

## **Hearing Statement**

Horsham Local Plan Examination  
Matter 9, Issue 2 (Q11)

On behalf of  
Mr Ben Spiers (Response ID: 1211271)

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## Contents

1.	Introduction .....	1
2.	Matter 9, Issue 2 (Q11).....	2

## Appendices

- A. Heritage Statement from Orion Heritage
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## 1. Introduction

- 1.1 This Hearing Statement is submitted on behalf of Mr Spiers who is the owner and occupier of The Old Rectory, Rusper and will be directly impacted by the proposed allocation under Strategic Policy HA15 (RS1) (“the allocation”) included within the submission Horsham Local Plan (“the sHLP”). It should be read in conjunction with the Heritage Statement provided at Appendix A by Orion Heritage, written by Mr Robin Sheehan (Principal Built Heritage Consultant) who will also be appearing on behalf of Mr Spiers at the hearing.

## 2. Matter 9, Issue 2 (Q11a)

2.1 The question raised by the Inspector in respect of this matter is:

**“Is Strategic Policy HA15: Rusper Housing Allocations sound? RS1?”**

2.2 Policy HA15 - RS1 is not sound because having regard to the tests set out by Paragraph 35 of the National Planning Policy Framework (NPPF) the policy is not:

- Justified – the allocation of land at Rusper Glebe is not justified as its allocation will cause significant heritage and landscape harm which could be avoided by allocating other sites within Rusper assessed as causing less harm.
- Consistent with national policy – the proposed allocation is not consistent with national policy having regard to Section 16 of the NPPF which advises that great weight should be given to the protection of heritage assets and the statutory duty set out within Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the desirability of preserving or enhancing the character or appearance of Conservation Areas and the setting of listed buildings.

### **Why is the Policy not justified?**

2.3 The allocation is not justified because its development would be more harmful in landscape and heritage terms than other available opportunities within Rusper (or other locations nearby).

2.4 As set out within Appendix A, development resulting from the proposed allocation will have a detrimental impact on the setting of several heritage assets, including the Grade I listed Parish Church, St Mary Magdalene, and the Rusper Conservation Area (within which it sits). Rusper Glebe allows these buildings to be enjoyed within their context and provides visual relief to the northern part of Rusper.

2.5 Horsham District Council’ Cultural Heritage Assessment (HCHA) (**Examination Ref: EN09**) supports the findings of Appendix A and ascribes a high value to the significance of St Mary Magdalene and Rusper Conservation Area. Table 61 of the HCHA assesses St Mary Magdalene and the Grade II listed Rusper War Memorial as having a high sensitivity to change. It indicates that allocation of Rusper Glebe will cause a medium adverse magnitude of change to the setting of these heritage assets. Due to the sensitivity of these buildings and Conservation Area, this change is then ascribed to be significant at the highest end of the scale utilised by the HCHA. It goes on to recommend that studies should be carried out to ascertain whether The Old

Rectory is a non-designated heritage asset. As set out within Appendix A, our view is that The Old Rectory is a non-designated heritage asset.

- 2.6 The HCHA also indicates that Rusper Glebe is within an area of high archaeological potential and recommends that further field studies are undertaken to inform the future density of the development. It is not clear whether this work has been undertaken so that it may inform future density of the development.
- 2.7 As a minimum and as part of any site assessment work, the HCHA recommends (inter alia):
- Any new development to the north of the church should preserve and enhance the historic relationship between the church, The Old Rectory and the Glebe.
  - Properties immediately surrounding the site should be assessed to understand whether they could be considered as non-designated heritage assets e.g. The Old Rectory and Ghyll Manor.
- 2.8 The development of 12 dwellings within the immediate setting of the Grade I Church and its Rectory will clearly not preserve or enhance their historic relationship. Indeed, it will unavoidably and demonstrably worsen their relationship by dividing and domesticating a site from within which that relationship can be appreciated.
- 2.9 In relation to the second recommendation of the HCHA, it appears that the Council agree that The Old Rectory is a non-designated heritage asset by recognising this with the Horsham Site Assessment Report (HSAR, Examination Ref: H11). However, we note that HA15 - RS1 does not refer to the importance of protecting the setting of The Old Rectory (despite the advice of the HCHA and HSAR). There appears to be no evidenced consideration given to the likely potential impact of the allocation on The Old Rectory. It is our view that the failure to consider the full importance of The Old Rectory and consequently the importance of the historic relationship between the Church and the Old Rectory, results in this Policy not being justified. Nor is it an approach which is consistent with national policy, as we will explore below.
- 2.10 The HCHA goes on to make several recommendations about the design of future development, which has not been included within the drafting of the Policy.
- 2.11 In our view, the significant degree of harm on the upper end of the matrices provided within the HCHA report cannot be justified by the provision of only 12 dwellings. Whilst harm must be weighed by the benefits, the benefits of only 12 dwellings is ultimately limited and cannot be sufficient to justify causing significant and permanent harm to irreplaceable heritage assets,

particularly where there are other available sites within Rusper that would cause no heritage harm.

- 2.12 The lack of justification for this Policy is further exemplified by the failure of the Council to carry out the other recommendations of the HCHA study, including archaeological field studies and thorough assessment of the heritage importance of The Old Rectory and the contribution that the Glebe makes to the historic relationship between it and the Church.
- 2.13 Whilst our view is that no development would be acceptable in this location, the decision to allocate the site for 12 dwellings does not either appear to be fully thought through or justified. Across a site of 0.6 ha. this clearly leaves no room for the recommendations of the HCHA to be addressed, nor any room environmental considerations including the protection of trees and achieving Biodiversity Net Gain.
- 2.14 Whilst noting that the HCHA advises that any new development to the north of the Church should preserve and enhance its setting, we would also note that HA15 - RS1 requires that any future planning application should also *"Take account of any informal recreational use of this area and provide any necessary mitigation."* It is not clear what mitigation this refers to, but if intended to refer to mitigation on site, it is difficult to see how each of these competing elements can be incorporated, whilst ensuring that the historic relationship between the Church and The Old Rectory can be preserved.
- 2.15 In this respect we question whether the density of 20 dwellings per hectare is justified in any way having regard to the findings of the HCHA and potential impacts on the relationship between the Church, The Old Rectory, the Glebe and any archaeological interests. It is difficult to see how this density of housing can be achieved whilst also taking account of the requirement to protect the setting of listed buildings and Conservation Area along with the provision of some public access.
- 2.16 The Horsham Landscape Capacity Assessment (Examination Ref: EN08) for Small-Scale Housing Development (HLCA) identifies Rusper Glebe as having no or low capacity for development. The HLCA indicates that important characteristics of this area includes, the historic interest of the Church and historic settlement, including panoramic views of the Church from the wider landscape. The open space provided by Rusper Glebe is important to the appreciation of the Grade I Church from within the wider landscape.
- 2.17 Whilst Rusper Glebe is now in private ownership, it is important to note that Paragraph 18a-013 of the Planning Practice Guidance on the Historic Environment confirms that *"The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance."* Therefore, irrespective of any legal right for people to access the land, the contribution that Rusper Glebe makes

to the setting of the Church, Rectory and Conservation Area, clearly continues to be important.

2.18 Consequently, our view is that the proposed allocation has been identified within a part of Rusper that is likely to cause a high degree of landscape and heritage harm. Therefore, it cannot be justified, even based on the Council's own background evidence, as explored above.

2.19 However, there is a particular lack of justification in this case, because there are other sites promoted within Rusper of a similar size that would cause no heritage harm and would be located within an area with a higher landscape capacity and that continue to be actively promoted by landowners, such as at Pucks Croft Cottage (SA737) (Response ID 1193779). The allocation of an alternative site, of which there are some available, with reference to the Council's evidence base, would avoid this heritage harm entirely. Consequently, there appears to be no justification for this allocation and therefore it fails to be in accordance with Paragraph 35 of the NPPF and should be deleted.

**Why is the Policy not consistent with National Policy?**

2.20 Appendix A provides a summary of relevant national policy and legislation in relation to the protection of heritage assets.

2.21 With reference to Appendix A, our view is that the allocation of Rusper Glebe for 12 dwellings fails to be consistent with Paragraph 196 of the NPPF which states that plans should have regard to the "desirability of sustaining and enhancing the significance of heritage assets". As set out within Appendix A and as further evidenced by the HCHA, allocation of Rusper Glebe will cause harm to heritage assets, include a Grade I listed Church and Conservation Area. As explored above, this harm has not been justified.

2.22 Paragraph 205 states that when considering the impact of development proposals on designated heritage assets, great weight should be given to their protection. Any harm to their significance should require clear and convincing justification. For the reasons we have set out above, our view is that no clear or convincing justification has been provided for the harm that is likely to be caused to the designated and non-designated heritage assets.

2.23 Paragraph 208 goes on to say that where harm is less than substantial, this should be weighed against the public benefits. Whilst measuring the degree of harm is not possible until a Planning Application has been made, what is clear is that the proposal will have relatively limited public benefits, which are described as neutral by the HSAR. The HCHA and Appendix A would indicate that the harm would at least be less than substantial to the Grade I Church and Conservation Area. It is therefore difficult to see how a Planning Application for 12 dwellings would be able to comply with Paragraph 208 and the balancing exercise based on the limited benefits.

- 2.24 Paragraph 209 requires a balanced judgement to be taken when considering the harm to any non-designated heritage assets. Again, we would assert that the allocation at present is not based on a balanced judgement of harm to The Old Rectory. Whilst the HSAR references The Old Rectory, it is not clear from the Council's evidence base whether any assessment of the likely impact of the allocation on the setting of The Old Rectory and its relationship with the Grade I Church has been undertaken. The HCHA does not consider this matter in any detail, we would question whether this matter has been assessed at all. Furthermore, we would note that the Policy as drafted does not reference the need to preserve the setting of The Old Rectory as a non-designated heritage asset.
- 2.25 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that in the exercise of their functions, Councils should have special regard to the desirability preserving or enhancing the character or appearance of that area. The allocation will plainly not preserve or enhance the character of the Conservation Area. This is supported by the HCHA, which indicates that the significance of the impact will be at the top end of the matrices utilised.
- 2.26 Reference in HA15 - RS1 that the future planning application should only have 'regard to' the Listed Buildings is watering down of the national and legal requirements summarised in Appendix A, that will help to absolve a future developer of their responsibility to address heritage matters in full. This wording also does not reflect the findings of the HCHA report which provides some very clear recommendations of how any future development of this Site should be taken forward. Fundamentally this should be on the basis that it preserves and enhances the historic relationship between the Church, The Old Rectory and the Glebe. Whilst we believe that the allocation is not sound, any stipulations within the Policy should be based on those outlined in the HCHA which make it clear that future proposals will need to respect the relationship between the Church and its Rectory.
- 2.27 For the reasons above, the proposed allocation is not consistent with national policy having regard to Section 16 of the NPPF which advises that great weight should be given to the protection of heritage assets and the statutory duty set out within Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the desirability of preserving or enhancing the character or appearance of Conservation Areas and the setting of listed buildings.



## Appendix A

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November 2024

Prepared by Robin Sheehan MSc

## Land at Rusper Glebe, Rusper SA080. Built Heritage Technical Note. Horsham Local Plan Examination Matter 9, Issue 2 (Q11)

### Introduction

- 1.1 This Built Heritage Technical Note is submitted as an appendix to the Hearing Statement submitted on behalf of Mr Spiers who is the owner and occupier of The Old Rectory, Rusper and will be directly impacted by the proposed allocation under Strategic Policy HA15 (RS1) ("the allocation") included within the submission Horsham Local Plan ("the sHLP").
- 1.2 The Built Heritage Technical Note summarises the key heritage considerations in relation to Land at Rusper Glebe, Rusper, West Sussex. The proposed allocation site ("The Site") is located at grid reference TQ 67416 94609 and is shown in Figures 1 – 8. The Built Heritage Technical Note identifies built heritage assets with the potential to be impacted by the proposed allocation of the site and its future development. This summary of potential impacts relates to built heritage assets only. An assessment of archaeological impacts from development of the site is beyond the scope of this report.

### Location and Description

- 1.3 The site is C- shaped in form and covers an area of approximately 0.45ha in area. It consists of rough pasture and is surrounded on all sides by a mixture of mature trees, hedgerows and other vegetation. Located centrally within the plot, but not forming part of the site is 'The Rectory' which dates from the early 1980's and has no value in heritage terms. The site is situated within Rusper Conservation Area which contains numerous designated and non-designated built heritage assets, several of which are located in close proximity to the site (Figure 2). The site is located immediately north of The Parish Church of St Mary Magdalene (NHLE 1026946) and forms a part of its setting in this location. The church is Grade I listed, denoting its high level of architectural and historic special interest. The church's Grade I designation also illustrates that it is also particularly sensitive to change within its immediate and wider setting. To the immediate



west of the site boundary is 'The Old Rectory' which is not listed or Locally Listed, but dates to the early-mid 19<sup>th</sup> century and is considered a Non-Designated Built Heritage Asset. Although The Old Rectory has undergone a level of alteration, this is largely restricted to a single storey extension on the north-west of the building. The historic core of the building remains intact allowing for an appreciation of its historic architectural detailing (Plate 3). Similarly, the historic planform of this part of the building has been retained allowing for an understanding of its historic usage patterns. Based on a review of the historic mapping, the site, to the immediate east of The Old Rectory, has always been under agricultural or pastoral use and is currently characterised as an area of open pasture. The site is shown in Plates 1 – 2.



**Plate 1**

View west from High Street illustrating the co-visibility that the Grade I listed The Parish Church of St Mary Magdalene (left of image) and the non-designated Old Rectory (right of image) share from this location. Note that the southern part of the site is located in between the Old Rectory and hedge line of the car park (arrowed).





**Plate 2**

View south across the site from the Sussex Border Path, a Public Right of Way (PRoW) and National Routeway. Based on a review of the historic mapping, this footpath dates to at least the early 19<sup>th</sup> century and would have connected Rusper and the church (left arrow) to other settlements in the west of the parish. From this location, the church also shares co-visibility with The Old Rectory's principal (east) elevation which is filtered by the trees on the right of the image (right arrow). The Rectory, with its white weatherboarding, is located on the left of the image. It dates to the 1980's and is of no value in heritage terms.



**Plate 3**

Principal (east) elevation of the Non-Designated The Old Rectory

## Planning Background and Development Plan Framework

### Planning (Listed Building and Conservation Areas) Act 1990

1.4 The Planning (Listed Building and Conservation Areas) Act 1990 sets out broad policies and obligations relevant to the protection of Listed Buildings and Conservation Areas and their settings.

1.5 Section 66(1) states:

*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

1.6 Section 69 of the Act requires local authorities to define as conservation areas any areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance and Section 72 gives local authorities a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in exercising their planning functions. These duties are taken to apply only within a Conservation Area. The Act does not make specific provision with regard to the setting of a Conservation Area, that is provided by the policy framework outlined below.

### National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)

1.7 Government policy in relation to the historic environment is outlined in Section 16 of the National Planning Policy Framework 2023 (NPPF), entitled Conserving and Enhancing the Historic Environment. This provides guidance for planning authorities, property owners, developers and others on the conservation and investigation of heritage assets. Overall, the objectives of Section 16 of the NPPF can be summarised as seeking the:

- Delivery of sustainable development;
- understanding the wider social, cultural, economic and environmental benefits brought by the conservation of the historic environment;
- conservation of England's heritage assets in a manner appropriate to their significance; and
- recognition of the contribution that heritage assets make to our knowledge and understanding of the past.

1.8 Paragraph 200 of the NPPF states that planning decisions should be based on the significance of the heritage asset, and that the level of detail supplied by an applicant should be proportionate to the importance of the asset and should be no more than

sufficient to understand the potential impact of the proposal upon the significance of that asset.

- 1.9** Heritage Assets are defined in Annex 2 as a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage assets include designated heritage assets and assets identified by the local planning authority (including local listing).
- 1.10** Designated Heritage Assets comprise: World Heritage Sites, Scheduled Monuments, Listed Buildings, Protected Wreck Sites, Registered Parks and Gardens, Registered Battlefields and Conservation Areas.
- 1.11** Significance is defined as: the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
- 1.12** Setting is defined 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.
- 1.13** The key test in NPPF paragraphs 205-208 is whether a proposed development will result in substantial harm or less than substantial harm. Paragraph 18a-017 of the supporting document, National Planning Practice Guidance (NPPG) provides additional guidance on substantial harm. It states:

*What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting. Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.*

- 1.14** Paragraph 208 of the NPPF outlines that where a proposed development results in less than substantial harm to the significance of a heritage asset, the harm arising should be weighed against the public benefits accruing from the proposed development. Paragraph 18a-020 of the NPPG outlines what is meant by public benefits:



*Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (Paragraph 7). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.*

**1.15** In relation of Non-Designated assets, Paragraph 209 of the NPPF states:

*the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

### **Built Heritage Baseline**

**1.16** A brief summary of the baseline information of the site and surrounding area is provided below.

**1.17** There are no designated or non-designated built heritage assets located within the site. Within the 500m study area there are 12 listed buildings, one conservation area and several non-designated built heritage assets. The majority of these heritage assets are contained within Rusper Conservation Area which the site is also located in and forms a key open green space within the designation. Owing to limited intervisibility through tree screening, local topography, intervening built form and historic relationships, several of these assets have a lower potential to be directly impacted through development of the site. However, several assets which may have historic ownership connections to the site or are of a higher listing denoting their increased sensitivity to change within their immediate environs have a greater potential to be impacted by the proposals. These include:

- Grade I listed The Parish Church of St Mary Magdalene (NHLE 1026946), located immediately south of the site boundary.
- Rusper Conservation Area.
- Non-Designated The Old Rectory, located immediately west of the site boundary.

**1.18** There are no world heritage sites or registered park and gardens within or proximate to the site.

**1.19** At the time of the 1842 Rusper Tithe Map (Figure 3), the land contained within the site was located within Plot 390 'Pasture' which was owned and occupied by The Reverend Peter Wood and noted as Glebe land. The tithe mapping also shows the location of 'The Old Rectory' in Plot 397 and the Parish Church of St Mary Magdalene in Plot 393 which were also in the same ownership. Whilst it is understood that the ownership link between 'The Old Rectory' and the site has been severed, the church and the land contained

within the site were in the same ownership until relatively recently. For these reasons, it is considered that the site positively contributes to the immediate setting of both the church and 'The Old Rectory' through the provision of an historic rural / agricultural context. Development of the site has the potential to have negative impact on the significance of these two heritage assets through a change within this setting.

- 1.20 The Rusper Conservation Area Appraisal (RCAA) notes several open green spaces within the conservation area that contribute to its special character and appearance. Located at the northern end of High Street, the site is noted within this character area as follows;

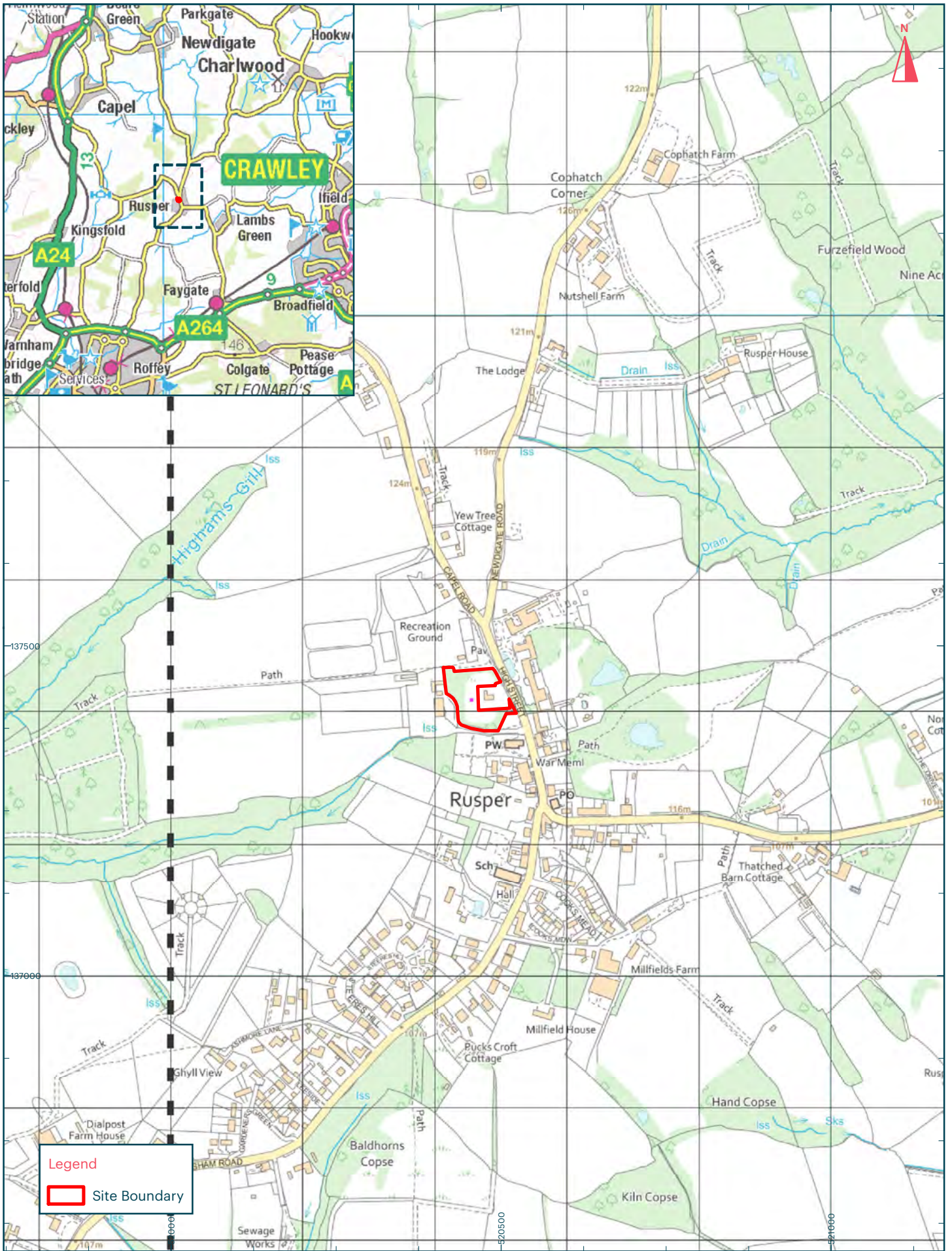
*the northern section of the High Street is characterised by large buildings set amongst large grounds, as well as open green spaces, and low density of development, especially around Ghyll Manor Hotel and the Old Rectory. The northern section of the High Street has a predominantly enclosed nature due to the spacing between the buildings and the presence of extensive vegetation and boundary walls and enclosures. Although the nature of the northern High Street is predominantly enclosed, the rural character of the area is maintained by the presence of glimpses of the wider rural landscape alongside the recreation ground, of hedge boundaries and open spaces such as the recreation ground, church yard and the grounds surrounding The Rectory.*

- 1.21 Whilst the RCAA outlines a number of key views into, out of and within the conservation area there are several other views where the site is seen in context with both 'The Old Rectory' and the church (Plate 2) which would be significantly altered should the site be developed. An historic trackway connects the church and The Old Rectory and is accessed via a footpath from the churchyard (Figures 3 – 8). These routeways are present on the earliest available mapping and form historic approach routes to The Old Rectory and the church, which have always been experienced within the semi-rural context that the site provides. Similarly, although the northern end of the conservation area is relatively enclosed, the open character of the site in its current condition allows for a visual connection to the wider rural / agricultural landscape to the west, particularly during the winter months. For the above reasons, development within these key views **has the potential to negatively affect the setting of the non-designated 'The Old Rectory,** the church and the special character and appearance of the conservation area as a whole.

- 1.22 In summary, it is considered that development of the site would be harmful to the significance of the Grade I listed The Parish Church of St Mary Magdalene (NHLE 1026946) through a negative change within its setting. Similarly, through the loss of significant open green space within the conservation area and the severance of important views out to the wider landscape and into the designation from important historic routeways, it is considered that development of the site would harm the significance of Rusper Conservation Area.

- 1.23 In relation to the non-designated The Old Rectory, it is considered that development of the site would harm the significance of the asset through the partial loss of its historic rural setting to the east which it shares with the church.



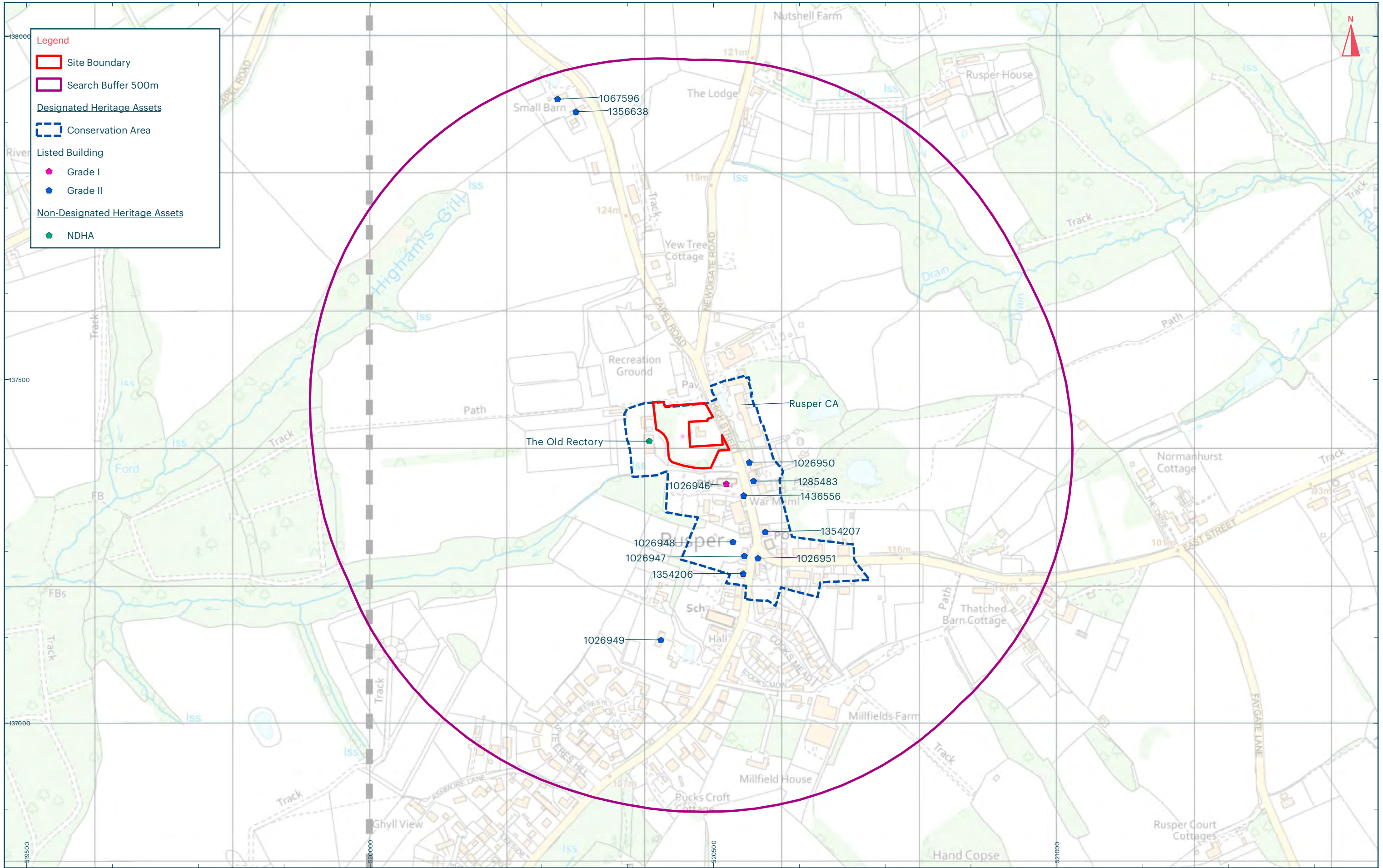


**Title:**  
Figure 1: Site Location  
**Address:**  
Land at Rusper Glebe

Scale at A4: 1:7,500







**Title:**  
Figure 2: Designated and Non-designated assets in the vicinity

**Address:**  
Land at Rusper Glebe

Scale at A3: 1:5,000

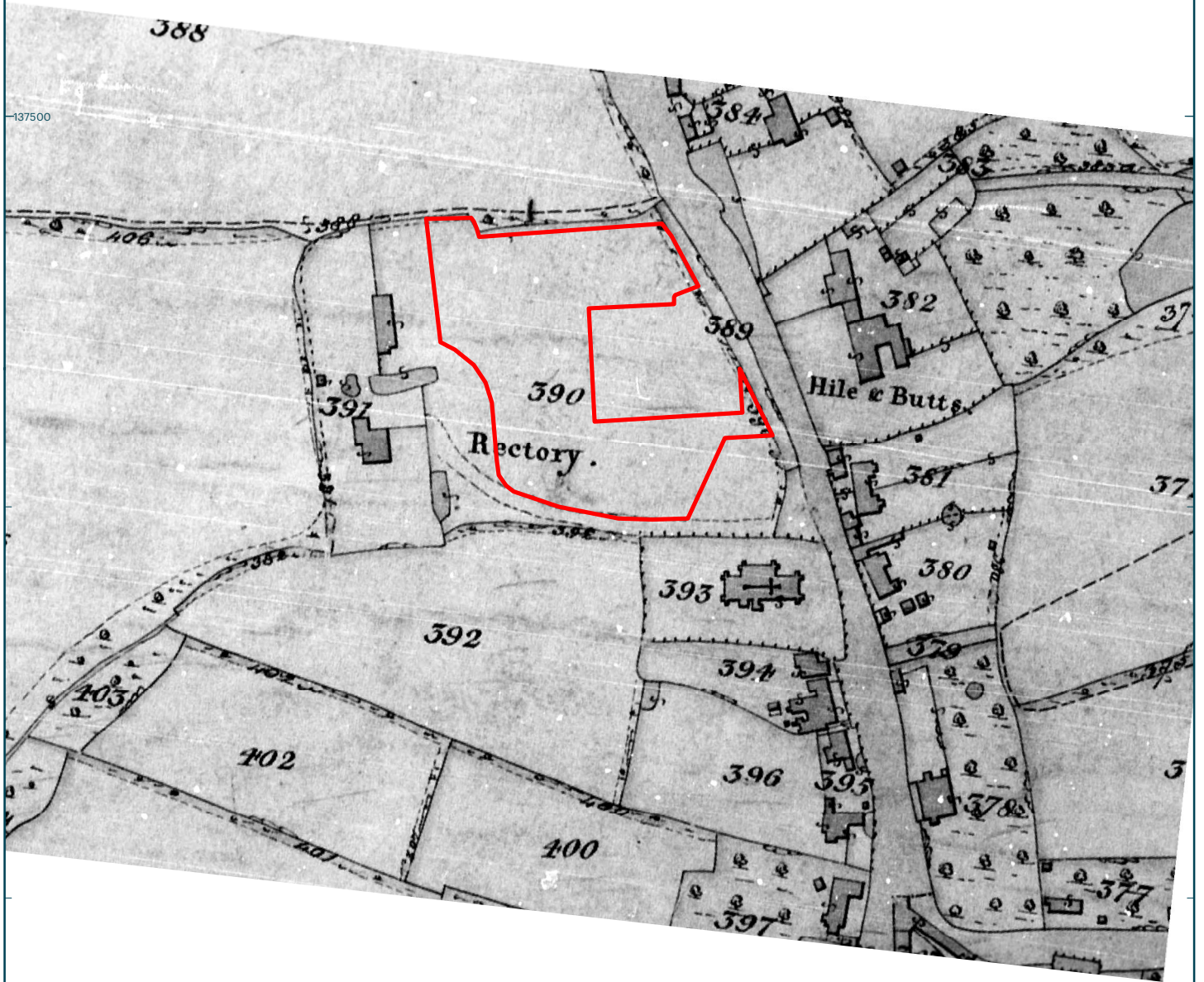






Legend

 Site Boundary

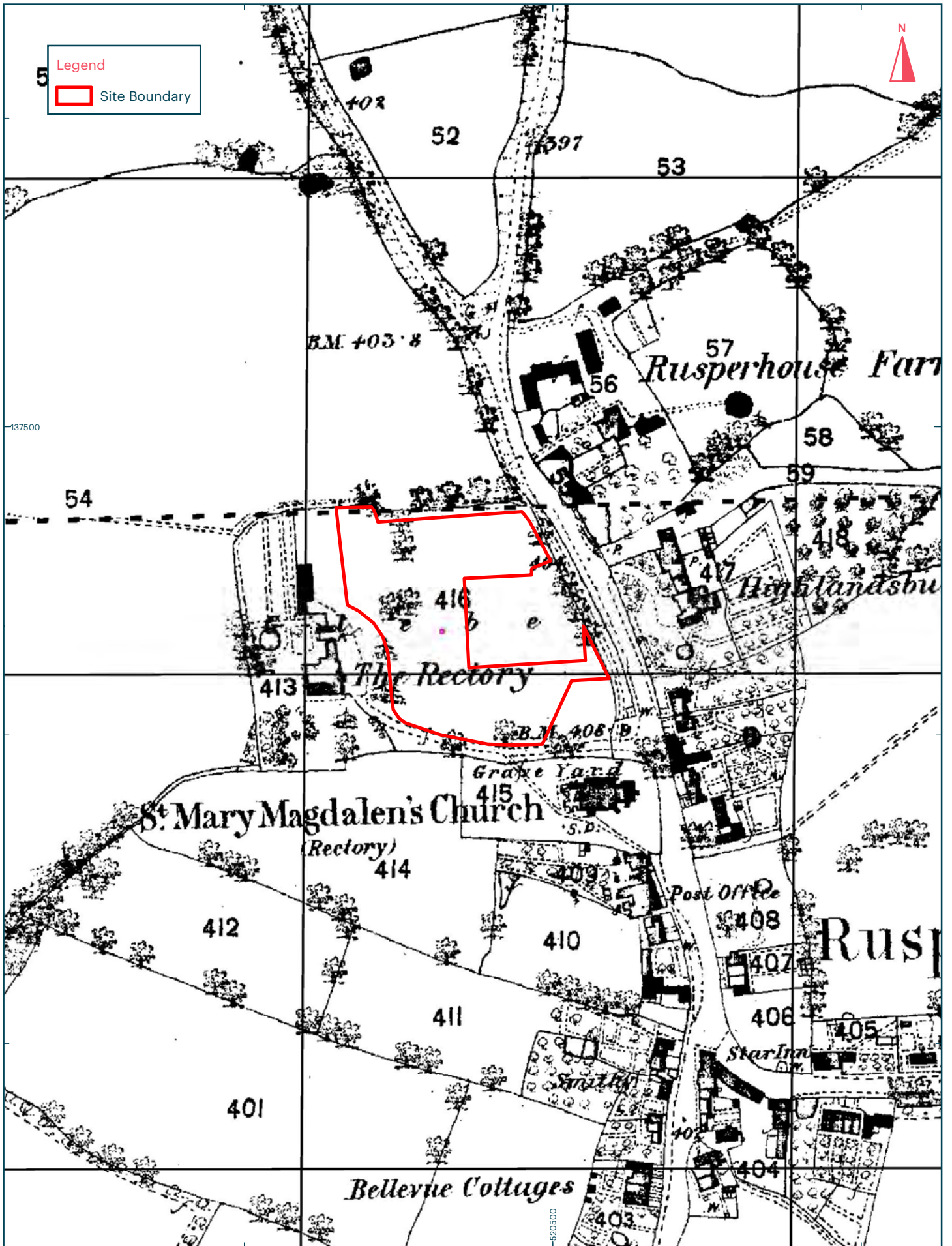


520500

Title:  
Figure 3: 1842 Rusper Parish Tithe Map  
Address:  
Land at Rusper Glebe

Scale at A4: 1:2,000





**Title:**  
Figure 4: 1875 OS map scale - 1:2,500  
**Address:**  
Land at Rusper Glebe

Scale at A4: 1:2,000



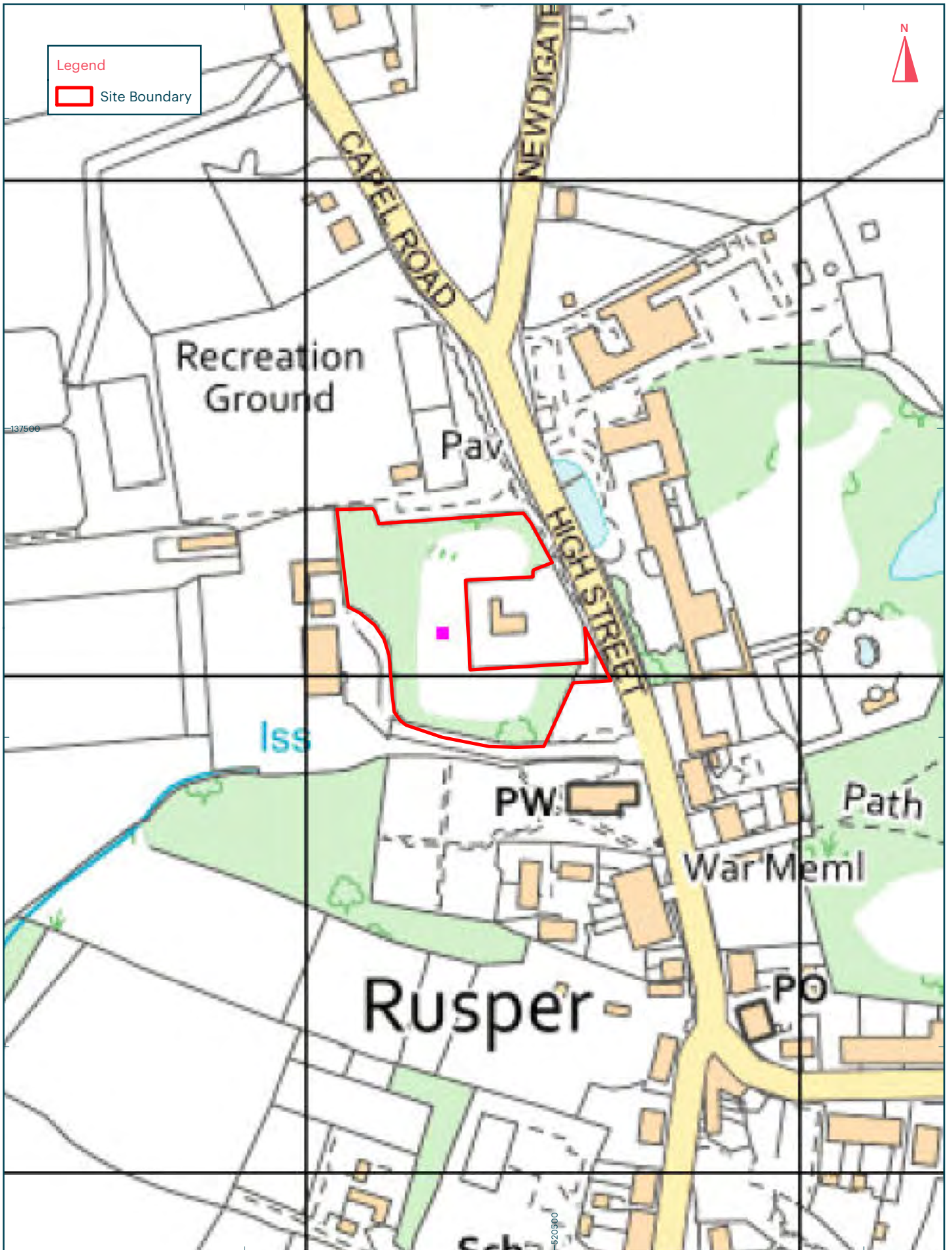












**Title:**  
Figure 8: 2023 OS map scale - 1:10,000  
**Address:**  
Land at Rusper Glebe

**Scale at A4: 1:2,000**  
0 50m

