am not aware of another Suffolk conservation areas that is anywhere near as large by some factor of 10, nor have so many vistas been specified across nondescript fields.

The area is not a registered battlefield  
There is no wreck site  
There are no notable parks or gardens  
It bears no ancient monument, historic or architectural significance other than a few listed buildings.

Anyone coming to the conservation area to view historic houses is going to be disappointed. All the houses are well screened and some distance from roadways and footpaths, so not visible except for one and Old Barn. Even the church is a disappointment, having made 4 attempts to access it for quiet contemplation after the traumatic birth of my youngest grandson, I found it locked on every occasion. What is the point of a locked church?

This area is blighted by the ever present traffic noise of the A12 on the western boundary and to the east the main railway line to Norwich. Passing trains are obliged to sound their horn when approaching the Station Road level crossing and the footpaths crossing a little further north. Both these arterial routes are clearly audible from my property.

The consultation makes great play on how the area has remained unchanged from various maps from the 18c on. This I would strongly dispute. The maps show the roads following old field boundaries and this has changed little over the years. However, the farms, fields, crops and vistas have changed beyond all recognition to an early 20c ploughman with his Suffolk Punch, whose days work was to plough a one acre field. These small fields have, over the intervening years, been amalgamated, hedges and ditches removed to accommodate the tractor and the dramatic increase in production. Within my lifetime, East Anglian sub 100 acre farms with their mix of cereal and animal husbandry have been bought/sold into larger cereal holdings with the loss of livestock and farmhouses becoming residential only. At no time has the conservation plan complained of this natural way forward to modernity despite the dramatic changes.

Further, there are other signs of modernity in that electric pylons cut through the area as do countless other, lower powered, wooden poles supplying electricity to residences.

A new unstoppable change is also coming to rural areas which may or may not be detrimental. Although the date has been pushed back, the government insists the roll out of heat pump's to replace boilers will continue. Inevitably, this will cause major problems for owners of old drafty properties. Old ill fitting single glazed windows, doors and floorboards are notoriously prone to drafts which would completely overwhelm any heat generated by a pump.

Currently Listing departments recoil in horror at the thought of replacing windows and doors with heat efficient alternatives but the fact is the current government demands installation of heat pumps making it impossible to heat these houses without changes to the Grade listing rules allowing such elements as double glazed glass.

I note with some concern the consultation is critical of stone clad cladding, close lap fencing, system built sheds/barns and the properties of three garage businesses. I find this criticism outrageous as any necessary permission to erect these structures must have been obtained at the time and therefore the owners have the absolute right to quiet enjoyment of their property.

The consultation document makes no mention of Article 4 of the Town and Country Planning Act 1995. Any discussion of this Article is conspicuous by its absence and the obligations this places on residents within a conservation Area.

All properties are required to be recorded as a local Land Charge. Residents and businesses in a conservation area will need permission from the Council before making alterations such as cladding, inserting windows, installing satellite dishes, solar panels, adding conservatories or other extensions, laying paving or building walls. These activities already require planning permission, an additional layer of bureaucracy is not going to add to their protection.

Further, I note the Council is able to add to the types of alterations that need planning permission by making an Article 4 Direction. This is used to protect unmentioned features particular to the area from being lost without the need of permission. Unless residents have specific information on the impact of these aspects they cannot make a reasoned judgement.

The cutting down of trees or doing any pruning work under conservation rules will require notifying the council six weeks in advance and receiving written approval. As the proposed conservation area is excessively large, heavily wooded and hedged this is going to place a huge burden and expense on the planning departments time and finances.

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to review the conservation area and its boundaries and formulate and publish proposals for the preservation and enhancement of the area. If the conservation area is implemented will there be a requirement for those identified in the consultation document as being unattractive, dilapidated, inappropriate, uncharacteristic amongst other adjectives to change or alter their properties. This would be grossly unjust and unlikely to happen.

As for rural businesses, all involved in the council should be actively helping in attracting business into their areas to maintain a healthy economy not raising obstacles, such as building an MOT business to look like a railway station. I strongly suspect adoption of the conservation area is intended to strangle any future growth to the rural economy this country so desperately needs.

If adopted this conservation area will simply add another layer of bureaucracy to the area without any benefit. All the buildings of significance are covered by the Grade Listings and none are threatened in any way. All that will be achieved is that it will become a "curtain twitchers charter" of spurious petty dislikes generated by Article 4.

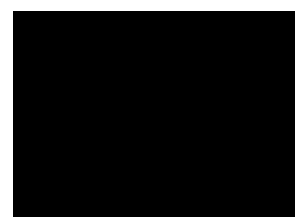
The obvious elephant in the room is the ongoing planning applications for the gravel pit and the solar farm. This, like Brexit, has been an ongoing saga for a number of years now, with any decision made by council and disliked by the Parish being put aside on technicalities and the implementation of a "Project Fear" within the local community.

From the perspective of Important Views, it is interesting there are 7 marked vistas across the proposed solar farm. This by far is the highest number marked of any one area on the plan and across a most unremarkable field to distant hedges. How has the Council come to the view this field as being central to it's argument?

I strongly suspect this consultation has no relevance to guardianship of the area but a blatant attempt to manipulate the planning process by adding this conservation area and if accepted, applying it retrospectively to the planning applications.

In consideration that these application are now some two years old, have been delayed and delayed it would be totally unjust to now add yet another unforeseen hurdle. If the bid by the Council for this is successful, making the conservation area to be applied retrospectively and the planning applications therefore fail, I believe both planning Applicants will have adequate justification for legal action and/or an appeal to the Secretary of State.

Under no circumstance can I support this application as I consider it spurious and hope it fails.



**Subject:** Bentley Historic Core Conservation Area

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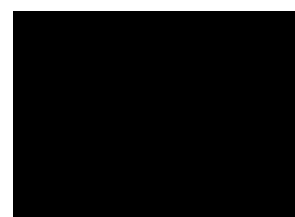
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## Objection Core Conservation Proposal, Bentley

The 27 existing Conservation areas within Babergh District Council are compact well-defined areas the purpose of which is to preserve the historic and architectural heart of these villages.

By contrast, this Bentley proposal is approximately 1400 acres which is a vast area. It is a rural landscape of fields and woodland and, with the exception for some dwellings grouped together along Potash Lane, the properties are dispersed and stand-alone. Except for the church, all the buildings identified of architectural and historic significance are inaccessible to the public.

One of the claims made in the report seems to be based on maintaining the historic Tollemache estate, long since broken up. A history of estate ownership is surely not a unique reason to identify an area to protect.

There are photographs of views and properties used in this report which are not available to the public as they are taken from private land.

My key objections to this proposal are (1) the size of the area and (2) that there are existing protections already in place.

### Size

The 1400 acre area is split by the railway running north-south with 300 acres to the east and 1100 acres to the west of the line.

- Area to the east of the railway line and bounded by the A137 trunk road

These 300 acres should certainly not be included in the proposal. The 5 grade II listed buildings (see fig 11) and can be clearly viewed from the road or footpath. 4 out of the 6 historic features identified in this section (see fig 11), are visible from the public rights of way and two of these features are inaccessible as they are out of view on private property. These sorts of views are visible all over Suffolk and have no significant features.

Trains are visible from the road and footpath 18 as the main Ipswich to London line with crossings and bridges passes here near the woodland known as The Island. There are 132kv National Grid pylons running parallel to the railway the length of this eastern section and there are also lower voltage powerlines running east-west.

There is no view across to any of the heritage buildings identified in the western area of this proposal.

There is no historic or architectural heart in this eastern section and removing these 300 acres will have little if any impact on the opportunity people already have to enjoy this part of the countryside or appreciate the history of Bentley.

- Area to the west of the railway line

The area identified to the west of the railway is 1100 acres of fields, woodland and scattered properties. Except the Church, these properties are all privately owned, and all can be seen from public rights of way and roads (figure 17). Unless the owners are prepared to make their properties accessible, this proposal will not enable visitors to have any clearer view or be more informed than they can currently experience from the public rights of way.

The report notes that the Church can be seen from various points through the area. Visibility of the church is limited to the top of the tower which the report goes on to confirm can only be glimpsed from Potash Lane (P27 points 5, 6 and 7).

This area is also not untouched by modernity. A powerline runs from Newcome Wood southwards along the railway boundary to The Island where it turns diagonally towards the northwest across the field behind Bentley Hall Barn. A12 road noise permeates across the area depending on the weather. This section already experiences anti-social behaviour with its share of roadside litter and some graffiti on the trackside of the C425 railway bridge.

The designated quiet lanes are narrow and winding and visitors already park their cars onto the verge in the few places where there is width to do so. Increased traffic will require parking space without causing damage or obstruction. More visitors will bring the need for rubbish and dog poo bins and this proposal refers to new information signage to help raise awareness. This all requires cost to install and resource to maintain.

There is no centre to such a large and rural landscape. The size of the area must be significantly reduced to focus on the historic and architectural heart.

### Existing Protections

There are already protections and restrictions in place across the area.

The listed buildings are protected through their historic status. Other buildings of note have some protection as they are recorded in the Neighbourhood Plan. Appendix 3 of this proposal identifies another 11 properties which it states should be included on the non-designated heritage assets list, although this should be subject to independent review.

The roads are designated quiet lanes. The field landscape is preserved, in part by the boundaries of the highway and footpath network and in part because the future of farming includes working with conservation and the environment.

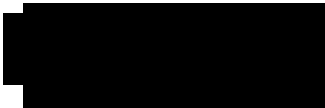
The buildings which merit historic protection are already safeguarded but implementation of this proposal will have a negative effect on those properties which are not of merit but which are nevertheless much loved homes. Babergh's website states that properties within a core conservation area will be subject to more planning restrictions than usual. This proposal (P45) indicates that being within this

area could limit owners' choices for exterior changes to their properties, with both a financial and practical implication.

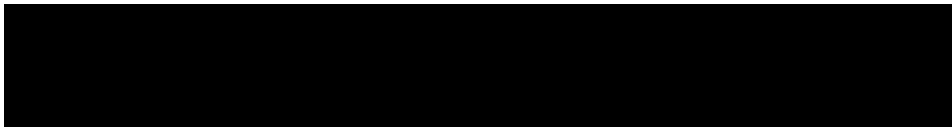
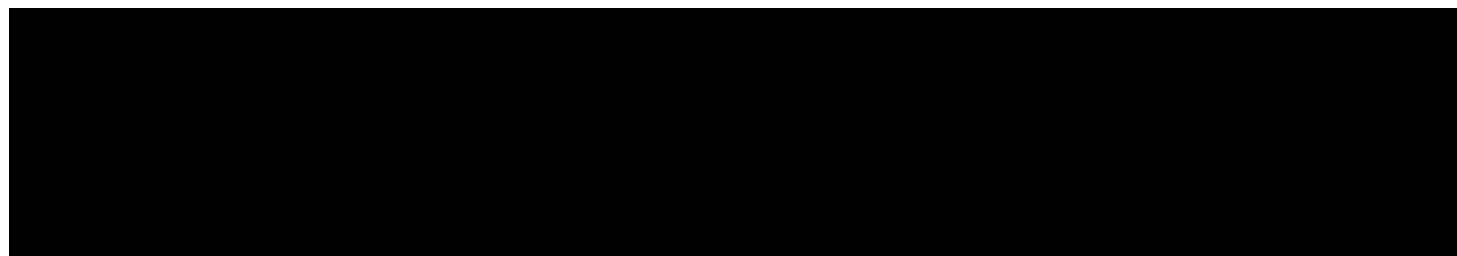
As the proposal acknowledges, Bentley Hall Barn is of the greatest concern but the implementation of this proposal will not facilitate any progress to safeguarding this building's future. The state of this building is such that it will soon require fencing and keep out signs for safety reasons.

### In summary

The definition of 'Core' surely means the central or most important part. A Core Conservation area must surely be that part which is considered of the highest historical significance. If designating a core conservation area for Bentley is the correct way forward, it has to be of significant architectural merit, and not a huge 1400 acre swathe of the countryside. This might encompass the area from the Church to Bentley Hall and Bentley Hall Barn, the Grade I and grade II\* buildings. These are at the centre of the village's history. However, it should be noted that this is not what the public understand as Bentley village, since this has grown up around the settlement and historic buildings a mile to the south.







**Subject:** PROPOSED BENTLEY HISTORIC CORE CONSERVATION AREA - CONSULTATION



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To whom it may concern,

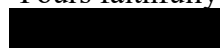
**PROPOSED BENTLEY HISTORIC CORE CONSERVATION AREA - CONSULTATION**

I have been a resident and then a frequent visitor to Bentley village for over 20 years. I have enjoyed walking with family, friends and dogs in the north of the village and have always admired the exceptional historic buildings, parkland and ancient woodlands that can be viewed from the public rights of way. This is a very unique area, much appreciated for its tranquility and long distance views, where the original setting of buildings dating back to medieval times are much enjoyed by residents and visitors. A very special area that needs to be preserved so people can continue to experience it for generations to come.

We are seeing more and more changes to our countryside landscape and I feel it is of utmost importance that we continue to protect these types of areas from over development and from heavy traffic both public and commercial. Our villages, and Bentley in particular, deserve to be maintained and kept to the lovely standard of living the currently provide.

I totally support the Bentley Historic Core Area being designated as a Conservation Area.

Yours faithfully





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### BENTLEY PROPOSED CONSERVATION AREA – PUBLIC CONSULTATION

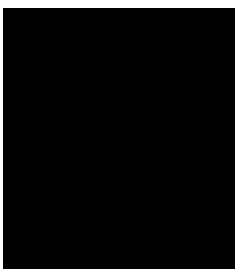
As a final comment re the above, it seems apparent there have been substantial submissions that question and object to this proposed designation, not least from in and around the proposed Area.

In the interest of transparency one hopes Babergh will place all that has been received from the public & otherwise online for public consumption.

It is not right the public gain the impression that the only expert opinions available support this designation. We should be able to view all relevant opinion of whatever view.

This household is now convinced such designation is unjustifiable and unnecessary.

One would like to say one has complete faith in the process and in Babergh reaching the correct decision on this matter. But it is impossible to have confidence in a process where the parish council failed to engage on this with those it represents and in a district council that recently refused planning permission for a solar farm (coincidentally located within this proposed area) on the basis of heritage & landscape without so much, please correct if wrong, as a site visit by those members who reached that decision. A proposal 'deemed controversial' would surely merit such.



**IN THE MATTER OF THE PROPOSED BENTLEY HISTORIC CORE  
CONSERVATION AREA**

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OPINION

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**Introduction and Summary of Conclusions**

1. I am instructed on behalf of [REDACTED] and asked to advise in relation to the proposed Bentley Historic Core Conservation Area (“the Proposed Conservation Area”).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. The Proposed Conservation Area has been promoted by Bentley Parish Council. The local planning authority is Babergh District Council (“the Council”).
3. A Heritage Consultant, Handforth Heritage Ltd, has prepared the Bentley Historic Core Proposed Conservation Area: Appraisal and Management Plan (“the Appraisal”) to support the proposed designation.
4. In summary, I conclude that there are several legal errors in the justification for the Proposed Conservation Area set out in the Appraisal and that any decision to designate the Proposed Conservation Area would be highly vulnerable to judicial review.

## **Legal and Policy Framework**

5. Section 69(1) and (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) provides for the designation by a local planning authority of conservation areas:

*“(1) Every local planning authority—*

*(a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and*

*(b) shall designate those areas as conservation areas.*

*(2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.*

6. Guidance on the discharge of this duty, and on the principles to be applied when considering a proposed designation, is set out in the National Planning Policy Framework (“NPPF”), the Planning Practice Guidance (“PPG”) and Historic England’s Advice Note 1, Conservation Area Appraisal, Designation and Management (Second Edn) (“the HE Guidance”).
7. The relevant legal principles, so far as they apply here, can be summarised as follows:
8. First, the statutory criteria for designation impose a high bar – conservation areas must have a *special* architectural or historic interest. It is not sufficient that the area is of interest that interest must be special. The relevant policy and guidance is clear that local planning authorities should not devalue the concept of conservation by designating areas that fail to meet that threshold.
9. As it is put in paragraph 204 of the NPPF: *“In designating conservation areas, local planning authorities should ensure that an area has sufficient special architectural or historic interest not to devalue the concept of conservation through the designation of areas that lack special interest.”*
10. Second, the nature of the special interest must be architectural or historical. The statutory test is not whether an area is of special character or appearance. Therefore, even if it is desirable for the character and appearance of an area to be preserved, the statutory criteria will not be met unless the area is also of sufficient architectural or historic interest to be

considered “special”, and that interest is expressed or experienced through the character and appearance of the area.

11. These distinct questions were summarised by Ouseley J in Trillium (Prime) Property GP Limited v London Borough of Tower Hamlets [2011] EWHC 146 (Admin) as follows (at [9]):

*“The requirements for designation are not just that the area possess the special interest defined by s69; the area of special interest must be one the character or appearance of which it is desirable to preserve or enhance.”*

12. As it is put in the HE Guidance (at [11]):

*“11. However, prior to appraisal, there is likely to be a stage when a decision would need to be taken as to the significance of an area and the likelihood of conservation area designation addressing relevant problems within the area. This is unlikely to be a lengthy process, the purpose being to consider whether an area has:*

*sufficient architectural or historic interest for the area to be considered ‘special’? whether this is experienced through its character or appearance? and whether it is desirable for that character or appearance to be preserved or enhanced, and what problems designation could help to solve.”*

13. Third, given this, a conservation area designation is not appropriate to protect areas of landscape – however attractive they may be. As it is put in the HE Guidance (at [73]):

*“Conservation area designation is not generally an appropriate means of protecting the wider landscape (agricultural use of land falls outside the planning framework and is not affected by designation as a conservation area) but it can protect open areas particularly where the character and appearance concerns historic fabric, to which the principal protection offered by conservation area designation relates.” (underlined for emphasis).*

14. As set out in the HE Guidance, examples of where the landscape and open areas may be appropriate for designation include areas with historic fabric, such as historic parks or gardens. That is because, as set out above, those areas have a special historic interest in their own right, which is experienced through their character and appearance.

15. Fourth, areas that fall within the setting of a designated heritage asset may be included within a conservation area designation. That is clear from R. v Canterbury City Council, ex parte Halford [1992] 2 PLR 137, where it was held that not every part of a conservation area

needed to have on it something of interest. That is reinforced by paragraph 220 of the NPPF which states that “*not all elements of a Conservation Area...will necessarily contribute to its significance*”.

16. However, that is subject to the important caveat that the area as a whole must reasonably be described as having a special interest – even if not every single part of it contributes to that interest. As it was put by McCullough J in Halford at pg 144: “*...the intention must be that local planning authorities will consider as an entity the whole of an area of land which gives rise to special architectural or historic interest*”.

17. Further, it is clear from the statutory wording it is necessary to consider whether the area as a whole has a special historic or architectural interest, not whether there are, within that area, items that are of such interest.

18. Finally, it is necessary to consider the proper approach where a conservation area designation is being promoted in the context of a concurrent development proposal.

19. In Trillium, Ouseley J quoted from the then guidance from Historic England, which stated as follows:

*“Whilst designation can be a legitimate response to an actual or perceived threat to the character of an area, the first consideration should always be whether the area is of sufficient special interest to warrant designation, rather than whether designation would provide an additional control. Designation should never be undertaken solely in response to local pressure, or to bring the future of particular unlisted buildings under control.”*

It was held (at [16]) that this was an accurate statement of the law as to how the power should and should not be exercised.

20. As it was recently put by Lang J in Future High Street Living (Staines) Limited v Spelthorne Borough Council [2023] EWHC 688 (Admin) (at [46]):

*“46. Since the purpose of designating or extending conservation areas is to preserve or enhance areas of “special architectural or historic interest”, the designation or extension of a conservation area which is motivated principally by a desire to protect a specific building and prevent its demolition will be unlawful.”*

21. This can be seen from R. (on the application of Arndale Properties Ltd) v Worcester City Council [2008] EWHC 678 (Admin). In this case, the claimant argued that the defendant misused its power under section 69(1) of the Listed Buildings Act because the true purpose of the designation was not to protect the character or appearance of the area that was designated but to prevent the demolition of a particular unlisted building within that area, namely a pavilion on a sports ground owned by the claimant.

22. Mr Justice Sullivan (as he then was) held as follows, at [26] – emphasis in the original:

*“Looking at the totality of the contemporaneous evidence, it is plain that it was the impetus for designating the conservation area and that the designation of a conservation area was simply a pretext to prevent the demolition of a specific building, namely the pavilion.”*

23. Indeed, if the impetus for designation is to prevent future development, then the decision to designate may be quashed by way of judicial review. That is the case even if the decision is itself supportable on its merits.

24. That can be seen by Metro Construction Limited v London Borough of Barnet [2009] EWHC 2956 (Admin). In that case, one of the factors that led the Court to conclude that the motivation for designation was improper was the involvement in the decision-making process of Councillor Cohen (who was personally affected by a potential development in the conservation area). As it was put by Collins J (at [39]):

*“39... While the decision was that of the committee, not of the officers, it was also clear that Councillor Cohen at least was involved at an early stage. Thus, even if in the end designation may be supportable, the manner in which it was reached was in my judgment unlawful since the purpose of the designation was improper.”*

### **Analysis**

25. I will now turn to consider whether the Proposed Conservation Area can be lawfully adopted on the basis of the evidence and justification set out in the Appraisal.

### **Improper purpose**

26. The starting point is that there is considerable evidence that the true impetus behind the Proposed Conservation Area is a desire to prevent planning permission being granted for an application (ref: DC/23/05656) for the construction of a solar farm within the boundaries of the Proposed Conservation Area.

27. That emerges both from public statements made by Councillors and other promoters of the proposal and from the contents of a Freedom of Information Request that I have reviewed. It would be outside of the scope of this Opinion to set out this evidence in full, and in any event the Court will consider the totality of the contemporaneous evidence before reaching a conclusion.
28. However, I would note at this stage that there is a very real risk that any decision to adopt will be vulnerable to judicial review on the basis that it is motivated by an improper purpose – regardless of the lawfulness of the reasons for designation set out in the Appraisal, to which I now turn.
29. In my opinion, there are several legal errors in the justification for the Proposed Conservation Area set out in the Appraisal.

#### Justification for the size of the Conservation Area

30. Whilst the name of the Proposed Conservation Area is “*Bentley Historic Core*”, the area proposed for designation is vast (approximately 1400 acres) and stretches well beyond this historic core to include a significant amount of agricultural land and woodland.
31. Indeed, the “*Assessment of Significance*” in the Appraisal describes the Proposed Conservation Area as comprising:
- “surviving buildings of historic and architectural interest which sit within a landscape characterised by historic farmland, ancient woodland and formal parkland”.*
32. Further, the “*key features of interest*” are described as including (i) open fields and manorial land and (ii) ancient woodland. In terms of land cover, these features comprise by far the predominant land use in the Proposed Conservation Area.
33. Indeed, the Appraisal acknowledges that a “*significant feature*” of the Proposed Conservation Area is “*wide areas of open landscape*” and that “*a high percentage of land is given over to ancient woodland*”.
34. Since the HE Guidance is clear that “*conservation area designation is not generally an appropriate means of protecting the wider landscape*” the justification for the inclusion of



these areas needs to be considered with particular care.

35. There are at least three clear legal errors in the approach adopted in Appraisal to justify the inclusion of these significant areas of landscape and open space.

36. First, it appears that part of the justification for including these areas relates to their scenic and landscape quality.

37. For example, the Appraisal states that:

*“...the well-preserved medieval structures and field patterns are important landscape features which form a fundamental part of the character and appearance of the area. The area retains unique, quiet, intimate, small-scale rural qualities, characterised by fields, many of which are accessible via public footpaths/bridleways and often bounded by tall hedgerows and mature trees.”*

38. Putting to one side the fact that none of the landscape within the Proposed Conservation Area is recorded as being notable within the Bentley Neighbourhood Plan, this confuses and conflates the landscape characteristics of the area (which in of itself is not a proper basis for designation) with the statutory question of whether the area has a special historic or architectural interest which is reflected in its character.

39. Second, a further justification for including such extensive areas of the wider landscape within the boundaries of the Proposed Conservation area is on the basis that it forms the setting of the various built structures in within the area. For example, the Appraisal states as follows:

(1) *“Bentley Historic Core's significance is inherently linked with its open rural aspect and the relationships between buildings, some deliberate, many incidental.”*

(2) *“Several boundaries were considered for the conservation area before deciding upon the proposed extent. Initially a smaller area was considered but this failed to incorporate many of the ancient woods and historic and listed buildings that were scattered in the wider area. It is important to note that much historic parkland and agricultural fields have remained, as they were historically, since at least the Tudor period. They therefore provide a tangible, visible reminder of the historic setting and*

*context of buildings within the proposed conservation area and are very much a part of their significance.”*

- (3) *“The designation of the area would help to retain this unique medieval landscape for generations to come, allowing visitors to experience the peace and tranquillity the area offers, whilst also enabling an appreciation of the historic setting of so many designated and non-designated heritage assets.”*

40. Setting is defined in the NPPF 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.”*

41. Three points can be drawn from this definition:

- (1) Since the setting of a heritage asset is merely the surroundings in which that asset is appreciated, land which falls within the setting of a heritage asset does not necessarily have any historic significance or interest in its own right.
- (2) Even if land falls within the setting of a heritage asset, it may make no contribution either to the significance of that asset or to the ability to appreciate its significance.
- (3) Even where there is inter-visibility between a building and land within its setting, that does not (without more) mean that the setting makes a positive contribution to the significance of the asset. As it was put by Lindblom LJ in R. (on the application of Williams) v Powys County Council [2017] EWCA Civ 427 at [56]:

*“if a proposed development is to affect the setting of a listed building there must be a distinct visual relationship of some kind between the two – a visual relationship which is more than remote or ephemeral, and which in some way bears on one’s experience of the listed building in its surrounding landscape or townscape”.*

Much the same point is made in Historic England’s Good Practice Advice in Planning Note 3 (2<sup>nd</sup> edn) – *“The Setting of Heritage Assets”* which notes that views *“may be*

*related to the appreciation of the wider landscape, where there may be little or no association with heritage assets”.*

42. Applying those principles here:

43. First, there is little consideration of whether the extensive tracts of farmland and woodland surrounding the buildings within the area makes any positive contribution to the significance of those buildings. Indeed, the Appraisal acknowledges that in the majority of cases the relationship between the buildings and the rural landscape is “*incidental*”. That is clear from Figure 3.2 of the Appraisal which demonstrates that much of the farmland and ancient woodland included within the Proposed Conservation Area has a very limited relationship with the historic built environment.

44. That strongly suggests that, as per Lindblom LJ in Williams, any visual connection is “*remote*” and therefore does not positively contribute to significance.

45. If the farmland and woodland within the Proposed Conservation Area has only a limited or neutral effect on the ability to appreciate the significance of the buildings within the area, there can be no rational basis for its inclusion within a conservation area.

46. Second, even if (contrary to the above) the land within the setting of the buildings within the Proposed Conservation Area does positively contribute to the ability to appreciate the buildings, that does not mean that it is of “*special interest*”. As McCullough J put it in Halford:

*“...there must be a limit. It cannot be that any land from which one can see something of special architectural or historic interest may for that reason alone properly be included in a conservation area. That first sight of Lincoln Minster standing in the far distance never fails to excite. Ely across the fen miles before one reaches the city is incomparable. Both experiences are architectural; both are special; yet one could hardly put a ring five miles around each cathedral and designate it as a conservation area”.*

47. That is highly relevant here, since most of the Conservation Area falls within the wider setting of the various buildings within it. It is not of special interest in its own right. Whilst not every part of a conservation area needs to be of special interest, it is clear both from the statutory wording and Halford that the area as a whole must meet that definition.

48. Here, the majority of the land within the area is included on the basis that it is land from which the special interest of other heritage assets can be appreciated – rather than because it is of special interest in its own right. That amounts to a clear misinterpretation of the statutory criteria (read together with the associated guidance referred to above).
49. Third, to the extent that the Appraisal considers whether the wider landscape is of special historic interest in its own right, the reasoning is flawed.
50. Various justifications are mentioned in the Appraisal, albeit not in a cohesive and coherent manner. Taking them in turn:
- (1) It is suggested that the fields within the Proposed Conservation Area are “*reflective of historic land uses dating back to at least the medieval period*”. However, the HE Guidance is clear that a conservation area designation is not an appropriate method to protect the rural landscape. In any event, this cannot rationally provide a justification for historic interest, let alone a “special” historic interest. Indeed, the vast majority of agricultural fields in England have been in the same use since the medieval period.
  - (2) Reliance is also placed on the historic ownership of the Tollemache family. The Appraisal goes as far as to state that “*the special interest of the Bentley Historic Core Conservation Area is predominantly derived from its connection with the Tollemache family*”. However:
    - a. HE Guidance is clear that mere historic association or connection is not sufficient to demonstrate a special historic interest. As it is put at [27], it is relevant instead to ask whether the areas has “*a particularly notable, distinctive or unique historic association or connection for which it is well known and that has influenced its character or appearance?*”. There is little evidence that the Tollemache land-ownership connection is particularly notable, distinctive or

unique. There is nothing unusual in one family holding a significant amount of land in an around a historic village.

- b. In any event, as the above quote from the HE Guidance makes clear, mere historic connection is not enough to meet the statutory criteria. That historic association must manifest itself in the character and appearance of the area. Whilst there may be a connection between the ownership of the Tollemache family and the character and appearance of the built form within the conservation area, there is no such link with the extensive wider landscape. Certainly, the Appraisal does not adequately explain this connection.
- c. I am instructed that the success of the Tollemache family was funded, at least in part, by their ownership of plantations and over 800 slaves in Antigua. Given the reliance on the connection with the Tollemache family, it is surprising that the Appraisal makes no reference to this important part of the history of the family. This does call the objectivity and impartiality of the Appraisal into question.

- (3) These issues are seen most clearly in the justification for the boundaries of the Proposed Conservation Area. This is, rightly, acknowledged in the HE Guidance to be “*an important aspect of the appraisal (and review) process*”. The Appraisal justifies the boundary as follows:

*“In terms of the chosen boundary itself, this is largely based on historic landholdings of the Tollemache family and/or natural and manmade boundaries. In summary, the northern part of the area follows the parish boundary, a considerable portion of which is dominated by Brockley Wood and Old Hall Wood, both originally Tollemache holdings. Although Old Hall Wood is contiguous with Baldrough’s Wood and Howe Wood (to the north), the latter were historically part of the Belstead Hall Estate and not owned by the Tollemaches. These woods were later bought in 1956 by the owner of Old Hall Wood and Newcombe Wood, John Sadd and Sons, and came under the same ownership and management regime then. These woods are also outside the parish boundary providing further justification for their exclusion from the proposed conservation area.”*

As such, the boundary of the Conservation Area appears to have been derived largely from the historic land ownership of the Tollemache family, and considerations relating

to the Parish boundary – rather than a proper consideration of the special interest of the area, and where this interest is to be found and manifested in the character and appearance of a defined area. For the reasons set out above, this is a clear legal misdirection on the nature of the statutory duty.

#### Other controls

51. The Appraisal fails to adequately consider the extent to which any special interest in the area could be protected by other policy or legislation.

52. This is an obviously material consideration. Indeed, I note that the conservation area considered in Halford was quashed because the local planning authority had failed to consider whether the setting of the village in question could be protected through other statutory or policy controls (in that case, through a Tree Preservation Order).

53. Here, there are at least three separate controls which protect any special interest within the boundaries of the Conservation Area.

(1) The large areas of ancient woodland have strong policy protection in the NPPF. Paragraph 193(c) is clear that:

*“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.”*

(2) There are numerous policies in the development plan seek to guard against development which would fail to conserve landscape character, including the character of historic landscapes. By way of one example only, Policy SP09 states:

*“The Councils will require development to support and contribute to the conservation, enhancement and management of the natural and local environment and networks of green infrastructure, including: landscape, biodiversity, geodiversity and the historic environment and historic landscapes.”*

(3) All of the listed buildings within the Conservation Area, and their settings, are already protected under section 66 of the Listed Buildings Act. This includes the Grade II\* listed Church of St Mary, and the cluster of buildings at Bentley Hall. The statutory

duty under section 66 is effectively the same as the duty under section 72 of the Listed Buildings – i.e. that in considering whether to grant planning permission, the Council must have special regard to the desirability of preserving any feature of special architectural or historic interest which it possesses. Further, the section 66 duty extends to development within the setting of a listed building – and therefore would be engaged in respect of any development which took place within the extensive parts of the Proposed Conservation Area which fall within the setting of those buildings.

54. The failure to consider these alternative controls, and the extent to which a conservation area designation materially adds to the existing heritage protections afforded to the area, is a further clear error of law.

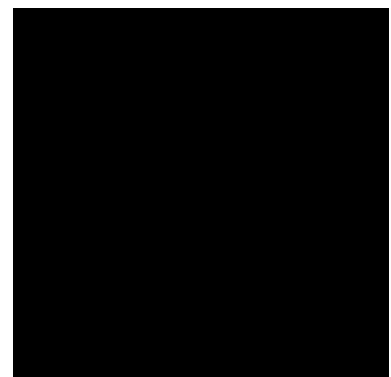
Advice received by the Council to date

55. Finally, I note that Icení has carried out a review of the Proposed Conservation Area (see report dated 7<sup>th</sup> October 2024). I have reviewed this report, which is fairly light-touch and does not necessarily engage with the legal issues identified above. I note that it recommends that the Council obtain further legal advice prior to making a decision. I agree that this would be sensible.

56. In this respect, it would clearly be unwise for the Council to take legal advice (even on an informal basis) from anyone effectively promoting the scheme, in order to ensure that any advice received is genuinely independent.

**Conclusion**

57. My conclusion is set out at paragraph 4 above



19<sup>th</sup> February 2025

Dear Babergh,

I am emailing regarding Bentley Villages Application for a Historic Core Conservation Area and I strongly object.

The basis of the application is to pay homage to the Tollemache family who lived here centuries ago.

However the site of Dodnash Priory which was once owned by the Tollemache family, with great history and heritage, is not covered or included in the conservation area.

Why not?

Dodnash Priory site, nestled amongst green and pleasant pastures of Suffolk where the remains of 12th Century stones lie, is fundamentally at the core of the Tollemache family and story, and yet omitted from the conservation area completely.

Why is the conservation area so selective?

The Tollemache family were also integral in the founding of our village hall. However, their legacy there was modernised, and completely lost, as their importance to the village didn't serve a purpose at that time.

These facts seriously question the motive and honesty of this application.

Those residents pushing for this application are looking to protect their own back yards, prevent progression, and increase the value of their own assets, rather than preserve the historic story of, and heritage sites connected to, the Tollemache family.

I hope you will come to the appropriate decision of declining this application.





Dear Heritage at Babergh District Council,

Ref: Bentley Village Suffolk designation of Historic Conservation Area

I object to this designation

I recently learnt about the application for the surrounding area of Bentley to be classed as a Heritage Conservation Site and was amazed that this was not of common knowledge within the village. I was also, along with other residents, aghast that the consultation meeting for the area was not publicised to the common parishioner. When enquired about, the response was that this did not affect the village, or central residents and therefore only those that were in the proposed area were to be included. Strangely many invites to those directly affected by the application, were also, 'lost in the post'. This is a disappointing approach to village affairs and does not follow the democratic processes, that are fair and legal, which should underpin our Parish Council.

Central to the application is to uphold the heritage of the Tollemache family. A pity then, that the consultation meeting was held at the Village Church, 3 miles from interested residents, and more importantly not held in the Village Hall, which is a living, breathing heritage site to the Tollemache family, at the center of the village.

The Parish Council and applicants for this proposal have divided the village instead of making Parish decisions, with, Parish residents.

The cloak and dagger approach to this application is alarming and concerning.

If the Tollemache family are so historic and integral to our village why does the History of Bentley, on the Parish Council website have just one sentence acknowledging them?  
Meanwhile the progression and development of the village in population, houses, pubs and village hall development (no mention of the Tollemaches here), boasts three paragraphs.

I would like to draw your attention to the Bentley Neighbourhood Plan of 2022, in particular page 44. Not one of the village residents had any concerns about protecting the historic environment, the heritage, or assets of Bentley, or the Tollemache family, in here. This plan was extremely thorough and well researched and includes all of the concerns the village have. Councillor Buzby stood up in the council meeting on the day that this document was released and enthusiastically endorsed it. Stating, "this is the most professional neighbored plan I have ever seen, well done Bentley Parish council"  
Councillor Buzby was quite right an awful lot of consultation and work went into devising that plan, showing that the village is not concerned about historic assets, as they are already well preserved and looked after, or are not of significance.

It would strike me that the link to the Tollemache family is merely a convenient tool for some inhabitants of Bentley.  
I would like to remind the District Council that it is illegal to create a Conservation Area simply as a tool to block planning applications and progression.



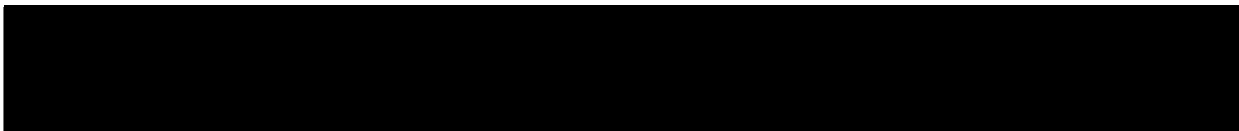


*Our Ref.:* [Redacted]  
*Date:* 21 February 2025

Dear Sirs,

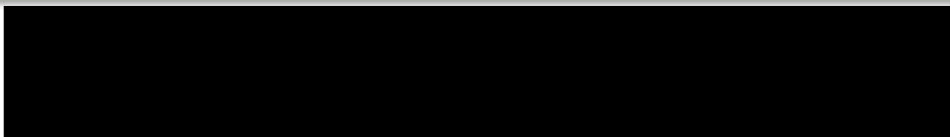
on the proposed conservation area

We understand that Babergh District Council is currently consulting on a proposed conservation area at Bentley, with the proposed designation supported by a Conservation Area Appraisal and Management Plan (CAAMP), prepared by Handforth Heritage.



Rebuttal documents have been prepared for public consultation regarding the proposed conservation area. We have viewed the position document prepared by Lichfields – Bentley Historic Core Conservation Area: Public Consultation Submission. Following independent advice provided by [Redacted] we find ourselves in alignment with the conclusions set out in the Lichfields position document, including and perhaps most significantly, that the existing CAAMP and proposed boundary deviate from best practice and should be reconsidered.

Furthermore, we understand that the current intention is for the proposed conservation area to be adopted under delegated powers. We request that any decision is instead considered at committee level.



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Dear Philip Isbell,

In addition to the below email I sent on Fri 3rd Jan 2025 @ 09:42:-

[REDACTED] there are many lovely walks directly from [REDACTED]. On some occasions, [REDACTED] will ask where to walk, we often mention around the woodlands and quiet lanes of the Bentley parish as they are so quiet and attractive, offering just the perfect landscape views and interest [REDACTED] are looking for.

[REDACTED] Many [REDACTED] have stated that there are lovely walks directly from [REDACTED] reflecting the wonderful heritage within this parish.

There is a great importance to keep this heritage on going not only for now for ourselves and [REDACTED] to enjoy but when we move on, our next generation and [REDACTED] will also be able to benefit from this beautifully protected landscape.

[REDACTED]

Philip Isbell,

With reference to the Bentley Historic Core Conservation Area Proposal.

We have been contacted via post in relation to this proposal. [REDACTED]

[REDACTED]

[REDACTED] We moved to this location for the wonderful landscape that is afforded to us not only from our property but also to step out the door and we are immediately walking in an area which in our opinion is of great natural beauty. There are many footpaths and Quiet Lanes (designated by the Local Planning Office) which take us into an undeveloped landscape with a handful of traditional attractive properties/buildings which in themselves are of great importance in their individual settings and

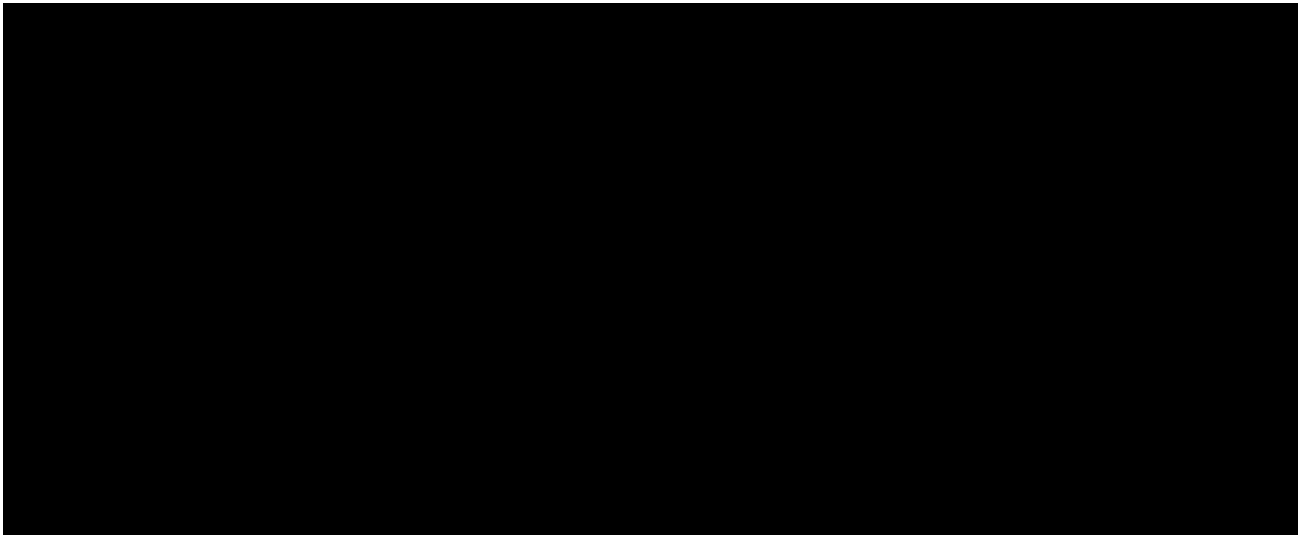
views. The proposal explains to great depth the importance of the heritage of the buildings and the landscape around, which provides such a vital role to the setting of these buildings.

The area outlined in the proposal covers all of these important buildings and surrounding area to protect the magnificent views afforded, not only for the local residents and visitors to this historic landscape but also for our future generations.

It is of utmost priority that this historic landscape remains unchanged. This is Suffolk's heritage which needs protection from our ever changing and developing world. Whilst we appreciate the beauty we have on our doorstep, it was only reading the proposal that to our amazement that there are so many listed buildings and features of Architectural and Historic Interest, some 50 in total. This has enlightened our love of the area even more and feeling extremely proud to live in such a beautiful part of Suffolk.

The proposal for the conservation area in our opinion is correct. With the over developing world we live in, it is vital that these undeveloped historic areas require the protection they so deserve.





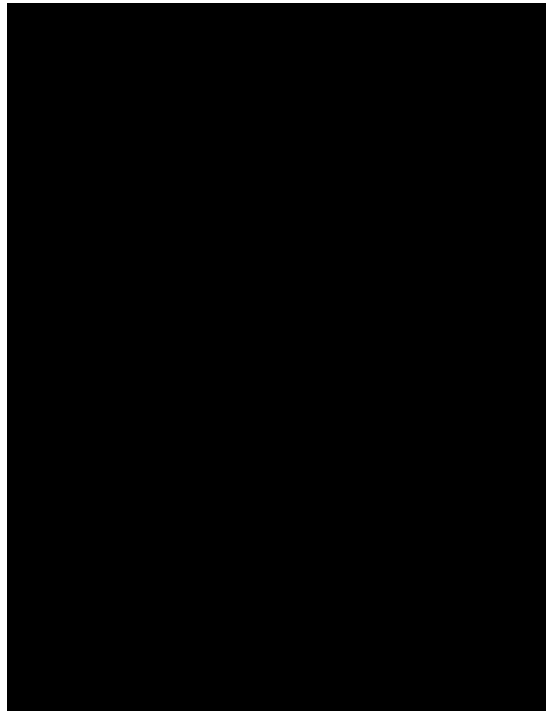
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To whom it may concern,

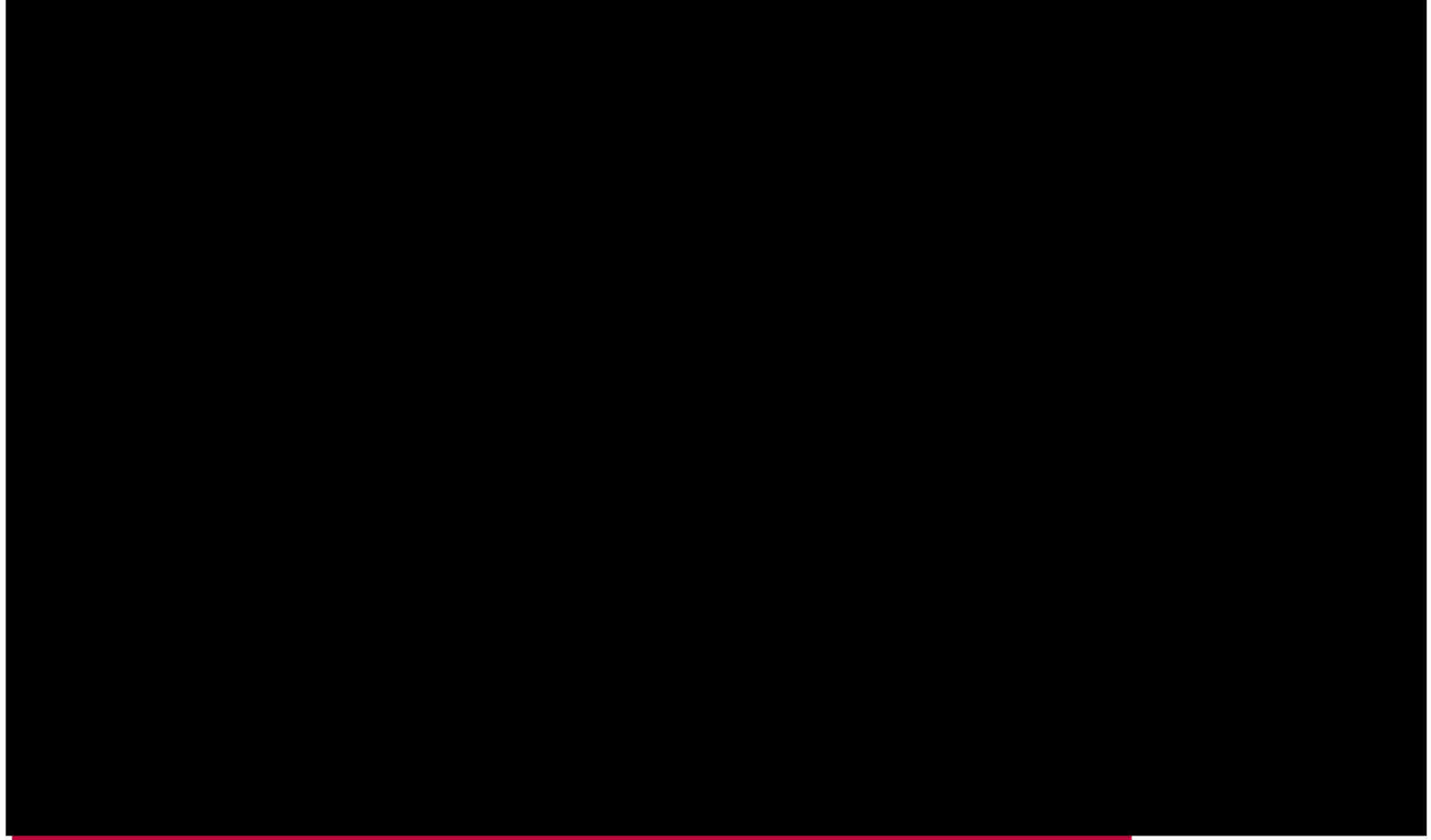
As the owner of [redacted] which is one of the identified heritage assets of the village and which is an unlisted. I had to consider the impact and benefits of the proposed conservation area on my property and any future development of the property I or any future owner may wish to undertake vs the clear benefits of a conservation area.

Having read the proposal and on reflection I believe it right that an areas that is so unique and nearly perfectly preserved is protected for future generations to enjoy. I am therefore in full support of the proposed conservation area and hope many generations get to enjoy it as it is currently found once the conservation area is approved.

With best regards



ied upon by any person other than the prime addressee except with our prior written approval. It may contain proprietary or legally privileged information or intellectual to you. If it has been misdirected to you, please notify the author immediately by replying to it. Please note also that, in these circumstances, any use, distribution, copying, Internet communications are not secure. Accordingly you should not rely exclusively on the content of this communication.



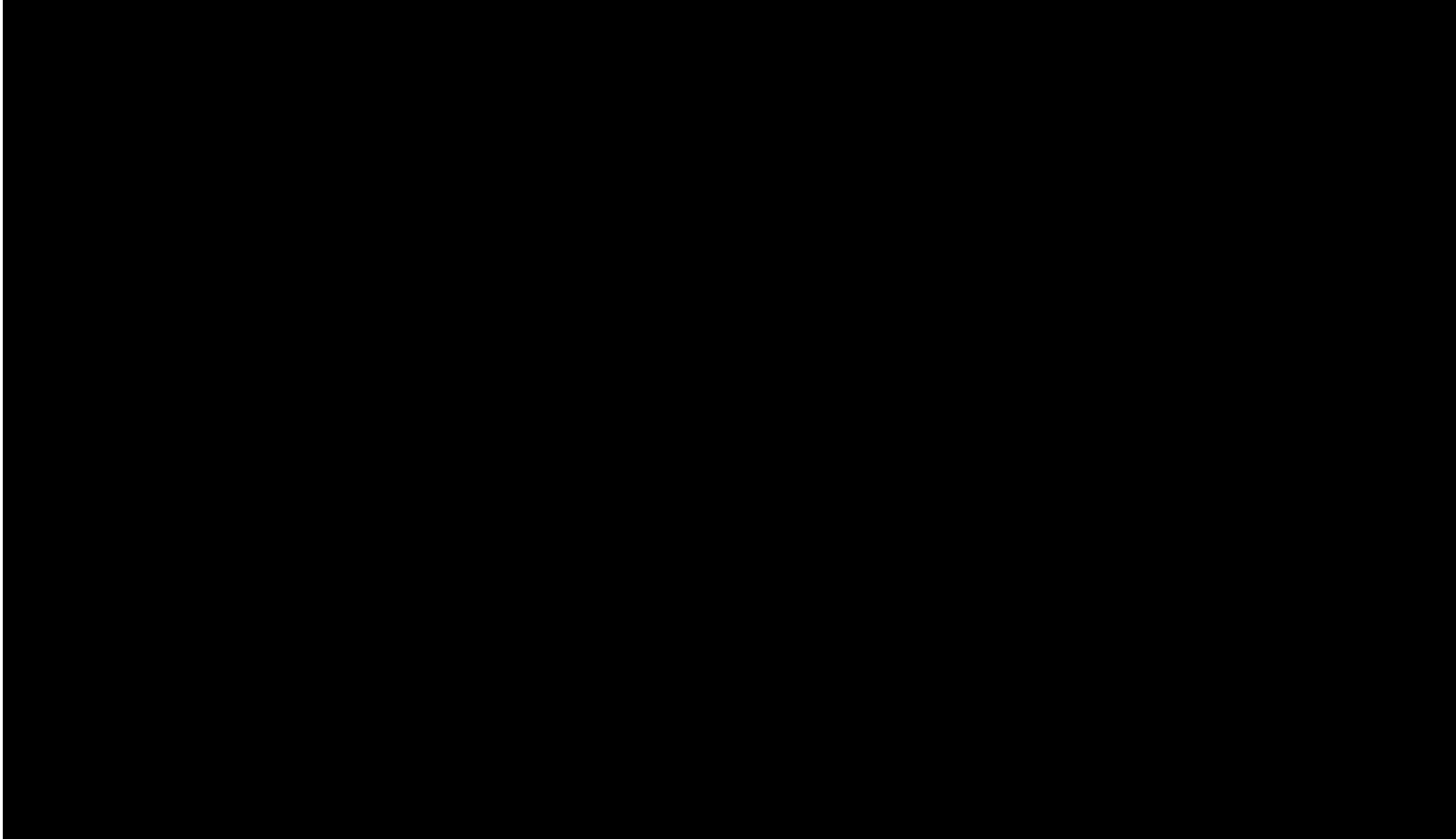
Dear Sir/Madam

Please accept my comment concerning the Bentley Historic Core Conservation Area, printed below:

I live within the proposed conservation area and fully support the move to establish it. I have lived here for over [REDACTED] years, enjoying its little lanes and broad vistas, and - if I am honest - not fully realising how lucky I have been. For the past two years, this haven has been threatened by two very large industrial developments: the proposed Solar Park [REDACTED] and the proposed Gravel Extraction and Waste Treatment Plant [REDACTED]. During these two years, I have learnt how important the establishment of direct protection measures are: the Quiet Lanes, the Valued Landscape and Babergh's Development Plan. The proposed Conservation Area would cement these measures, giving the area added and probably stronger protection.

I recognise that living in a conservation area brings possible frustrations as well as benefits, but can live with any that arise for the sake of our lovely countryside.





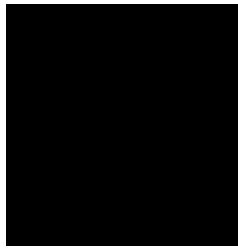
Dear Sir

I have been a resident of [redacted] for [redacted] years until [redacted] when I moved into another part of the village.



[redacted] I have always been very interested in the history of the area and learnt even more from the Conservation Area Appraisal.

I think it is imperative that action is taken to preserve this unique heritage that exists in this part of Bentley and so totally support the proposed Conservation Area.







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Dear Sirs,

As a long time resident of [REDACTED] I wholeheartedly support the application for conservation status.

The area is rich in both natural and architectural importance, and we should fight to save this wonderful heritage on our doorsteps.

There are many wonderful historic buildings along with ancient woodlands, and these need to be protected at all cost.

Far too much land is being lost to housing in the wider area, and the green belt should remain exactly that, regardless of the threat of Government policies.



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Dear Mr. Isbell,

We fully agree with and support the conservation area designation, it is important to keep the natural and historic beauty of both the buildings and landscape. [REDACTED]

Dear Sir or Madam

I would like to express my strong support for the proposed conservation area.

I have lived in Bentley for [redacted] years and hugely appreciate the historic and unspoilt nature of the area which is proposed to be designated.

I am aware that it is loved and appreciated by very many people both from Bentley and from further afield.

I urge the District Council to do everything within its power to protect it for future generations.

I attended the consultation event at St Mary's Church on Thursday afternoon.

Unfortunately I was unable to talk to the officers due to the intimidating presence of a large party of people associated with [redacted]. They were very obviously doing their best to monopolise the officers and stop others from expressing their support. This was obviously planned and most unattractive - I would like to apologise to the officers if they felt threatened. I felt extremely uncomfortable and left quite rapidly without feeling able to fill in a form and sign as a supporter.

Very best regards

[redacted]

To whom it may concern

I write on behalf of my extended family of [REDACTED] who have lived in Bentley for [REDACTED] years to give our full support for the proposed conservation area in Bentley covering the Brockley Woods area. In this time we have seen a colossal increase in the volume of traffic in our village, including HGVs and this has had a detrimental effect on our village and the wildlife in this area. We have enjoyed the nature of Bentley for many years and lived here for [REDACTED].

We wholeheartedly agree with the proposal for a conservation area and hope you will note that this email represents [REDACTED] family members from the village.

The proposed conservation area is in a pleasant rural location of large flat fields, woodlands and hedging. In which there are a small number of Grade II listed properties, Old Barn, a church, farms, ancillary barns plus other residential properties. This is a description that could be readily applied to much of rural Suffolk and I fail to see what is so special about the proposed Bentley conservation area. I am not aware of another Suffolk conservation areas that is anywhere near as large by some factor of 10, nor have so many vistas been specified across nondescript fields.

The area is not a registered battlefield

There is no wreck site

There are no notable parks or gardens

It bears no ancient monument, historic or architectural significance other than a few listed buildings.

Anyone coming to the conservation area to view historic houses is going to be disappointed. All the houses are well screened and some distance from roadways and footpaths, so not visible except for one and Old Barn. Even the church is a disappointment, having made 4 attempts to access it for quiet contemplation [REDACTED]

[REDACTED] I found it locked on every occasion. What is the point of a locked church?

This area is blighted by the ever present traffic noise of the A12 on the western boundary and to the east the main railway line to Norwich. Passing trains are obliged to sound their horn when approaching the Station Road level crossing and the footpaths crossing a little further north. Both these arterial routes are clearly audible from my property.

Hello,

[REDACTED] I fully support this proposal as it will retain the historical importance and outstanding beauty of the area which is enjoyed by many people from the village and the wider community of Suffolk.

[REDACTED]

I am writing in support of the Bentley Historic Core Proposed Conservation Area.

I have been a Bentley resident for [REDACTED] years and was attracted to the village because of its quiet rural location. Since then I have taken great advantage of the many public footpaths on my daily dog walks around the village. I have taken great pleasure in the delightful landscape and enjoy seeing the variety of wildlife attracted to the woodland and farmlands. The village has a friendly has a thriving community feel, largely because it is in a quiet undeveloped area, therefore it is important that the rural character and appearance of the area is preserved.

Whilst I was aware of many of the old buildings within the village boundary, I had not appreciated the significance of their historic importance until reading this report. By designation the area it will further increase public awareness of the historic importance of the area and will likely encourage maintenance and enhancements to the structures and landscapes in the future.

I had not realised that such a beautiful railway building had once stood at the site of the MOT garage, it is a real shame that this building has been lost. The designation of the area would mean that other such buildings may be retained for the future enjoyment of generations to come.



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I object to the proposal because of its inaccuracies in the Handworth Heritage report.

#### Key Views - Page 26

As someone who has lived here for [redacted] years now, I think I can give a more accurate account of the views in Bentley than the report.

The report introduces this section by explaining that:

Key types of views are identified below, although this list is not comprehensive and other views of significance may be identified during the decision-making process on planning applications. Any proposals for development within the proposed conservation area, or its environs, should consider the types of views identified below.

I read this to mean that, in Mr Handforth's opinion, the views he has picked out should be placed into Conservation Area as a way to help block any types of future planning application across the 32 views he has chosen. Some might say, he is using the Conservation Area as a way to lock down nearly 1500 acres from any form of development. That's not a genuine reason to designate a Conservation Area.

What's even more significant though, is that not 1 of his 32 Key Views are in the Bentley Neighbourhood Plan. Our plan was adopted on 22nd December 2022. It contains everything that Bentley residents cherish, value and hold dear. It includes lots of important views, however, not one of them is inside the proposed Conservation Area. Could it be that in the up and coming Neighbourhood Plan Review that is happening on the 8th March, all of Handforth's 32 views will suddenly become vitally important to the village and they will magically appear on the updated neighbourhood plan. That would be a safe bet.

Next to the Handforth's detailed description of the views.

View 5 - View of the upper parts of St Mary's Church tower from field opening in Potash Lane to the right of the track to Falstaff Cottages entrance.

I have taken a photo of this exact view. I even faced my phone North West in order to see the Church tower as clearly as possible, I even went on a sunny day for a clarity and I even took it in January when the views are the best. The attachment is called View 1.

The photo shows that it's almost impossible to see the tower, perhaps if you have a pair of binoculars then you might.

View 6 - Long views from wide field entrance in Potash Lane to Engrly Wood and the Church tower.

Again, I waited for the best conditions to take a photo of View 6. I have attached it, its called View 2.

Now, here I agree it is possible to see Engrly Wood, but I still struggle to spot the church. I even turned my phone north west for the best chance of glimpsing it.

VIEW 7 - Long views from field entrance in Potash Lane to Engrly Wood, Church Farm and the Church tower.

I have photographed this view and it is attached and called View 4. I agree that you can see Engrly Wood, but I can't see



Church Farm ( its white so should be easy to spot) or the Church Tower. Again I turned my phone North West for the best chance of seeing both buildings.

View 8 - Views towards Engry Wood and the distant landscape south of Engry Wood due east towards the plantations on the banks of the Orwell.

The Orwell River is many miles from Bentley, this view makes no sense.

For me, the rest of the views are nice enough but couldn't be described as special or unique. They are so far ranging and vague, that the value of a Key View has been lost in this report.

No doubt there are countless nice views in such an enormous, mini national park style Conservation Area.

But the fact that not 1 view is special or unique enough to Bentley Parish Council or the 38% of the village who contributed to it, makes it difficult for Mr Handforth to convince us now that his views are accurate or valued by anyone.

Except perhaps those with a vested interest in blocking further planning applications across these views ? ( could they have somehow possibly influenced Mr Handforth's decisions here ? )

Living in Bentley

On page 4, Mr Handforth describes Bentley as:

The well preserved medieval structures and field patterns are important landscape features which form a fundamental part of the character and appearance of the area. The area retains unique, quiet, intimate, small-scale rural qualities, characterised by fields,

I beg to differ here. What is medieval about the constant, day and night, droning of the A12 that we endure 24 hours a day, 365 days a year ?

Attached is short video I took as I was walking north along the footpath called Pond Hall Lane which is in the proposed Conservation Area. Also attached is short video standing at the end of Potash Lane, next to Grove Farm. For both videos the background noise speaks for itself. I have to strongly disagree with Handforth's use of the word "quiet, intimate".

Next, we come to the most recent new sound pollution in Bentley.

On the east side of the proposal runs the London to Norwich train line. Strangely, this gets little mention ! Since the death of 2 girls in Chelmsford several years ago, new safety rules were put in place for footpaths which cross over trainlines. The solution was for every train to hoot well in advance of the footpath crossing point to allow plenty of time for walkers to cross. There are 2 footpaths which cross the line in the proposed Conservation Area, both are very close to Falstaff Manor and Uplands.

I have attached 2 video clips.

Footpath 1 is a video of me walking from my front door, past Falstaff Manor along the footpath which follows the southern boundary. AS you can see, I am unable to see Falstaff Manor from either the road or the footpath, so goodness only knows how Mr Handforth did !

Footpath 2 is taken as I am nearing the railway line, the sounds speak for themselves. My family who live in Capel St Mary can hear the hoots when wind comes from the east. It has been a blight on the lives of everyone living in Bentley and therefore I urge Mr Handforth reconsider his opinion that Bentley has retained a peaceful, Medieval like rural quality - far, far from it.

Finally, Mr Handforth paints our village as having "small scale" qualities. My photos paint a very different picture.

The 1st [X] photo is called Falstaff Manor, and shows the huge modern barns and in the background an enormous field ( called the 100 acre ) and the Engry Wood behind that. All of these are in the proposed Conservation Area.

The industrial scale of both the barns and the fields contradict the small scale, unchanged village that Mr Handforth describes. WE have a map of that field in 1838, which shows how once upon a time, it was made up of 8 smaller fields.

But today, Bentley has many 100 acre fields, several of which have been included in this proposal.

When Babergh amalgamates with Suffolk County Council in a few years time, how happy is Suffolk going to be to inherit the biggest Conservation Area Babergh has ever created ? That's going to weigh heavy on the resources and purse strings.

At which point, we must ask ourselves, is it necessary ?

How well protected are these vast swathes of empty countryside by other laws ?

The second aerial photo shows Bentley Long Wood. All of the countryside to the left of the A12 has been proposed for the Conservation Area. It highlights just how dense the woodlands are and how much additional pressure their upkeep will add to Babergh's and soon SCC's purse strings. At the moment, the landowners bare those costs. These woods are all in superb condition and the laws which protect them have preserved them well.

Why should taxpayers valuable and hard earned money be used to maintain them ?

The next aerial photo, called Grove Farm Fields, shows the enormous, empty fields which have been proposed to be included. Where are the heritage assets ? Not one in sight !

So why have yet more fields been included ?

The have nothing to do with the Tollemache legacy, contain no special historical or archaeological remains or architectural uniqueness - why have they been included ?

Sadly, the only explanation points back to the original birth of this entire idea - to quash the rural economy, block any type of planning application and drown its residents with stressful bureaucracy.

The final photo is perhaps one of the most curious, its called Heritage MOT Asset. [X]

Everything you can see in this photo has been proposed for the Conservation Area ( except the A12 in the foreground).

How Mr Handforth could include this very modern, industrial structure is a mystery to us all.

But again, this decision comes down to motivation. Without this in the Conservation Area, a valuable section of the Quiet Lane becomes also excluded and this is an essential part of the plan to lock down all the access routes into and out of the village.

The purpose of this email is to help Babergh. It has a very big decision to make, but I believe, until now, it has never been given an accurate portrayal on our village.

Sent from my iPhone



**EXTERNAL EMAIL: Don't click any links or open attachments unless you trust the sender and know the content is safe. Click [here](#) for more information or help from Suffolk IT**

Dear Sirs,

I wish to make an objection to the proposed conservation area.

It is a sizable area covering around six square kilometres, a majority of which is agricultural fields as well as woodland.

The single farm payment subsidies that farmers receive, have been reducing year on year and will stop completely in the near future. This along with the recent announcements on Agricultural Property Relief, Business Property Relief, Double Cab Pick-ups and Fertilizer Tax to name a few, has made the farming business challenging.

The new conservation area would negatively impact the farming community, in what already is a challenging time, by restricting the ability to utilize land for traditional agricultural practises.

1. Limited land use:

Conservation areas often place restrictions on activities like clearing trees, altering terrain, or using certain fertilisers and pesticides, which can limit the type of crops grown or livestock that can be raised.

2. Wildlife damage:

Conservation areas can restrict the protection of crops from damage by grazing or foraging wildlife, leading to crop loss.

3. Reduced profitability

These restrictions on farming practises within a conservation area can lead to lower yields, impacting the profitability of the farm operation.

4. Conflict with conservation goals:

The farming community may well face pressure to implement practices that prioritize conservation over maximizing profits, leading to potential economic challenges.



February 18 1992

**Conservation area — Designation — Judicial review — Decision by local planning authority to enlarge conservation area — Applicant contending decision unlawful — Whether land itself must have features of special architectural or historic interest — Whether setting of village or land forming part of view properly included in conservation area — Protection given by tree preservation orders not drawn to members' attention in officers' reports — Designation on that ground to be quashed**

By section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990:

(1) Every local planning authority -

(a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and

(b) shall designate those areas as conservation areas.

(2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.

On December 10 1991 a public inquiry opened into an appeal by the applicant, David Halford, against the refusal by Canterbury City Council to grant planning permission for housing development on agricultural land at Barham, Kent. That same evening the council's planning committee met and resolved to enlarge the existing Barham conservation area - which had been designated in 1971 and did not include the land in question - to cover a wider area, including the appeal site. Reports before the committee from the council's conservation officers recommended designation of the enlarged area in order to conserve the landscape setting of the village and the views of it from approaching roads. The reports also emphasised the added protection conservation area status would give to trees and woodlands.

Mr Halford applied for judicial review of the decision to designate his land as part of the enlarged conservation area on the grounds that the designation was not within the council's powers under section 69; alternatively that the decision was so unreasonable that no reasonable local planning authority could have made it; alternatively that section 69 had been used for an improper purpose. He said that there were no buildings or structures of any architectural interest on his land, nor was the land of any historic interest: it was just a field. He also contended that the committee wrongly failed to take into account that the trees between his land and the road were already protected by a tree

----- *[1992] 2 PLR 137 at 138*

preservation order which had been made on November 5 1991. The council argued that the designation was lawful; the setting of buildings was part of their character and could properly be included in a conservation area.

**Held** The application was granted.

1. It was not the intention of Parliament that a local planning authority should look at each piece of land individually and exclude any part on which there was no building unless the part itself was of historic interest. Section 69 referred to “areas of special architectural or historic interest”. In that context the intention must be that the local planning authority would consider as an entity the whole of an area which gave rise to such interest: not every part of the area need have on it something of interest: see pp 143F-144A.

2. Just as buildings, such as the great houses of England, were part of their surroundings and were to be seen in their setting, there was no reason why old villages should be treated differently. The charm of a village did not come from its houses and church alone. Its greens and paddocks, its trees and the fields that came close to the houses and the view as one approached along the road were all part of it and if the old buildings at its heart were worthy of designation as a conservation area, so was the whole: see p 144B-C. The omission from section 69 of any reference to setting did not indicate that the setting of a village was to be disregarded but showed that Parliament intended that the interesting features and their setting were together to be treated as the “area”: see p 144D-E.

3. Accordingly, the city council were entitled to decide to enlarge the conservation area to preserve the setting of Barham. How far to enlarge it was a matter for the judgment of the council and the court could only interfere with their decision on *Wednesbury* principles. There was a limit in that it could not be that *any* land from which one could see something of special architectural or historic interest might, for that reason alone, properly be included in a conservation area. While it was impossible to answer the question where the line was to be drawn, it was enough in this case to say that the decision about the boundary at this point of the Barham conservation area could not be said to be one the committee could not reach on the material before them: see p 145A-E.

4. There was no evidence whether the committee did or did not take into account the tree preservation order made five weeks earlier. However, all the reports before the committee stressed the protection that would be given to trees were the proposed enlarged conservation area to be designated, but in none of them was attention drawn to the protection that could be given by tree preservation orders and whether the setting of the village could be sufficiently protected in that way, particularly as Barham was already within an area of outstanding natural beauty and a special landscape area. This was a material factor which ought to have been drawn to the committee's attention. Failure to do so rendered the decision to designate unlawful and for this reason only the decision would be quashed with the consequence that the proposal must be reconsidered: see pp 145F-146C.

----- [1992] 2 PLR 137 at 139

**No cases are referred to in the judgment**

### ***Application for judicial review***

This was an application by David Halford for judicial review of a decision of the planning committee of Canterbury City Council on December 10 1991 to designate a conservation area at Barham, Kent.

John Burrett (instructed by Stilwell & Harby, of Dover) appeared for the applicant, David Halford.

Mary Cook (instructed by the solicitor to Canterbury City Council) appeared for the respondents.

*The following judgment was delivered.*

**MCCULLOUGH J:** This application for judicial review concerns the designation of a conservation area in Barham, near Canterbury. It is made by Mr David Halford. He owns land in Barham. It is now in agricultural use. He hopes that planning permission may be obtained so that 55 houses and a school may be built on the land. Application for the necessary planning permission was made to Canterbury City Council, as local planning authority, on March 19 1991. It was refused on June 25 1991. Notice of appeal was given. In consequence a public inquiry was opened on December 10 1991. On the evening of December 10 1991 the planning committee of the city council met. At their meeting they resolved to designate a conservation area in Barham. A smaller conservation area had been designated in 1971, but on December 10 1991 the committee resolved to enlarge it. The new conservation area was to include the land in question. The old conservation area had not.

Mr Halford submits that in designating the larger area the city council acted unlawfully. A conservation area is by definition an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. He says that his land had no special architectural character. It cannot have, as the only structure on it is a small wooden footbridge put up less than a year ago. It is of no architectural interest, let alone any special interest. Nor, he says, has the land any historic interest. It is just a field. So it was wrong to include it in a conservation area. The city council say that the designation was lawful. One does not look at buildings in isolation. One takes account of their setting. That is part of their character. Their setting can properly be included in a conservation area.

Which party is right? Neither counsel in the case has been able to find any decided case which gives the answer.

The issue comes before this court by way of an application for judicial review because there is no statutory remedy available to a person who wishes to challenge the legality of the designation of a conservation area. Its resolution turns on the words of the statute. Nowadays this is the Planning (Listed Buildings and Conservation Areas) Act 1990. The designation of conservation areas by local planning authorities is dealt with in section 69. Section 69(1) provides:

----- [1992] 2 PLR 137 at 140

**69.-** (1) Every local planning authority -

(a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and

(b) shall designate those areas as conservation areas.

Section 69(2) reads:

(2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.

The words in section 69(1) first appeared in the Civic Amenities Act 1967. They have been in all the statutes since and, apart from an unimportant change, the words in section 69(2) have been part of the law since 1974.

There are no minutes of the discussion of the planning committee's meeting on December 10 1991, only a record of the resolution. It is not the practice of the authority to keep full minutes. But the court does have copies of a report which was before the committee at the meeting. It was prepared by Mr D G A Church RIBA, a conservation consultant in the technical services department of Canterbury City Council. He had been considering the possible extension of the Barham conservation area, on and off, for more than a year. His report was wrongly dated December 12 1991. In fact it was prepared for a committee meeting on November 12 1991, but in the event it was

not put before the committee until their next meeting on December 10 1991. On that date the committee also had a supplementary report from Mr Church. This set out the views which Barham Parish Council had conveyed to the city council. The parish council supported the proposals. It also recited the substance of a letter which the city council had received from the county planning officer of Kent County Council.

The only other information before the court about what happened at the meeting comes from an affidavit sworn by Mr J A Chater, the head of the conservation and design team in the technical services department. In para 42 he says that he outlined the proposed designation and outlined each area with the council members and that the matter was discussed. He says that there were large-scale maps pinned up at the back of the committee room and that the map attached to the supplementary report had been circulated to members at the meeting.

At the previous meeting of the committee, on November 12 1991, Mr Chater had presented a progress report on the review of the various conservation areas in the city council's district. It is headed "Report of the city technical director". There are parts which I should read:

**Village Areas.**

Appendix 2 gives information on the date of designation of all the present Conservation Areas in the City Council's Area. It will be noted that 21 of the village Conservation Areas have not been reviewed since they were

----- [1992] 2 PLR 137 at 141

designated prior to 1974. These earlier designations by the Kent County Council were tightly drawn around groups of historic buildings and did not take into account trees, open space and the landscape setting of villages. It was not in fact until 1975 that controls were introduced which gave protection to trees (six weeks notice is required prior to felling) and the control of the demolition of all listed buildings. There is, therefore, an urgent need to complete the survey of the village areas so that designations can be brought up to date and our heritage protected from development and other pressures.

**Future Programme.**

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Authorities to regularly review their District and determine whether there are "any parts or further parts of their area which should be designated as Conservation Areas". Section 72 of the same Act requires us to use the Planning Acts to achieve "the desirability of preserving or enhancing the character or appearance of that area".

When Conservation Areas were first introduced the emphasis was very much on the enhancement of the area. However, the rate of change and pressures through both minor and major development has increased so much over the last 20 years that the protection of our heritage has become the single most important aim of Conservation Area designation.

The weakening of planning legislation as regards design issues outside Conservation Areas and the additional powers within them have made the need to update our Conservation Areas all the more pressing. Indeed over the last two years I have received many requests from parish councils for their areas to be updated. There is, therefore, a need to continue the programme of reviews so that all village areas can be brought up to date as quickly as possible.

Now Mr Church's report. It dealt not only with the proposed Barham conservation area but also with the Derringstone conservation area, which was immediately to the south of Barham and which it was proposed to enlarge. It also dealt with a proposed new conservation area at Out Elmstead, immediately north of Barham. The proposal was that all three would be contiguous. They are all shown on a plan in the bundle of documents before the court. The extent of the old Barham and Derringstone conservation areas is on another plan.

I now read from Mr Church's report:

**Introduction.**

Barham Conservation Area was designated in June 1971 by Kent County Council and was one of the few early conservation areas to incorporate a substantial section of parkland. Derringstone Conservation Area was designated in July 1971 by Kent County Council and was a more typical early conservation area with tightly drawn boundaries. Out Elmstead is an attractive hamlet which has not previously been designated.

The whole area has now been surveyed as part of the continuing programme of conservation area review within the district. In recent years the City Council's policy has been to include areas of good quality landscape and park land in order to give a measure of protection to the landscape setting of historic villages.

----- [1992] 2 PLR 137 at 142

**BARHAM**

Barham Village is located in the upper Nailbourne Valley and contains one of the chain of attractive parks (Barham Court) which are a major feature of this valley. The surrounding landscape is of variable quality but contains much that is attractive.

It is proposed to extend the conservation area: to the south to include Valley Road, The Grove and the area around the Thatched House: to the north to include Greenbank, Valley Road, the Old Rectory and Park and the north drive to Barham Court.

I interpolate to note that it is the Valley Road extension to the north with which this case is concerned. I continue:

Valley Road and the Grove Valley Road is mainly tree-lined and these trees are an important feature in the setting of both Barham and Derringstone.

Then a little later:

The Valley Bottom Valley Road north of the Manor (Grade II)

- this is the area we are concerned with -

is an important tree-lined feature which should be included. There are particularly fine views of the Church and village centre (noted in *Pevsner's Buildings of England*) across the valley bottom and it is important to include this meadowland within the boundary.

Then later in "Conclusions":

It should be remembered that the main effect of conservation area designation outside built up areas will be to give recognition of the importance of the landscape setting of the villages and added protection to trees and woodlands.

I therefore propose that Barham and Derringstone Conservation Areas be extended to include areas of land that form the landscape setting of and contribute to the special character of the two settlements and in addition that the hamlet of Out Elmstead be designated as a Conservation Area, as shown on the attached drawing No. CV170.

In his supplementary report Mr Church said, *inter alia*:

**Comments from the County Planning Officer.**

The County Planning Officer states that the general response to the proposals from his department is one of concern over the value of extending the Conservation areas in this way. In particular, the inclusion of non-descript post-war housing areas and otherwise unexceptional green spaces, which to his mind serve no useful purpose and will, in his opinion, actually devalue the original designated areas which have distinct character, history and intimacy of space worthy of special protection. He feels that designation should not be used as a means of preventing new development and the term "conservation" implies some positive enhancement.

**Discussion.**

The County Planning Officer seems to have overlooked the fact that a large

----- [1992] 2 PLR 137 at 143

part of the new area is or was formal, man-made, landscaped parkland, he does not mention the protection which conservation area status will give to the many hundreds of important trees which we propose to include. In taking in such features within a village one almost inevitably has to include some modern and non-descript development. In fact the County Council's views on conservation areas seem to have changed very little since the early 1970s when they favoured very tightly-drawn boundaries at a time before legislation was introduced to protect trees.

I therefore RECOMMEND that the Committee designate the area as indicated on drawing No. CV170 which includes the above amendments in accordance with the recommendation contained in the report.



It seems clear from these reports that the members of the committee were recommended to designate the enlarged Barham conservation area, and in particular to include the area which embraces Mr Halford's land, in order to conserve the setting of the village and the views of it as one approached it. The bundle of documents includes four photographs. One was taken from the road between Barham and Out Elmstead. It looks east across Mr Halford's field to the buildings and trees of the village behind. There can be no doubt that the need to preserve as many trees as possible was impressed on the committee.

This is as much as I think I need say about the facts.

In the grounds of application to this court it is said on Mr Halford's behalf that the decision was not within the powers of section 69; alternatively, it was so unreasonable that no reasonable local planning authority could have made it; alternatively, that section 69 was used for an improper purpose. In particular it is said that there were material facts to which the committee wrongly failed to have regard, namely that there were no buildings or other structures on Mr Halford's land, nothing therefore of special architectural interest; that the land had no historic interest and that trees between his land and the road were protected by a tree preservation order which had been made on November 5 1991. It is also said that they took into account immaterial considerations, namely that the road is an important tree-lined feature; the views of the church and village, the importance of the meadowland and the added protection to trees and woodlands.

Mr Burrett, appearing for Mr Halford, submits that the application of section 69 requires a local planning authority first to ask whether there is anything of architectural interest on the land in question. This means that there must be a building on the land, otherwise there is no architecture. If there is a building, the next question is whether its architecture is of special interest. If so, the next question is whether it is desirable to preserve or enhance the character or appearance of the building. Then one turns to ask whether there is anything about the land which an historian would say was of interest. If so, the next question is whether it is desirable to preserve or enhance the character or appearance of the land.

I do not agree with this approach. It cannot have been the intention of Parliament that a local planning authority were to look at each piece of land individually and to exclude any part on which there was no building unless the part itself was of historic interest. The section refers

----- [1992] 2 PLR 137 at 144

to "areas of special architectural or historic interest". In that context the intention must be that local planning authorities will consider as an entity the whole of an area of land which gives rise to special architectural or historic interest. Not every part of the area need have on it something of interest.

There is another objection to Mr Burrett's approach. Buildings are part of their surroundings. They are to be seen in their setting. Trees may do much to enhance the interest and to make them special. Consider some of the great houses of England. Blickling for instance. Can one imagine making the house a conservation area without its hedges, its trees and its garden? Why should the old villages be treated differently? The charm of a village does not come from its houses and its church alone. What about its greens and paddocks, its trees and the fields that come close to the houses? And the view as one approaches along the road? This is all part of it. It is good to be in the middle of such a village. It is also good to look at it over the fields. If the old buildings in the heart of the village are worthy of designating as a conservation area so is the whole. I do not accept that Parliament intended any different approach.

Mr Burrett submits that if Parliament had meant local planning authorities to have regard to the setting of a village it would have said so, just as it did in sections 66 and 67, which speak of development affecting a listed building or its setting. Again, I do not agree. If Parliament regarded the setting of listed buildings as important, it is inconceivable that it thought otherwise about buildings in areas of special architectural or historic interest. Rather does the omission from section 69 of any reference to setting show that Parliament intended that the interesting features and their setting were together to be treated as the "area".

So I reject the submission that section 69 required the meadows and woods, the trees and the views to be left out of account.

Only one fact caused me to wonder about this conclusion. I looked at the statutory consequences of designation as a conservation area in order to see whether they give any assistance. There is no need to list them. In broad terms one can say that the planning control which applies to land within a conservation area is more restrictive. This is as one would expect. For example, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise, with respect to any buildings or other land in a conservation area, of any powers under the planning acts, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. But there is also section 73. This requires that in relation to an application for planning permission for any development of land which in the opinion of the local planning authority would affect the character or appearance of a conservation area, the fact that such an application has been made must be more widely circulated. The existence of this provision lends a measure of protection to a conservation area from potential development outside its limits. It might, therefore, be thought to suggest that it was not intended that conservation areas should be enlarged merely to include what one might call buffer zones. But the

----- [1992] 2 PLR 137 at 145

existence of section 73 has not persuaded me. Buffer zones would be one thing; preserving the setting and the immediate views of a village of special architectural or historic interest is another. Maybe the part of Barham which was in the original, smaller, conservation area is where the buildings of special architectural and historic interest lie - as was recognised when the original conservation area was designated. But the city council were within their rights to decide last December whether to enlarge the conservation area to preserve the setting. How far to enlarge it was a matter for the judgment of the city council. Their decision was one with which this court could interfere only on *Wednesbury* principles.

All this accords with what is said in Part II of Circular 8/87 which deals with conservation areas. Para 54 emphasises that what is to be preserved is the special character of an area. Para 55 contemplates extending the boundaries of existing conservation areas. Para 61 refers to the special architectural and visual qualities of a conservation area and speaks of designing new buildings in a conservation area as part of the larger whole. The same paragraph says that sometimes conservation areas will be widely drawn.

Of course there must be a limit. It cannot be that any land from which one can see something of special architectural or historic interest may for that reason alone properly be included in a conservation area. That first sight of Lincoln Minster standing in the far distance never fails to excite. Ely across the fen miles before one reaches the city is incomparable. Both experiences are architectural; both are special; yet one could hardly put a ring five miles around each cathedral and designate it as a conservation area.

Where does one draw the line? It is one of those impossible questions. I see no need to try to answer it. It is enough to say that the decision reached by the city council about the boundary at this point of the Barham conservation area cannot be said to be one they could not have reached on the material before them.

Finally, there is Mr Burrett's point about tree preservation orders. Being in a conservation area gives trees a measure of protection. But being the subject of a tree preservation order is better. One can see this from sections 197, 198 and 211 to 214A of the Town and Country Planning Act 1990. A tree preservation order may be made for an individual tree or a group of trees or for trees in an area, but blanket coverage of this last kind is discouraged. The city council could have protected all the trees they wanted by means of a number of tree preservation orders. Indeed, they had made such an order on November 5 1991 covering the trees between Mr Halford's land and the road. Mr Burrett says that the committee failed to take into account the existence of this order, which had been made only five weeks before. There is, it is true, no evidence that the committee did take it into account. But neither is there that they did not.

It is a pity that the court has so little information about the debate before the resolution was passed on December 10 1991. That should not be taken as a criticism, but it is a fact. The court has to do the best it can with the material it has. All three reports stressed the protection that would be given to trees were the proposed conservation areas to be

----- [1992] 2 PLR 137 at 146

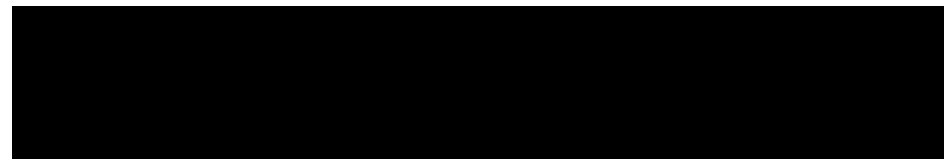
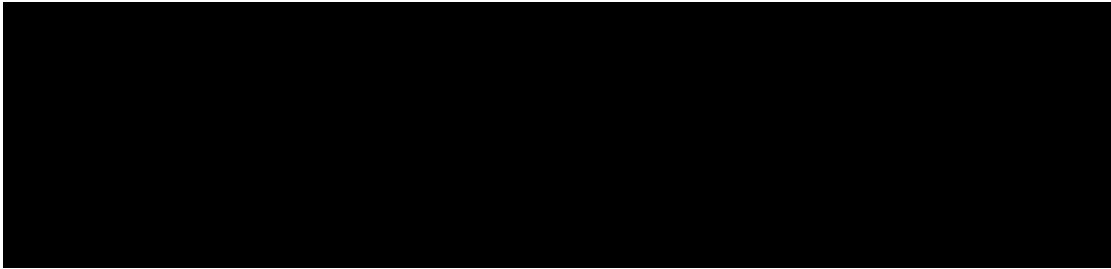
designated. Yet in none of the reports was the attention of members drawn to the protection that could be given by tree preservation orders, let alone to the fact that the protection given to trees merely by being in a conservation area is less. None even mentions the possibility of making such orders let alone addresses the question of whether members might consider that the setting of a village could be sufficiently protected in this way, particularly when one remembers that Barham already had the benefit of being within both the Kent Downs Area of Outstanding Natural Beauty and the North Downs Special Landscape Area as identified in the county structure plan.

This was, in my judgment, a material factor which ought to have been drawn to the committee's attention and was not. This failure renders the decision to designate unlawful. It must follow that the decision should be quashed unless the court could say with confidence that even without this failure the decision would have been the same. In the absence of any information about the vote and in the light of the strong reservations expressed by the county planning officer I do not have this confidence.

The decision is quashed and the proposal must be reconsidered.

The order which the court makes should not be taken as any indication that the decision should be different next time. And I emphasise that the fact that the court has quashed the designation does not detract in the slightest from my holding that it is lawful to consider whether to include the setting of a village, as well as the village itself, in a conservation area.

Application granted with costs; decision to designate conservation area quashed.



Subject: Conservation area in Bentley

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To whom may it concern  
I totally support The proposed conservation area in the Parish of Bentley as the unique historic character should be kept for future generations

