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Ms Jessica Szollosi
Planning Officer
Mid Sussex District Council
Via Email: Jessica.Szollosi@midsussex.gov.uk

19th June 2026

Dear Jessica,

PV panels on an outbuilding at Pickeridge, Cob Lane, Ardingly, RH17 6ST
Council Ref: DM/26/1033

I write in respect of the Conservation Officer's Response dated 16th June 2026 in relation to the above application. The response is the unfortunate subject of myriad errors, both of fact and in terms of understanding relevant statute and policy. I discuss this below.

The Council's Conservation Officer identifies less than substantial harm at "*the low-mid level*". This is objectively absurd.

It should be noted that 'substantial harm' (para 212 of the NPPF) is placed at the point of 'total loss' of the significance of the asset in question, recognised by the PPG as a high bar, and thus a global finding of 'low-mid' is, on the spectrum within the concept of 'less than substantial' (para. 215 of the NPPF), at worst, mid-way towards total loss of that significance.

It is difficult to see, in most cases, how that conclusion could ever arise as a result of development in part of the setting of a heritage asset, as the major contribution to its significance is the asset itself, not the setting. This is particularly so here, where the listed building derives its principal significance from its architecture, age, form and materials as is common ground. Notwithstanding our position of no harm, conclusions on the nature and scale of impact on the significance of heritage assets, and whether these are positive or negative and whether, if negative, they are outweighed by other considerations so as to comply with national policy are all matters of expert judgement. Different experts, on the basis of the same information, can reasonably differ in their conclusions without falling into error thereby. However, there are in my opinion a number of factors that go to vitiating the conclusions in the Conservation Officer's comments. If we did find ourselves in a situation of less than substantial harm, rationally it could only be a negligible / low level of less than substantial harm at absolute most.

The Conservation Officer states:

"Paragraph 208 of the Framework further requires that harm to heritage assets should be avoided or minimised. However, no evidence has been provided within the submitted application documents to suggest that alternative, less harmful locations for the solar array have been considered."

This is as reference to the requirement at paragraph 208 of the NPPF. It requires for local planning authorities when considering an application to, *"identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset)"* and that they, *"should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal"*.

The Conservation Officer's interpretation of this policy appears to preclude, in all cases, renewable energy development (or any development at all for that matter) that would result in any degree of harm to designated heritage assets, as the development might always be envisaged in some theoretical 'other location'.

This is clearly not the intention of paragraph 208 or consistent with the requirements of the Framework, which must be read as a whole. Rather, paragraph 208 exhorts local planning authorities to understand significance before making decisions that may affect heritage assets.

Indeed, there are numerous examples throughout the country where local planning authorities, Inspectors, or the Secretary of State have taken the view that renewable energy developments that cause less than substantial harm to designated heritage assets are acceptable because, when quite properly applying the test at paragraph 215 of the NPPF, the public benefits of the proposals outweigh that harm, thereby providing the 'clear and convincing justification' required by paragraph 213. We have already furnished you with some examples in our submission.

It is understood through relevant case law¹ that the requirement at paragraph 208 of the NPPF for 'clear and convincing justification' for harm to designated heritage assets is not a freestanding test but is embodied in the tests at paragraphs 214 (for substantial harm) and 215 (for less than substantial harm).

It is not the case that any *'harm which remains should then be clearly and convincingly justified, and then weighed against the public benefits associated with the proposal'* (my emphasis) but rather simply that the weighing of harm against public benefits provides the required clear and convincing justification, should the balance favour the public benefits which they plainly do in this case (when properly understood).

The Edith Summerskill House called-in appeal decision is relevant, as Historic England were censured by the Inspector in that case for taking the same deeply flawed approach as advocated by the Conservation Officer:

¹ Pugh v Secretary of State for Communities and Local Government [2015] EWHC 3 (Admin) & Bedford Borough Council v Secretary of State for Communities and Local Government [2013] EWHC 2847 (Admin).

"...the Courts have held that if the decision-maker works through the sequence for dealing with proposals affecting heritage assets in the Framework and finds that any harm to significance is outweighed by public benefits, then the clear and convincing justification referred to in the Framework is in place. To work through that sequence, the decision-maker needs to take public benefits into account. It is not clear from their submission that Historic England have done so, and in any case, carrying out a balancing exercise of that sort would be well beyond their remit."(Paragraph 12.62)

As the Inspector plainly stated in that case (and as is well established by case law), clear and convincing justification for less than substantial harm to designated heritage assets is embodied in paragraph 215 and it is beyond the remit of Historic England (or in this case the Council's Conservation Officer) to assess whether this has been demonstrated.

This is certainly correct, as the justification embodied in paragraph 215 is a planning judgement that inevitably takes in non-heritage issues in the weighing of public benefits.

Indeed, in the Edith Summerskill House case, on the basis that Historic England had incorrectly considered the requirement for 'clear and convincing justification' (with the Inspector essentially taking the position that it is for Historic England to assess the level of harm but not to take a view on whether it is justified or not, as this is embodied in the tests at paragraphs 201 and 202 (as they were then), which lie outside their remit) the Inspector was of the opinion that, *'very little weight can be attached to the views of Historic England, in this particular case'* (paragraph 12.63).

The Conservation Officer has taken just such an incorrect approach in this case and this must similarly and severely limit the weight that can be attached to their consultation response.

The Conservation Officer's response makes references that *"no evidence has been provided to substantiate this claim"* in relation to the beneficial impact on the listed building and subsequently, it is alleged *"no convincing argument has been made to demonstrate that any public benefit arising from the carbon reduction of the proposal."*

Setting aside the obvious overreach, this betrays a continued woeful understanding of the NPPF. It completely ignores paragraph 167 of the NPPF which requires *"Local planning authorities should also give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings"* and paragraph 168 which explicitly confirms:

"when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future; and

b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions.”(My emphasis)

The Conservation Officer, writing on heritage matters alone, is not capable of reaching a conclusion on the balance in paragraph 215. This is for the Planning Officer. If the conclusion of the under paragraph 215 is that the public benefits do outweigh the harms to heritage significance, then the test is met and the scheme is compliant with national policy to protect designated heritage assets and the duty under s. 66(1) of the T&CP (LB & CA) Act 1990 is met. Not only has the Conservation Officer's consultation response failed to recognise this, its author has imposed an additional test of seeking alternative locations for residential development away from heritage assets.

As a consequence, their conclusion that the proposal is in conflict with national policy is not one that is either justified or, even, open to her. The Conservation Officer's response, if it has value at all, is to inform the Planning Officer's conclusion on the paragraph 215 balance by assessing the degree of impact on the heritage significance of the asset in question. It is not to usurp the planner's judgement under paragraph 215. Moreover, if you as the Planning Officer were to embrace the Conservation Officer's approach, your decision would be unlawful having failed to take into account a powerful material consideration. Unfortunately, the Conservation Officer's worrying misunderstanding of relevant heritage policy follows through directly into their overall position rendering neigh on useless to you.

If you have any queries or would like any additional information, please do contact me.

Yours sincerely

