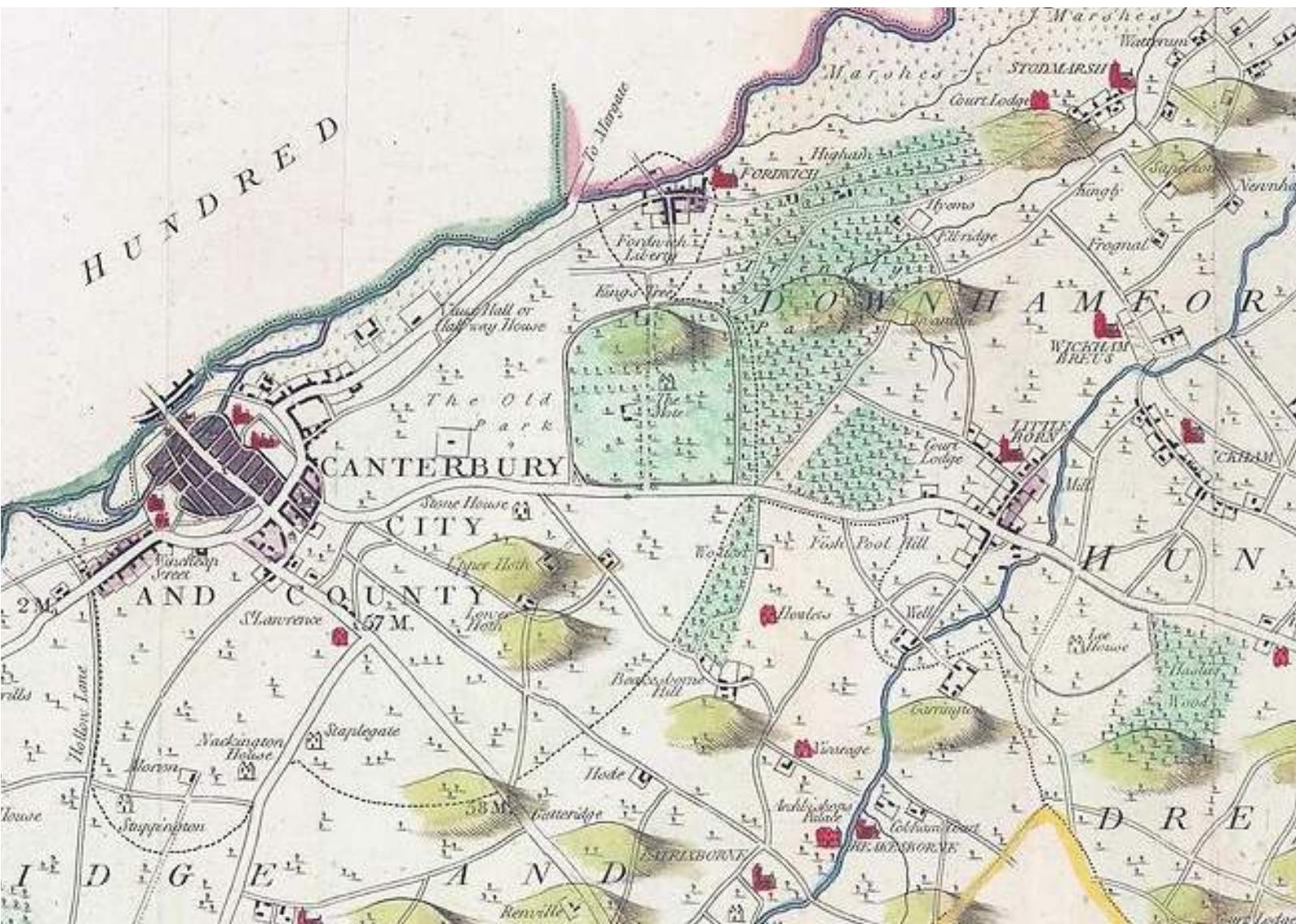




HERITAGE IMPACT FTC TOPIC PAPER NO. 3



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Introduction

1. This topic paper deals with the subject matter of heritage and heritage assets in and around Fordwich. It includes ancient woodland, the status of which has been fundamentally ignored and/or misunderstood by CCC.
2. There has been no assessment, let alone *proper* assessment of the impact on heritage assets of the currently preferred route of the Eastern Bypass (now referred to in the Draft Local Plan as an “Eastern Movement Corridor”). Indeed, we pause to observe that in regard to Archaeology & Heritage, Stantec's report at para. 6.1.18 states:

“There are no statutory heritage sites affected by either (sic) alignment. At this stage, data from the Historic Environment Record has not been accessed. Both options pass over the historic Roman road and it is likely that archaeological remains will be present. A desktop archaeological report should be considered to determine if there are further archaeological features which may affect the alignment of the bypass routes. Further surveys such as geophysics and trial trenching are likely to further inform route alignment during outline and detailed design.” [Underling added]

3. That statement as to the absence of heritage sites affected by the currently preferred route is, of course, incorrect.
4. This Topic Paper should not be regarded as a substitute for the work which CCC should but has not carried out. It does however demonstrate the substantial heritage harm that would result should the currently preferred route be pursued. It also demonstrates that the currently preferred route causes the most harm to heritage assets of the three routes explored by Stantec. (It is curious why the report extract above refers to “*either*” alignment when Stantec had been given three routes to assess “feasibility.”)
5. Whilst this Paper focuses on the area in and around Fordwich, it is plain that the whole plan is fundamentally flawed in terms of its approach to heritage. It is evident at the outset that (i) in seeking to meet its full Objective Assessed Housing Need (“OAN”), (ii) adopting

its transportation strategy and (iii) in selecting the currently preferred Eastern Bypass route adjacent to Fordwich as contained in the Reg. 18 Draft Local Plan; the Council has failed to discharge its legal and policy duties as summarised below in respect of heritage: More specifically, no account or assessment has been made of the adverse impact on heritage assets in and around Fordwich caused by adopting (i)-(iii).

6. A separate Topic Paper deals with Archaeology (FTC Topic Paper No. 4) in and around Fordwich but these are of course also heritage assets.

Legal and Policy Framework

7. Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990 defines conservation areas as “areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance” Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes general duty as respects conservation areas in the exercise of planning functions, so that: “In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in [the Planning Act], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”
8. As the guidance issued by Historic England: “The Local Development Plan and Heritage” makes clear, development plans must be prepared with the objective of contributing to sustainable developments (section 39 (2) of the Planning and Compulsory Purchase Act 2004) (National Planning Policy Framework 2021 (NPPF) para 16(1)).
9. They should therefore be consistent with the principles and policies set out in the NPPF which defines “sustainable development” (see e.g. NPPF para 8(c)). The NPPF contains: objectives for planning (including the objective of protecting and enhancing the historic environment); specific policies about certain topics (including conservation of the historic environment); and specific policies on what local development plans should contain. Local Plans must align with those objectives and adhere to the specific policies in order to be adopted. More specifically the NPPF provides as follows:

“6. Conserving and enhancing the historic environment

189. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value 66. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations 67.

190. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

(a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

(b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;

(c) the desirability of new development making a positive contribution to local character and distinctiveness; and

(d) opportunities to draw on the contribution made by the historic environment to the character of a place.”

10. The NPPG provides:

Plan-making: historic environment

What is a positive strategy for the conservation and enjoyment of the historic environment?

In line with the National Planning Policy Framework (paragraph 185), plans should set out a positive strategy for the conservation and enjoyment of the historic environment. In developing their strategy, plan-making bodies should identify specific opportunities within their area for the conservation and enhancement of heritage assets, including their setting. This could include, where appropriate, the delivery of development that will make a positive contribution to, or better reveal the significance of, the heritage asset, or reflect and enhance local character and

distinctiveness with particular regard given to the prevailing styles of design and use of materials in a local area.

The delivery of the strategy may require the development of specific policies, for example, in relation to use of buildings and design of new development and infrastructure. Plan-making bodies will need to consider the relationship and impact of other policies on the delivery of the strategy for conservation.

Paragraph: 003 Reference ID: 18a-003-20190723

Revision date: 23 07 2019” [Underlining added]

11. “Setting” is broadly defined in NPPF’s glossary as:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

12. The courts have emphasised the importance of considering the surroundings (see e.g. *James Hall v Bradford MDC* [2019] EWHC 2899 (Admin)¹). This means that in this case, the impact of the proposed current route of the Eastern Bypass on the setting of listed buildings and the Fordwich Conservation Area must always be assessed. But it has not been. To give just one obvious example for Fordwich; “Fordwich House” lies at the south end of Fordwich, with the old 17th-century walls extending along the western border. These walls can be seen when walking towards Fordwich from Canterbury along both National Cycle Route 1 and the former old goods route from St Martin’s Church. The Eastern Bypass as proposed would disrupt and destroy this setting.

13. The Eastern Bypass’s impact on the setting of this Fordwich House (along with all of Fordwich’s other heritage assets) is likely to be adverse but has not been assessed and in

¹ The court quashed a planning permission on the basis that the Council had failed to consider the impact of development on the setting of a heritage asset. In this case the Council had granted consent to demolish an old fire station and construct a food retail unit with parking. The site was adjacent to, but not within a conservation area. The court found that the development would affect the setting of a heritage asset.

breach of the statutory obligations on CCC in making decisions in respect of the Plan.² When assessing what constitutes “harm” to a heritage asset, the NPPF (paragraphs 193 – 202) categorises harm into three areas: substantial harm; less than substantial harm; and no harm.

Fordwich and Its Surrounds

Heritage Overview

14. The entire town of Fordwich is a Conservation Area, an area that the Council has recognised as being of special architectural and historical interest.³ The original size of the Fordwich Conservation Area was extended in 1993 expressly to recognise the wider character of Fordwich and the importance of the land included within the extended area to preserve the historic character of Fordwich. The then Director of Planning of CCC reported why it was “desirable to preserve or enhance by their designation as conservation areas.”⁴
15. There are 23 listed heritage assets in Fordwich, including the Grade 1 listed Church of St Mary and two Grade 2* listed buildings. The Eastern Bypass would decimate the conservation area and is entirely inconsistent with its statutory protection – it would cause substantial harm to threaten the justification of the Conservation Area designation itself.

Fordwich and Its Historic Relationship to the Canterbury

16. There are bodies of work available written by KH Macintosh – *Fordwich. The Lost Port* (1975), and Roger Clayton – *Fordwich. Britain’s smallest town* (2017), which underline and expand the brief summary of the heritage of Fordwich given below.⁵

² See e.g. The Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004, the 1990 Act requires local planning: “have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest” and: “to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.”)

³ Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁴ Minutes of 1993 CCC Planning Committee.

⁵ Work is also being undertaken on the individual buildings in the town, the results of which will be available soon.

Early History

17. Very recent work is indicating the existence of people working flint tools in pre-Neanderthal times. The collection of flint axes held at Quex Park and the Herne Bay Museum, along with the recent work being undertaken by Durham University, indicate occupation in the area about 120,000 years ago. This is addressed in more detail in the Archaeology FTC Topic Paper No .4.

Well Lane was the most likely route for the Iron Age settlement to the south of the town on the ridge, to collect fresh water from the spring and access to the river. This community may have been wiped out when the Romans attacked Bigbury Camp. There is evidence that the Romans had a quay on the Northern bank of the river in Westbere. There is also evidence that it was a significant emporium through the seventh to eleventh centuries, in line with Ipswich, London and Southampton. Trading routes spanned the North Sea and the channel. In recognition of their role, the town was exempt from the payment of tolls.

Connected to, but Separate from, Canterbury

18. Fordwich claims its fame as the smallest town in England but was once the principal port for Canterbury, trading directly with London and the Channel Ports to the Continent. The eventual silting up of the waterways led to inevitable decline, but during the medieval period, it was a bustling port, trading in Caen stone for the great religious buildings alongside commodities such as wine, pepper, spices, wool and cloth, much through the Grade 2* listed building now known as Watergate House.
19. Evidence for the mid-late Saxon and medieval settlement have been recorded, alongside an earlier Roman settlement. Today, Fordwich's streets preserve many Listed Buildings, including the famous Grade 2* Town Hall dating from the early fifteenth century. It was also the front door for people visiting or leaving Canterbury. The church holds a heart shrine to a crusader who sailed from Fordwich; Pilgrims will have landed here on their way to the shrine of St Thomas a Becket – there was a pilgrim cross in the church; Queen Elizabeth I was supplied with fruit by her fruiterer, taken up the Thames. *The King's Men* travelled by boat to perform in Fordwich, leaving behind the stinking plague-ridden city of London. Historic pathways which formed part of the pilgrimage and are hugely popular today will be severed by the currently proposed route of the Eastern Bypass. Fordwich

had its own Town Hall at the Reformation, built in the first half of the sixteenth century. It remains today as the smallest continuously used Town Hall in the country. It was the centre for the administration of the Liberty of Fordwich, with the Mayor and Jurats holding jurisdiction and it remains as a court of law with a pleading bar, benches for the jury, a jury room and a prison. The buildings at the town's heart reflect the town's story. Watergate House was the base for the Bailiff of St Augustine's Abbey and carries an early seventeenth-century wall mural. As mentioned earlier, detailed work is ongoing on many of the properties. Suffice it to say that there are buildings dating from the fourteenth century (Monk's Cottages and Giveale Cottage) and more from the seventeenth century.

20. Tancrey, across the bridge and on an island in the river, has played a significant part in Fordwich's history since the fourteenth century. The Rent Hotel on King Street was the base for the import of all fortified Portuguese wines. Manor House, as well as being of interest in itself, was the home of Alfred Palmer – an artist who worked for the secret service in WW1. As the Wantsum silted up and was drained, and the Stour silted up, so Fordwich diminished in significance. But it was the opening of the Crab and Winkle Way, linking Canterbury to the sea at Whitstable in 1844, that was the final nail in the coffin for the port of Fordwich. The last commercial vessel unloaded coal in 1935.
21. As the lowest bridging point of the river, the bridge - dating from 1795 – was strengthened during the second world war to take tanks. Fordwich continued to play a significant role in the defence of Canterbury. However, the Fordwich and Canterbury have always been separate as illustrated by the fact that the two took different views. William Shakespeare is believed to have performed with the King's Players - a London-based theatre company in Fordwich in 1605. Canterbury had banned the theatre but the Town Council of Fordwich had not so that the citizens of Canterbury could walk or ride to see plays in Fordwich.

Flaws in Local Plan Approach

22. As set out above, local planning authorities including CCC are under a duty to formulate and publish proposals for the preservation and enhancement of conservation areas.⁶ Paragraph 190 NPPF states that plans should set out a positive strategy for the conservation

⁶ Section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

and enjoyment of the historic environment. This strategy should take into account the desirability of sustaining and enhancing the significance of heritage assets.

23. Policy SS2 of the Draft Local Plan states that the district's heritage assets will be preserved and enhanced and that new development should be responsive to the district's distinctive local character and history. Policy DS26 also supports the preservation of the district's heritage assets.

24. In "A Heritage Strategy for Canterbury": the Council states that:

"Canterbury City Council is committed to ensuring heritage remains central to how we deliver our services, working across the organisation to collectively achieve our ambitions."⁷

25. Later it states:

"This strategy's vision is underpinned by three core objectives: Protect, Promote and Prosper."

26. Those objectives are set out in some detail. Not surprisingly, a thorough assessment of existing heritage assets is first required. Yet, the Draft Local Plan is in flagrant breach of both the commitment and the three objectives. Heritage appears to be very far from central to the Council's approach generally (e.g. blinkered commitment to meeting OAN with no regard to the impact on *inter alia* heritage assets). The adverse heritage impact of the Draft Local Plan has not been assessed or compared with reasonable policy alternatives where the harm to heritage might be less or zero or where the policies were actually beneficial in terms of heritage impact.

27. Furthermore, the plans for the Eastern Bypass ignore these requirements and are inconsistent with national policy, policy SS2 and policy DS26 of the Draft Local Plan. The currently preferred route for the Eastern Bypass would slash the historic parish of Fordwich in half by cutting across both Well Lane and Moat Lane. It would also cut through much of the Fordwich Conservation Area, and the Conservation Area as a coherent entity would cease to exist. In addition, many of the listed buildings in Fordwich

lie to the south of the town, and the setting of these assets would be irretrievably harmed by placing a busy bypass directly to the south of them.

Severance of Historic Footpaths

28. The Eastern Bypass seeks to cut this community in two, leaving access between the two parts to pedestrians and bicycles along historic trade and religious routes linking Fordwich with Canterbury. This is addressed in more detail in FTC Footpath/Cycleway Severance Topic Paper No. 2.

Ancient Woodland

29. The currently proposed route would devastate an ancient woodland – Trenley Park Wood:

“The southeast of England has approximately 40% of the country’s Ancient Woodland, 4,394 hectares are within Canterbury District. Areas of Ancient Woodland are found right across the district, of historic significance in their own right and also for the heritage assets preserved within.” A revision of the *Ancient Woodland Inventory for Canterbury district, Kent Report and Inventory Maps* August 2012. [Underlining added]

30. They are also incredibly important for biodiversity:

“Ancient woods are irreplaceable habitats and essential biodiversity reservoirs that provide important ecosystem services. Ancient woodland covers a tiny fraction of the UK’s land mass and soils are a vital component, as the time (centuries or millennia) these soils have taken to form and their relative lack of disturbance means they are hugely complex and diverse.” [Underlining added] (See Annex A *Woodland Trust: Wood Wise • Woodland Conservation News • Spring 2016*).

31. This is echoed in the advice given jointly by Natural England and the Woodland Trust:

“Ancient woodland

Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat. It is a valuable natural asset important for:

- wildlife (which include rare and threatened species) - there is also standing advice for protected species
- soils
- carbon capture and storage
- contributing to the seed bank and genetic diversity
- recreation, health and wellbeing
- cultural, historical and landscape value.” [Underlining added]

32. Ancient woodland represents a high quality, high value irreplaceable habitat which benefits from a higher degree of protection than SSSI. Whilst according to NPPF paragraph 180 development resulting in the loss or deterioration of ancient woodland should only be permitted if there are “wholly exceptional” reasons, the protection afforded to SSSIs is far lower; development affecting SSSIs should “not normally be permitted.”

33. The Eastern Bypass would also decimate Sandpit Wood, an area of woodlands subject to a Tree Preservation Order, designated by CCC as being of high landscape value. The Preservation Order further notes that the woodlands are of local importance for nature conservation.

34. No assessment has been made of the impact on the ancient woodland although as stated above the impact would be devastating to the woodland.