

CLAG: the response to the officer's report and the Amendment Sheet (7 October 2026)

Christ's Lane Action Group (CLAG) asks the Committee to defer item 6 (application 26/02109/FUL), and to ask the applicant to come back with a design that avoids the harm.

The deferral should run until the High Court has heard the case on the Council's 2025 permission for the same design, on Tuesday 20 October 2026, and until the errors in the officer's report have been corrected.

If the Committee will not defer, CLAG asks it to refuse, and to ask the applicant to come back with a better application.

The Council and the College have signed a draft consent order agreeing that the 2025 permission be quashed on four grounds. At least one of the four errors has recurred in the officer's report on this application ("the report"), and a new set of errors has been introduced. The Council's Amendment Sheet of Monday 5 October 2026 ("the sheet") cures none of them.

The errors are these. Each is set out in the section of this letter that has the same number.

1. The Committee is asked to decide thirteen days before the hearing in the High Court, on a report that the Council's own skeleton argument describes differently to the Court.
2. The continued use of the listed buildings is weighed as a public benefit again, among the social benefits that the report gives "significant weight". Weighing it was the third of the four grounds.
3. There is no justification for the harm: the report tells members that the stair tower and the scale of the building are required, its own paragraphs call both the applicant's choice, no document states a requirement, and the applicant gives none.
4. The harm could have been avoided: the Council's own sheet records that the applicant was advised how to avoid it, and chose to proceed.
5. Historic England found harm from the bulk of the whole building, and the report confines it to one stair tower beside one building with no reason for the difference.
6. The tall buildings policy is declared "not engaged", when the report's own words meet it.
7. The report finds conflict with the development plan, and never decides whether the proposal accords with the plan as a whole.
8. The daylight of the shops opposite is not assessed, and the lane is given as wider than the applicant's drawings show it.
9. The temporary building in Second Court, among Grade I listed ranges, has been assessed by no officer and no consultee.
10. The report was written without CLAG's seventeen documents, and the sheet changes no finding in answer to them.

1. The Committee is asked to decide thirteen days before the hearing in the High Court, on a report that the Council's own skeleton argument describes differently to the Court

The law

The Court of Appeal has stated the test for an officer's report: "The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made." (R (Mansell) v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314 at [42], "Mansell"). The High Court has quashed a permission granted on "a duplicate planning application for the same proposal in the light of the claim for judicial review", because the new report "still did not inform the Planning Committee of the true extent of the harm which was likely to result from the proposed development" (R (Midcounties Co-operative Ltd) v Forest of Dean District Council [2015] EWHC 1251 (Admin) at [11] and [100]).

The facts

1. **The Council's 2025 permission for this design is before the High Court.** The claim is R (Christ's Lane Action Group) v Cambridge City Council, Christ's College Cambridge interested party, AC-2025-LON-004656 ("the judicial review"). Kimblin J granted permission on all four grounds by an order signed on 6 March 2026 and served on 9 March 2026. The order says of the issues the claim raises: "I consider that they are strongly arguable and merit consideration at a full hearing." (document 9462886 on the public register).
2. **The Council and the College have agreed that the 2025 permission be quashed on all four grounds.** The Council and the College signed a draft consent order on 28 April 2026. CLAG did not sign, so that the grounds receive a reasoned judgment. The Court's order of 29 September 2026 refers to "the draft consent order", and directs that the hearing "shall remain listed" for Tuesday 20 October 2026 (9541595). The report itself tells members that the Council and the College "have conceded in writing to all four grounds of challenge" (paragraph 1.15).
3. **Each of the four grounds is an error in the advice given to the Committee in 2025.** In the words of the Statement of Facts and Grounds (inside 9475597), the grounds are:
 - (a) "The Committee was materially misled as to Historic England's advice";
 - (b) "The Committee was materially misled as to the existence and/or extent of harm to the significance of designated heritage assets";
 - (c) "The Committee took into account an irrelevant consideration – optimum viable use";
 - (d) "The Committee failed to take into account a relevant consideration – the existence of less harmful alternative modes of development".
4. **In this claim the "optimum viable use" is the use the listed buildings already have.** The Council's Statement of Matters to the Court records the third ground: CLAG argued that the Council erred "as the listed buildings were already in their optimum viable use and no alternative use had been proposed" (9540128, paragraph

- 10). The Council accepts that the 2025 decision should be quashed on that ground (2.1, fact 4).
5. **The application before members is the same design.** The Council told the Court that the College “had submitted an identical application to the one challenged” (the Council’s skeleton argument for the hearing of 20 October 2026, paragraph 11).
 6. **The Council and the College now rely on this report before the Court.** The Council tells the Court that the report “specifically identifies and addresses each of the grounds in the claim” (the Council’s skeleton argument, paragraph 29). The College tells the Court that “given the latest officer’s report, there is no need for practical guidance from the Court” (the College’s skeleton argument, paragraph 18). The Council’s skeleton argument carries a statement of truth signed by its Senior Planning Lawyer on 6 October 2026, and does not mention the sheet.
 7. **The Council decided in July that the application would not wait for the Court.** The Council wrote to CLAG on Tuesday 28 July 2026: “The application is targeted to be put before planning committee on the 2 September, whether or not the High Court has issued a decision.” (9495878). On the question of an early hearing, Kimblin J’s order had said: “the College chose to enter contracts before the permission was legally secure. That was a risk which it chose to take. The College has been educating students since 1505. If it takes some additional time to review the legality of the consent, that is something which the College will manage.” (9462886).

The breaches

8. **The Council tells the Court that the report does not rely on the proposal helping to secure the “optimum viable use” of the listed buildings. The report tells members to weigh the continued use of those buildings as a public benefit, among the social benefits that it gives significant weight.** The Council’s skeleton argument tells the Court: “The OR on the resubmitted scheme does not rely upon the proposal helping to secure the “optimum viable use” of any listed buildings (para. 1.12).” (paragraph 35). The College tells the Court the same: “the OR for the Second Planning Application does not rely on OVU” (the College’s skeleton argument, paragraph 26). The “optimum viable use” of this claim is the continued use (fact 4). Paragraph 16.39 of the report, as amended by the sheet, says the new library “would help to sustain the ongoing use of the Grade I listed College buildings” and that “this is a public benefit of the scheme”. Paragraph 26.25 lists that benefit among the social benefits, and paragraph 26.26 gives the social benefits “significant weight in the planning balance”. Members cannot be asked to vote on a report that the Council itself describes differently to the Court.
9. **The Council tells the Court that an order quashes the 2025 permission. The report tells members that the Court has not quashed it, and that the permission still stands.** The Council tells the Court: “There remains a valid Order, endorsed by the Court and dated 26 August 2026, which quashes the decision granting planning permission on all 4 grounds in the claim.” (the Council’s skeleton argument, paragraph 2(1)). The report tells members that “despite the Council asking the Courts to unilaterally determine that the planning permission be quashed, the Court has not done so”. The report adds: “The planning permission still stands until such time as the Court determines otherwise.” (paragraph 1.2).
10. **The Court is told that the report answers the first ground, on Historic England’s advice. The Council’s own sheet takes Historic England’s**

agreement out of two paragraphs of that report. The Council tells the Court that the report “refers to each of HE’s consultation responses including the harm identified in the first response” (the Council’s skeleton argument, paragraph 30). The sheet amends paragraph 1.25 so that the level of harm is the officers’ and not Historic England’s, and strikes Historic England’s agreement from paragraph 16.38 (5.1, breach 9). The report as amended still gives members a narrower finding than Historic England’s, and no reason for the difference (5.1).

11. **The Court is told that the report answers the second ground, on the harm. The report finds an impact on the other Grade I listed ranges, states no degree for it, and says that design and landscaping cancel it.** The Council tells the Court that the report “is clear that there would be harm to the setting of the Bodley Library which has to be weighed against the public benefits” (the Council’s skeleton argument, paragraph 31). The finding on the other ranges is at paragraphs 16.37 and 16.38 (5.2). The “low” figure for the Bodley Library is what was left after four benefits were set against the harm (2.2).
12. **The Court is told that the report answers the fourth ground, on less harmful designs. The report weighs those designs by whether the College will build them, and never asks whether the harm can be avoided.** The Council tells the Court that the report “expressly acknowledges that alternatives put forward by the Claimant are a material consideration” (the Council’s skeleton argument, paragraph 36). The report makes the weight of those designs depend on “their viability and prospect of implementation” (paragraph 16.52). The policy’s question, and the sheet’s answer to it, are at 4.1 and 4.2.
13. **The report tells members that all four grounds have been dealt with. At least one of the four errors has recurred, and a new set of errors has been introduced.** The report says: “All four grounds of judicial challenge have been directly addressed as part of this officer report” (paragraph 16.77). The errors are at sections 2 to 10.
14. **Members are not told what the Council has told the Court.** Nothing before members says that the Council relies on this report before the Court, or what the Council has told the Court about it. The sheet’s answer to the request to wait is: “The letter is noted and in the view of officers is not considered to require deferral. Chair could not unilaterally make this decision.” (item 6). So the decision to wait is the Committee’s.
15. **Members are not told that a judgment given before the decision notice issues has to come back to them.** Permission is granted when the decision notice is issued, and officers issue the notice after the meeting. If the Court gives judgment before the notice issues, the judgment is a new consideration that bears on the decision. An officer “can only safely proceed to issue the decision notice if he is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority would reach (not might reach) the same decision” (R (Kides) v South Cambridgeshire District Council [2002] EWCA Civ 1370 at [126], as stated in Hayle Town Council v Cornwall Council [2023] EWHC 389 (Admin) at [41]).

What correction requires. A corrected report tells members that the Council relies on the report before the High Court, and what the Council has told the Court about the report and about the 2025 permission. What members are told and what the Court is told are the same.

The corrected report tells members that a judgment given before the decision notice issues has to come back to the Committee.

2. The conceded error is back, and the balance rests on it

2.1 The report breaches HE6(4) of the NPPF: it weighs the continued use of the Grade I listed buildings as a public benefit, the error of the third ground that the Council conceded to the High Court, and the Amendment Sheet kept it.

The policy

HE6(4) of the National Planning Policy Framework of 17 August 2026 (“the NPPF”) allows only benefits that result from the proposal to be weighed against its effect on a listed building. The policy says: “Where a development proposal would harm the significance of a designated heritage asset the effect on the asset and its significance should be weighed against any public benefits resulting from the proposal. Important public benefits can include securing the long-term reuse of a vacant or underused listed building, and enabling energy efficiency and low carbon heating measures to be employed.”

The facts

1. **The listed buildings are in use now, and their use does not depend on the proposal.** The applicant’s Planning Statement says “staff and student numbers will remain as per existing” (9423963, paragraph 7.99). The report says the proposal “is not considered to secure the long-term re-use of a listed building” (paragraph 1.12). The report also says that the “increase in floor area is to update the library facilities for the college and its existing number of students” (paragraph 25.4).
2. **Keeping a listed building in use is what the NPPF requires of every proposal that affects one, and is not a benefit of this proposal.** HE4(1) of the NPPF applies to “development proposals which would affect the significance of heritage assets”. HE4(1)(a) says those proposals should “Maintain or secure a use consistent with their conservation”.
3. **Weighting the continued use as a benefit was the third ground of the judicial review.** The Council’s report to its Planning Committee of 29 October 2025 on application 25/02161/FUL (“the 2025 report”) said the development “would help to secure the ongoing use of the listed buildings for their intended, educational use” (the 2025 report, paragraph 14.19). The Statement of Facts and Grounds quotes that sentence as the basis of the third ground (paragraph 72).
4. **The Council has agreed that the 2025 decision should be quashed on that ground.** The Council’s Statement of Matters to the Court says: “Having reviewed its position following the grant of permission, the Defendant accepts that the Decision Notice should be quashed on the basis of the Grounds above.” (9540128, paragraph 12).
5. **The Council defended the same words before the Court in January 2026, and then gave the defence up.** The Council’s Summary Grounds said: “Helping to secure the ongoing use of the listed buildings for their intended educational use was not an irrelevant matter.” (paragraph 41).
6. **The applicant asks for the same benefit under another name.** The applicant’s letter of 1 August 2026 says, under the heading “Optimum Viable Use”: “Whether

'optimum viable use' is used as a phrase or not, the importance of the library in sustaining the College ... is clearly a heritage / environmental benefit as well as a social one." (9481026).

The breaches

7. **The report weighs the continued use as a public benefit again, in nearly the words of 2025.** The report says: "The provision of an updated library facility for students of the College would help to support and sustain the ongoing use of the Grade I listed College buildings by providing improved, accessible library facilities." (paragraph 26.25). Paragraph 26.25 is the last of the social benefits, and the report gives the social benefits "significant weight in the planning balance" (paragraph 26.26).
8. **The sheet rewrote the paragraph and kept the benefit.** Paragraph 16.39, as the sheet amends it, says the new library "would help to sustain the ongoing use of the Grade I listed College buildings by providing improved, accessible library facilities for students and this is a public benefit of the scheme rather than a direct heritage benefit".
9. **The Council was told that the balance weighs the conceded benefit, and the sheet left the balance as it was.** The sheet lists its change to paragraph 16.39 among the changes "made in light of" the letter of 4 October 2026 from hgh Consulting (item 5). That letter told the Council that the planning balance brings the conceded benefit back under the social benefits, which carry "significant weight". The sheet does not amend paragraph 26.25 or paragraph 26.26.
10. **The report tells members that the error is not relied on, and relies on it in four places.** The report says of the third ground: "This is not, therefore, relied upon in the heritage assessment of this application." (paragraph 1.12). The four places are:
 - (a) the degree of harm, where the continued use is one of the four positive effects that the conservation officer set against the harm (paragraph 6.9; 2.2);
 - (b) paragraph 16.39, as the sheet amends it;
 - (c) paragraph 16.43, which counts as an enhancement that the new library "would facilitate the continued use of the Bodley Library for its intended purpose";
 - (d) paragraph 26.25, in the planning balance.
11. **The report states the ground correctly and then does what the ground forbids.** The report's own summary of the third ground is: "The continuation of an existing, baseline, OVU cannot lawfully be elevated into a distinct public benefit capable of outweighing heritage harm." (paragraph 1.11). Paragraphs 16.39, 16.43 and 26.25 weigh the continuation of an existing use as a public benefit.
12. **Paragraph 1.12 answers a point that nobody made.** Paragraph 1.12 says the proposal does not secure "the long-term re-use of a listed building", and that the NPPF no longer names optimum viable use. The third ground was that a use which already exists was weighed as a benefit. The name of the benefit does not matter.
13. **The sheet describes its amendment as being about public access, and the paragraph is about the continued use.** The sheet says paragraph 16.39 "is

amended in respect of public accessibility and how this is construed as a benefit” (item 5). Paragraph 16.39 does not mention public access.

2.2 The report breaches HE5(2)(c) of the NPPF: the “low” harm it gives members is what was left after four benefits were set against the harm, and the conceded benefit is one of the four.

The policy

HE5(2)(c) of the NPPF requires the degree of harm to be stated. The policy says: “The degree of harm should be identified”. The weighing of benefits comes afterwards, under HE6(4).

The facts

1. **The “low” figure is the conservation officer’s, and the officer reached it only after setting four benefits against the harm.** The conservation officer’s comments of 26 August 2026 say: “the positive effects are not considered to fully outweigh the harm. On balance, the harm is considered to be at the lower end of the scale, and therefore NPPF policy HE6 (4) is engaged.” (9505685).
2. **One of the four benefits is the continued use.** The fourth positive effect is “Sustaining the ongoing use and conservation of the grade I listed building by providing improved, accessible library facilities” (9505685; printed at paragraph 6.9).
3. **Another of the four is a benefit to a different asset.** The third positive effect is “An enhancement to the Central Conservation Area through the introduction of an architecturally superior building”. The Court of Appeal has held that benefits to other heritage assets do “not prevent “harm” being sustained by the heritage asset in question” (City and Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 320 at [78], “Bramshill”).
4. **No document states the degree of harm before the four benefits were set against it.** The conservation officer’s comments give one figure, reached “On balance”. Historic England’s letters state no degree (5.1).

The breaches

5. **The report gives members the conservation officer’s figure as the degree of harm.** The report says: “Officers consider this harm to be at the lower end of the scale” (paragraph 1.25, as amended by the sheet). Those are the conservation officer’s words (fact 1), and no other consultee gives that figure. The balance is struck against “the identified low level of harm” (paragraph 26.34).
6. **So the conceded benefit is inside the figure for the harm, and the report then weighs it again as a public benefit.** The continued use is the fourth of the four benefits listed at paragraph 6.9, and the four were set against the harm to reach “the lower end of the scale”. The report weighs the continued use again at paragraph 26.25, among the social benefits that it gives “significant weight”.
7. **On the report’s own paragraphs, two of the conservation officer’s four benefits cannot be set against the harm to the listed building.** Paragraph 16.39, as the sheet amends it, says the continued use “is a public benefit of the scheme rather than a direct heritage benefit”. Paragraph 16.44 says “the overall impact upon the listed buildings is identified separately from any impact upon the Conservation

Area". The "low" figure was reached with both set against the harm to the listed building (facts 2 and 3).

8. **The sheet now calls the figure the officers' own, and no paragraph of the report gives the officers' reasons for it.** The sheet says the report "draws its own conclusion as to the level of heritage harm" (item 1). The report's own words are only that "officers consider the level of harm arising from this aspect of the scheme to the setting of the Grade I Bodley Library to be low" (paragraph 16.35).
9. **If the report's "low" is the conservation officer's figure, two heritage benefits are set against the harm twice.** The first two of the conservation officer's four positive effects are the wider space beside the Bodley Library and the landscaping of Bath Court. The report sets the same two against the "low" harm again, as heritage benefits (paragraphs 16.70, 16.71, 26.10 and 26.11). If the "low" is the officers' own figure, the report gives no reasons for it (breach 8).
10. **The sheet says the conservation officer need not be asked again.** The sheet says: "Updated comments from the Council's Conservation Officer are not required." (item 1). So no document before members states the degree of harm without the continued use in it.

2.3 The report breaches HE6(4) of the NPPF: no benefit it weighs needs a building of this volume, mass and bulk, the same features cancel harm and are then counted as benefits, and the public access can be changed in writing after permission.

The policy

HE6(4) of the NPPF weighs the effect on a listed building against "any public benefits resulting from the proposal" (the policy's words are at 2.1). HE6(1) says the weight given to an asset's conservation should be greater "the more important the asset". These buildings are listed at Grade I.

The facts

1. **The harm comes from the building's scale and massing.** The report finds "a level of heritage harm arising from the scale and massing of the proposed development" (paragraph 16.72).
2. **A lower library on this site brings every benefit the report weighs.** The benefits the report weighs are construction jobs, the façade, the bench, the gate, step free access, public access, energy measures and rainwater storage (paragraphs 26.18 to 26.29). None of them depends on the volume, mass and bulk of the building.
3. **The library is private, on the report's own words and the applicant's.** The report describes the library as "primarily a private building for use by college students", with public access "at certain times of the year" (paragraph 26.29). The applicant's Planning Statement says: "The significantly improved facilities in new library and the associated social and dining facilities will similarly largely only benefit the Fellowship and guests." (9423963, paragraph 8.16).
4. **Condition 32 lets the public access be changed in writing after permission.** Condition 32 requires a scheme of access to be submitted after permission. Its first principle is "2 x 30 minute organised tours of the library, including the Bodley Library", with no day, week or year stated. Access is to follow the approved plan "unless otherwise agreed in writing".

5. **The applicant rates its own public benefits lower than the report does.** The applicant's Planning Statement gives four of its five public benefits the weight "Moderate" and one the weight "Minor" (9423963, section 8, table of public benefits).
6. **In 2025 the Council gave the gate and the bench "limited positive weight".** The 2025 report said of the gate and the bench: "These are attributed limited positive weight in the planning balance." (the 2025 report, paragraph 24.7).

The breaches

7. **The report never asks which benefit a lower building would lose.** The report weighs every benefit as if the choice were between this building and no library. On the Council's own record the choice is between this building and a lower one (section 4).
8. **The report uses the same features to cancel harm, and then counts them as benefits.** The three features are:
 - (a) the design, which cancels harm at paragraphs 16.38 and 26.15, and is counted as a benefit at paragraphs 26.19 and 26.28;
 - (b) the landscaping of Bath Court, which cancels harm at paragraph 16.38, and is counted as a benefit at paragraphs 16.71 and 26.11;
 - (c) the wider space beside the Bodley Library, which is said to "mitigate any further harm" at paragraph 16.36, and is counted as a benefit at paragraphs 16.70 and 26.10.
9. **The report gives weight to public access that nothing secures.** The report says condition 32 "is necessary to ensure that weight can be given to this as a public benefit" (paragraph 26.21). Condition 32 fixes no day and no hour, and allows the Council to agree to less in writing.
10. **The report counts the College's own step free access as a public benefit, on the strength of the tours.** The report says: "Given that there is proposed public access to the new library building, this is considered a public benefit of the scheme." (paragraph 26.23).
11. **The report gives the benefits more weight than the applicant does, and more than the Council did in 2025, and gives no reason.** The report gives the social benefits "significant weight" (paragraph 26.26). The social benefits include the gate and the bench (paragraphs 26.22 and 26.24), which the Council gave "limited positive weight" in 2025 on the same design.
12. **The report calls the bench and the gate "relatively minor" in one paragraph, and counts them inside "significant weight" in another.** The report says the bench and the gate "are further, albeit relatively minor, public benefits arising from the scheme" (paragraph 16.41). The planning balance places both among the social benefits, which it gives "significant weight" (paragraphs 26.22, 26.24 and 26.26).
13. **The report gives members two different totals for the benefits, and one is higher than any of the parts.** The report gives the economic benefits "limited positive weight", the social benefits "significant weight" and the environmental benefits "moderate weight" (paragraphs 26.18, 26.26 and 26.30). The report says that taken together the benefits "are substantial" (paragraph 16.76), and then that they "attract significant weight" (paragraph 26.32).

2.4 The report breaches section 66(1) of the Listed Buildings Act: it weighs harm to Grade I listed buildings under the NPPF's presumption in favour of approval, when the law puts a strong presumption against permission.

The law

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") requires special regard to the desirability of preserving a listed building and its setting. A finding of harm to the setting of a listed building "gives rise to a strong presumption against planning permission being granted" (R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin) at [49], "Forge Field").

The facts

1. **The NPPF does not displace the statutory duty.** The NPPF says of itself: "The National Planning Policy Framework does not displace the statutory obligations placed on decision-makers by virtue of, among other things, section 38(6) of the Planning and Compulsory Purchase Act 2004, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ..." (footnote 2). So the presumption in favour in Policies S3 and S4 does not take away the statutory presumption against permission.
2. **The NPPF says its three objectives are not tests.** The NPPF says of the three objectives of sustainable development: "they are not criteria against which every development proposal can or should be judged" (chapter 1, paragraph 18).
3. **The High Court has quashed a permission for this error.** In Forge Field the members had been told of the duty, and the Court held: "But this was not the same thing as demonstrably applying the strong presumption against approval in the planning balance" (at [55]). The Court said the decision had to be made "in the knowledge that there were two presumptions at work here, not just one" (at [59]).

The breaches

4. **The report weighs the heritage harm under the presumption in favour of approval.** The report reaches its conclusion by "Applying the heritage balance under NPPF Policy HE6(4) and the presumption in favour of sustainable development within Policy S3 of the NPPF" (paragraph 26.34). Under that presumption a proposal is approved "unless the benefits of doing so would be substantially outweighed by any adverse effects" (paragraph 26.2).
5. **The report tells members the presumption in favour applies before the assessment begins.** The report says there is no "conflict with national decision making policies that would otherwise outweigh" the presumption in favour (paragraph 12.3). The report itself finds harm to the setting of a Grade I listed building.
6. **The report fixes the weight of the benefits by the presumption in favour.** The report says the benefits "attract significant weight, consistent with the NPPF's emphasis on sustainable development" (paragraph 26.32). The report strikes its balance "through the three objectives which sustainable development should seek to achieve" (paragraph 26.4).
7. **The report states the statutory duty in one paragraph and does not apply it in the balance.** The report says the harm "still attracts considerable importance

and weight” (paragraph 26.5). No paragraph of the balance tells members that the harm brings a strong presumption against permission.

Error if left unchanged (2.1 to 2.4)

1. **The illegality.** Four errors of law in the balance on which the recommendation rests:
 - (a) an irrelevant consideration is weighed (2.1). That is the third ground of the judicial review;
 - (b) the degree of harm is not stated before benefits are set against it, and the conceded benefit is inside the figure (2.2);
 - (c) the same features stand on both sides of the balance, and a benefit that nothing secures is weighed (2.3);
 - (d) the decision is made under the presumption in favour (2.4). In *Forge Field* the Court held: “For those reasons the claim must succeed on this ground.” (at [60]).
2. **This is law, not judgment.** HE6(4) and HE5(2)(c) are national policy, and policy is “interpreted objectively in accordance with the language used” (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13 at [18], “*Tesco*”). Members judge how much weight a benefit carries. Members have no judgment about whether a use that already exists results from the proposal, or about counting a feature on both sides, or about whether the statutory presumption against permission is applied. On the first of those the Council has given the Court its answer.
3. **Corrected, the decision is refusal.** The report says “the above heritage benefits alone are not deemed sufficient to outweigh the heritage harm” (paragraph 26.12), so the public benefits carry the whole recommendation. Take out the continued use. Count the design, the landscaping and the space once. Apply the presumption against permission. What is left is public access “at certain times of the year” that the Council can reduce in writing, and benefits that a lower library also brings. That does not outweigh harm to Grade I listed buildings.
4. **Nothing in the report cures it.** Paragraph 1.12 disclaims the reuse of a vacant building, which nobody had claimed. Paragraph 16.15 states the statutory presumption in the heritage section, and the balance in section 26 does not apply it. No paragraph says how many times each feature is counted.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet kept the continued use as “a public benefit of the scheme”. If an officer withdraws paragraph 26.25 at the meeting, the continued use is still inside the “low” figure for the harm, and the sheet says the conservation officer’s comments “are not required”. A degree of harm without the continued use in it, and a balance struck again, cannot be given orally.
6. **The consequence.** A permission granted on this balance is unlawful, and the High Court can quash it on judicial review, as the Council has agreed the 2025 permission should be quashed on the third ground.

What correction requires. A corrected report takes the continued use out of the degree of harm and out of the benefits. The corrected report states the degree of harm before any benefit is set against it, counts each feature once, weighs the public access only as condition

32 secures it, and applies the presumption against permission. On those corrections the benefits do not outweigh the harm, and the recommendation is refusal.

3. There is no justification for the harm: the report tells members that the stair tower and the scale of the building are required, its own paragraphs call both the applicant's choice, no document states a requirement, and the applicant gives none

3.1 The report breaches HE4(2) of the NPPF: it tells members the stair tower "has a minimum height requirement", when no submitted document states one, its own paragraph 16.34 says "has chosen", and a stair is only as tall as the storeys it serves.

The policy

HE4(2) of the NPPF requires harm to a listed building to be justified. The policy says any harm to the significance of a designated heritage asset "should have a clear and convincing justification in accordance with the policies in this chapter".

The facts

1. **No document on the register says how high the stair tower has to be.** No document on the register states a fire requirement for the tower. The report refers to "the fire strategy" (paragraph 16.34), and the public register holds no fire strategy.
2. **The applicant chose how high the tower rises.** Two documents say so:
 - (a) the 2025 report said of the same design: "The applicant however has chosen to retain the current height of the proposed staircase tower." (paragraph 14.14);
 - (b) the College told the High Court that "the applicant had chosen not to reduce the height of the staircase turret" (the College's Summary Grounds of Resistance in the judicial review, paragraph 19(d)).
3. **The stair tower rises as far as the building does.** The report puts the top of the tower and the top of the parapet both at "approximately 13 metres" (paragraphs 16.32 and 13.19). The roof needs access because the applicant puts plant there: "access is required to this entire roof to serve the plant located at this level" (paragraph 14.25). The independent heritage appraisal records that the top floor holds "only a small amount of accommodation for students and larger areas of void and plant" (9458570, paragraph 19).
4. **The Council's own officer advised moving the stair away from the Bodley Library.** The Council's advice to the applicant of 19 December 2024 says: "The Urban Design Officer recommends repositioning the stairs back towards Bath Court so it is away from Bodley Library." (Appendix 3 to the applicant's Planning Statement, 9423963).

The breaches

5. **The report gives members a "minimum height requirement" as a fact, and names no document, no regulation and no figure for it.** The report says the tower "provides a form of fire escape and is the sole point of access to the roof and

therefore has a minimum height requirement” (paragraph 26.7, as amended by the sheet).

6. **The report calls the same thing a choice in one paragraph and a requirement in another.** Paragraph 16.34 says: “The applicant, however, has chosen to retain the current height of the proposed staircase tower as an alternative means of escape forming part of the fire strategy.” Paragraph 26.7 says the same tower “has a minimum height requirement”.
7. **The tower reason is circular: a stair is as tall as the storeys it serves, and the storeys are the bulk.** The building is “four storeys in height” (paragraph 13.19), and the “minimum” for the stair is the top of the building that the applicant has drawn. So the reason the report gives for the harm from the building’s bulk is the building’s bulk. The reason the report gives for the storeys is at 3.2.
8. **The reason was rewritten two days before the meeting, and no document is named for either version.** The report as published said the tower “provides a form of fire escape to the upper levels and therefore has a minimum height requirement” (paragraph 26.7). On Monday 5 October 2026 the sheet struck out “to the upper levels” and added “and is the sole point of access to the roof” (item 9). The sheet describes the change as made “to clarify the scale of the proposed staircase turret”, and the amended paragraph gives no figure for the turret.
9. **The Council was told that no document states the “requirement”, and the sheet changed the reason for it.** The author of the independent heritage appraisal told the Council on 5 October 2026 that no document states the requirement at paragraph 26.7. The sheet’s answer is the change at breach 8 (item 9). The sheet names no document, no regulation and no figure.
10. **The reason the sheet adds is access to the roof, and the roof needs access because the applicant puts plant on it.** Paragraph 26.7 gives the tower as its example of harm that “arises from the space requirements of the College and its students”. The sheet adds that the tower “is the sole point of access to the roof” (item 9). Plant on a roof is not a space requirement of students (fact 3), and where the plant goes is the applicant’s choice.
11. **The report gives no reason for where the tower stands, and does not tell members of the Council’s own advice to move it.** The report finds harm from “the scale and siting of the proposed replacement library, specifically the staircase tower” (paragraph 26.5). Paragraph 26.7 speaks only of how high the tower rises, and the report does not mention the advice at fact 4. The sheet itself records that the applicant was advised how to avoid the harm to the Bodley Library, and chose to proceed (4.1, fact 1).

3.2 The report breaches HE4(2) of the NPPF: it tells members “a building of this scale is required”, and the same paragraph puts the scale down to “the choice of the applicant”, which the report calls “sufficiently justified”.

The policy

HE4(2) of the NPPF requires the harm to have “a clear and convincing justification”. The policy’s words are at 3.1.

The facts

1. **No document on the register says the College's requirements need a building of this volume, mass and bulk.** The College's requirements for library and study space are not in issue. No document on the register says those requirements cannot be met in a lower or distributed library.
2. **The Council found in 2016 that a lower design met the College's needs.** The Council's report of 31 August 2016 on the consented design (application 16/0405/FUL, "the 2016 report") says: "The proposed new library would meet the needs of Christ's College" (summary). The report itself says the consented design is the lower building (paragraph 16.54). The Council's advice of 19 December 2024 records that the consented schemes had the larger floor area.
3. **The design applied for is higher and larger than the consented schemes.**
Three documents say so:
 - (a) the Council's advice of 19 December 2024 says: "The proposal is higher and larger in scale than the consented schemes, and the proposed scale and massing of this raises concern.";
 - (b) Historic England says: "The proposals would be bulkier than those that were previously granted consent." (letter of 29 July 2025, 9457102);
 - (c) the applicant's Heritage Statement says: "the proposed library will be of a greater scale than the existing and previously approved scheme" (9423964, paragraph 6.9).
4. **The report itself says the scale comes from where the applicant put the floor space.** The report says the consented schemes had "a basement extension as opposed to the additional floor space above ground proposed within this scheme" (paragraph 26.8).
5. **The Council found in 2016 that building below ground would not damage the listed buildings.** The 2016 report found that, subject to conditions on construction and monitoring, "the works would not result in any significant damage to the listed buildings" (paragraph 8.58).
6. **The design applied for is itself built on concrete below ground.** The applicant's Design and Access Statement says: "The new library will be supported on a piled raft foundation." (part 3, 9423962).
7. **The Master of the College said that the chimneys can start below ground, and that the College does not want to dig.** The Master told the Development Control Forum of 29 July 2026 (the DCF): "the chimneys need to be a certain height in order to achieve that ventilating effect. That height can begin beneath the ground. But as I've said many times, we do not want to dig into the ground." (the DCF record, 9540130, entry 4.13).
8. **The expert evidence on the register is that the chimneys work the same from below ground, so the whole building can be lower.** A Professor of the University of Cambridge and Chartered Engineer wrote in a comment on the register of this application: "The design could easily be transposed downward and achieve all of its stated passive ventilation objectives. Therefore ALL sustainability claims can be met with a building of lower external height."

9. **The College's numbers are not changing.** The applicant's Planning Statement says "staff and student numbers will remain as per existing" (9423963, paragraph 7.99).

The breaches

10. **The report tells members the scale "is required", and the same paragraph calls the scale the applicant's choice.** The report says: "In order to meet the current requirements for such a facility, a building of this scale is required." The same paragraph ends: "In the view of officers, the choice of the applicant to no longer pursue the basement has been sufficiently justified." (paragraph 26.8).
11. **The report tells members the consented schemes "were comparable in scale", and three documents say the opposite.** The report says: "This is highlighted by the previous Rick Mather schemes that were comparable in scale" (paragraph 26.8). The Council's own advice, Historic England and the applicant say the design applied for is higher and larger (fact 3).
12. **The report does not tell members what the Council found in 2016.** The report speaks of "current requirements" (paragraph 26.8), and names no requirement that has changed since the Council found that a lower design met the College's needs.
13. **The report gives members the applicant's reasons against building below ground, untested.** The report says the applicant's reason "has been stated to be" the basement: "This element would have required significant below ground works in close proximity to the sensitive historic fabric of the Grade I listed buildings, as well as having significant sustainability impacts through the requirement for concrete construction." (paragraph 16.53). The report mentions none of facts 5 to 7.
14. **The report's own words for its reasons are "partial explanation" and "sufficiently justified", and neither is the policy's test.** The report says the College's requirements provide "partial explanation for the heritage harm that is identified" (paragraph 26.8). HE4(2) requires the harm to be justified, and the report asks only whether the applicant's choice is justified.
15. **The sheet answers a question about this design with the need for a library.** The sheet records CLAG's point as "the lack of need for this particular design". The sheet answers: "The proposal has, as CLAG note, been submitted as the College requires updated library and study spaces for its students." The sheet adds: "The size of the building is clarified within the officer report." (item 1).

3.3 The report breaches Policy 61(e) of the Local Plan: the policy requires the applicant to justify the harm, the applicant has given no justification, and the report tells members the harm is justified.

The policy

Policy 61(e) of the Cambridge Local Plan 2018 ("the Local Plan") requires the applicant to justify the harm. The policy says proposals should "provide clear justification for any works that would lead to harm or substantial harm to a heritage asset yet be of substantial public benefit, through detailed analysis of the asset and the proposal".

The facts

1. **The applicant has given no justification for the harm, and says Policy 61(e) does not apply to it.** The applicant's Heritage Statement says Policy 61(e) "is not applicable in this case, given that the harm identified is itself outweighed by the heritage benefits/enhancements of the proposed development" (9423964, paragraph 6.22).
2. **Policy 61(e) does apply, on the report's own finding.** The applicant's reason for saying the policy does not apply is that the heritage benefits outweigh the harm. The report finds that the heritage benefits do not: "the above heritage benefits alone are not deemed sufficient to outweigh the heritage harm" (paragraph 26.12).

The breaches

3. **The report tells members the harm is justified, and does not tell them that the applicant has given no justification.** The report says: "Ultimately, there is clear and convincing justification for the heritage and other harm identified." (paragraph 26.34). The report nowhere mentions that the applicant calls Policy 61(e) "not applicable in this case".
4. **The report gives members a list of benefits as the justification, and no benefit on the list needs a building of this volume, mass and bulk.** The report says: "these benefits provide clear and convincing justification that outweighs the low level of harm" (paragraph 16.76). A lower library on this site brings every one of those benefits (2.3).
5. **The report gives members Policy 61(e) with its last words left out.** The policy requires justification "through detailed analysis of the asset and the proposal". The report gives the requirement as "through detailed analysis", and tells members the policy "reflects" the weighing of harm against public benefits (paragraph 16.14). The words left out say what the applicant has to analyse.

Error if left unchanged (3.1 to 3.3)

1. **The illegality.** Three errors of law:
 - (a) members are given reasons for the harm that no document supports and that the report's own paragraphs contradict (3.1 and 3.2). A decision taken on a report that materially misleads members on a matter bearing on their decision is unlawful (Mansell at [42]);
 - (b) HE4(2) is not applied in its terms. The report finds the harm arises "from the scale and massing of the proposed development" (paragraph 16.72). The report's reasons take that scale and massing as given, when the scale and massing are what has to be justified;
 - (c) Policy 61(e) is given to members without its last words, and is not applied (3.3).
2. **This is law, not judgment.** HE4(2) is national policy, and Policy 61(e) is the development plan. What a policy requires is a question of law for the court (Tesco at [18]). Planning authorities "cannot make the development plan mean whatever they would like it to mean" (Tesco at [19]). No officer's judgment turns a choice into a requirement, or supplies a document that is not on the register. Members can weigh a justification only where one exists.
3. **Corrected, the decision is refusal.** A corrected report tells members three things: the applicant chose the scale and how high the tower rises; a lower design met the

College's needs in 2016; and the applicant has given no justification. The harm is then unjustified, and a harm that the applicant chose is a harm that could have been avoided (section 4). DP3(3) of the NPPF says proposals "should be refused if, without clear justification," they conflict with the development plan's design standards (6.2).

4. **Nothing in the report cures it.** Paragraphs 13.15 and 26.20 say the applicant has justified the need for library and study facilities, and that need is not in issue. Paragraph 16.75 finds a conflict with Policy 61 and puts the conflict down to the harm alone. Paragraph 26.6 relies on an amendment to the chimneys, and Historic England wrote of that amendment: "The overall massing of the building remains unchanged" (letter of 1 September 2025, 9457105). No paragraph says the College's requirements need this volume, mass and bulk.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet rewrites the tower's reason and names no document. If the tower's "requirement" is withdrawn at the meeting, the report holds no reason why the harm is needed. If the "requirement" is kept, members vote on a requirement that no document states. A justification needs a document from the applicant, and nobody can supply one orally at the meeting.
6. **The consequence.** A permission granted on these reasons is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report withdraws the statements at paragraphs 26.7 and 26.8 that the stair tower and the scale of the building are required. The corrected report tells members that the applicant chose both, that a lower design met the College's needs in 2016, and that the applicant has given no justification under Policy 61(e). On that record the recommendation is refusal.

4. The harm could have been avoided, and the applicant chose to proceed

4.1 The report breaches HE4(1)(b) of the NPPF: the Council's Amendment Sheet records that the applicant was advised how to avoid the harm and chose to proceed, the report gives members none of that advice, and never finds that avoiding the harm "is not possible".

The policy

HE4(1)(b) of the NPPF requires harm to be avoided wherever that is possible. The policy says proposals should "Avoid (or if that is not possible, minimise) harm to the significance of heritage assets, and instead conserve this significance".

The facts

1. **The Council's own sheet records that the applicant was advised how to avoid the harm, and chose to proceed.** The sheet says: "The applicant was given advice to mitigate/ avoid harm to the Bodley Library during pre-application discussions. The applicants have chosen to proceed with the scheme in front of members." (item 1).
2. **The Council's advice was to step the building away from the Bodley Library, as the consented schemes did.** The Council's advice of 19 December 2024 is from its conservation officer and its urban design officer (Appendix 3 to the applicant's

Planning Statement, 9423963). Its advice on the scale and on the stair is at 3.2 and 3.1. On the siting it says:

- (a) “The proposal would appear too close in terms of its siting to the Bodley Library and too busy in terms of its design and detailing, detracting and competing with the listed building.”;
- (b) “The proposed building should be stepped away from the Bodley Library and inwards from Christ’s Lane.”;
- (c) “Within the 2016/2011 approved schemes, there is a step back and larger gap between the Bodley Library and the proposed new library building which allows a better transition from the historic listed building to the new proposal.”

3. **Historic England raised its concerns about the massing with the College before the design was first applied for.** Historic England wrote of its discussions with the College before the application: “We expressed our concerns however about its massing, its relationship with the Bodley library, and made some recommendations in relation to the Christ Lane elevation, which we consider would benefit from simplification.” (letter of 29 July 2025, 9457102).
4. **The Council found in 2016 that a lower design did no harm by its scale and massing.** The 2016 report says of the consented design: “In my opinion, the scale and massing is acceptable, it would not be harmful to the character or setting of the listing buildings or the character or appearance of the Conservation Area.” (paragraph 8.27). The Council’s own conservation team had objected to the bulk of the top floor of that design, and the case officer did not accept the objection (the 2016 report, paragraphs 6.3, 8.63 and 8.65).
5. **The report itself says that no harm was identified for the consented schemes.** The report says: “The officer recommendation for both schemes does not appear to identify any harm from the proposal to heritage assets.” (paragraph 16.53).
6. **Historic England raised no issue with the scale of the consented design, and finds this design bulkier.** The 2016 report records: “Neither Historic England nor the Council’s Design and Conservation Panel raise any particular issue with regard to the design or scale of the proposal or the link bridge.” (paragraph 8.64). Historic England says the design applied for is bulkier than the consented schemes (3.2, fact 3).
7. **The consented design stood further from the Bodley Library.** The 2016 report says the consented design was “set further back at 6.4m from the Bodley Library” (paragraph 8.21). The report puts the space beside the Bodley Library now at “approximately 3.3 metres” (paragraph 16.32).
8. **The applicant’s own statement says where the bulk comes from.** The applicant’s Design and Access Statement says: “This accommodation located in the basement in the 2011 proposal has been distributed throughout the new library on the upper floors.” (part 1, 9423960, section 3.2).

The breaches

9. **The report never finds that avoiding the harm “is not possible”.** The report recites HE4(1)(b) at paragraph 16.6. The report then turns the policy’s question into a question of weight: “the weight given to these alternatives is a matter for the

decision maker. Officers consider that that is dependent upon their viability and prospect of implementation.” (paragraph 16.52). No paragraph finds that the harm cannot be avoided. The two paragraphs that come nearest are:

- (a) paragraph 1.14, which says that none of the alternatives is “suitable or feasible”. That paragraph names no document, and no need of the College that the consented design fails to meet (breach 11);
 - (b) paragraph 26.6, which says the proposal “has been amended to help to mitigate the level of harm”, and gives a change to the chimneys as its example. Historic England wrote of that change: “The overall massing of the building remains unchanged” (letter of 1 September 2025, 9457105). Reducing a harm is the policy’s second step, and the policy reaches it only where avoiding the harm “is not possible”.
10. **The report gives members none of the Council’s advice.** The report tells members only that there were “extensive pre-application discussions” (paragraph 1.20). The report says the urban design officer “has been supportive of the proposed development throughout the process” (paragraph 14.28), and does not say that the same officer advised moving the stair.
11. **The report tells members that no alternative would meet the College’s needs, and does not mention what the Council found in 2016.** The report says: “In conclusion, none of the alternative schemes are deemed to be suitable or feasible alternatives which would meet the college’s needs.” (paragraph 1.14). The report names no need of the College that the consented design does not meet.
12. **The report quotes Historic England up to the sentence that finds the harm, and stops.** The report quotes Historic England: “the removal of the basement and glazed enclosure have removed instances of harm to the significance of the listed college” (paragraph 16.56). Historic England’s next sentence is: “However, the resulting increased massing brings other instances of harm, as it puts considerable pressure on the surrounding buildings forming Bath Court.”

4.2 The report breaches HE4(1)(b) of the NPPF: it weighs the less harmful designs by whether the College will build them, where the policy asks whether the harm can be avoided, puts the burden on objectors, and calls the consented design “no longer viable” on no document.

The policy and the law

HE4(1)(b) puts the duty to avoid harm on the proposal. The Court of Appeal has held: “Where there are clear planning objections to a proposed development ... the more likely it is that it will be relevant, and may in some cases be necessary, to consider whether that objection could be overcome by an alternative proposal.” (R (Langley Park School for Girls Governing Body) v Bromley London Borough Council [2009] EWCA Civ 734 at [45], “Langley Park”). The Court added: “the principle must apply with equal, if not greater, force if the suggested means of overcoming the clear planning objection is not that the development should take place on a different site altogether, but that it should be sited differently within the application site itself” (at [46]).

The facts

1. **The fourth ground was that the Committee was told not to look at less harmful designs.** The 2025 report answered the less harmful designs: “The application must be assessed on its own merits including the library in the currently proposed location.” (the 2025 report, Table 3). The Statement of Facts and Grounds says of that answer: “Members were thereby actively dissuaded from considering the material question of whether it would be possible to avoid or reduce the identified heritage harm through alternative modes of development.” (paragraph 85).
2. **The Council has agreed that the 2025 decision should be quashed on that ground** (2.1, fact 4).
3. **One of the less harmful designs is the College’s own, which the Council permitted twice.** The report names it as “the previously consented and now expired Rick Mather scheme” (paragraph 16.51).
4. **A national amenity society asked the Council to consider less harmful alternatives.** The Victorian Society wrote on 6 July 2026: “Heritage harm has been identified, and the College has a duty to consider less harmful alternatives.” (9455369).

The breaches

5. **Asked for the applicant’s evidence that a lower building cannot avoid the harm, the sheet gives the answer of 2025.** The passages are:
 - (a) the sheet records CLAG’s point that “no information provided by the applicant explores the potential for a lower building to avoid harm” (item 1);
 - (b) the sheet answers: “The officer report sets out the full heritage assessment of the scheme including alternatives put forward. The Council must consider the application before it, which it has done in the report before members.” (item 1);
 - (c) in Langley Park the alternative “was answered by the mantra – “each planning application must be considered on its merits”” (at [43]). The Court of Appeal held that the absence of the alternative from the application “was not a sound reason” for leaving it out of account (at [48]);
 - (d) the assessment that the sheet points to asks whether the College will build each design, and not whether the harm can be avoided (breach 8).
6. **The sheet and the report put the burden on objectors.** Three passages do so:
 - (a) the sheet says the benefits outweigh the harm “with lack of a suitable alternative being demonstrated to meet the College’s needs” (item 1);
 - (b) the report says: “The level of consideration given to these alternative schemes can only be relative to the level of detail available.” (paragraph 1.14);
 - (c) the report says of what it calls “the CLAG design”: “It’s lack of development is a void and an obstacle to the LPA in assisting its fuller consideration as an alternative.” (paragraph 16.60). The applicant holds the brief, the drawings and the architects, and the duty is the applicant’s.
7. **The report calls the College’s consented design “no longer viable”, and names no document that says so.** The report says: “The applicant has made the case that this previous scheme is no longer viable for the College” (paragraph 16.57). The

report records that no consultee was asked: “Updated comments have not been received, nor would it be reasonable to expect them from consultees exploring the possibility of reapplying the Mather scheme.” (paragraph 16.57).

8. **The report asks whether the applicant will build a design, and the policy asks whether the harm can be avoided.** The report makes the weight of an alternative depend on its “viability and prospect of implementation” (paragraph 16.52). A design that the applicant has rejected still avoids the harm.
9. **The report records the alternative CLAG put at the DCF, and then assesses a different one.** CLAG’s alternative was a lower library on this site, with further library space elsewhere in the College (paragraph 16.62). The report assesses “an alternative location, such as the Hobson Street car park”, and gives that “very little weight” (paragraphs 16.65 and 16.66).
10. **The report leaves the Victorian Society’s request out.** The report says: “Three main alternatives have been suggested by third parties” (paragraph 16.51). The report’s assessment of alternatives does not mention the Victorian Society.
11. **The report tells members that no alternative carries any notable weight.** The report says: “Officers do not consider however, that any of the alternatives carry any notable weight as a material consideration in forming a decision on the merits of the proposal.” (paragraph 26.33).

Error if left unchanged (4.1 and 4.2)

1. **The illegality.** Two errors of law:
 - (a) HE4(1)(b) is not applied in its terms (4.1). The question the policy puts first, whether avoiding the harm “is not possible”, is never answered;
 - (b) the less harmful designs are weighed by a test that the policy does not contain, whether the College will build them, and the applicant is not asked to show that the harm cannot be avoided (4.2). The question that the fourth ground of the judicial review put, whether the harm can be avoided or reduced by another design, is still not answered. The statutory presumption “implies the need for a suitably rigorous assessment of potential alternatives” (Forge Field at [61]).
2. **This is law, not judgment.** HE4(1)(b) has a fixed order: avoid the harm, and only “if that is not possible”, minimise it. What a policy requires is a question of law (Tesco at [18]). Officers judge the weight of an alternative. Officers have no judgment about whether the policy’s first question is asked. Whether a lower library meets the College’s needs is a fact, and the Council found that fact in 2016.
3. **Corrected, the decision is refusal.** If the report asks whether the harm can be avoided, the Council’s own documents answer that it can: the advice of 19 December 2024, the findings of 2016, and the sheet’s record that the applicant chose to proceed. HE4(1)(b) is then not met. HE4(2) requires a justification “in accordance with the policies in this chapter”, and a harm that could have been avoided has none.
4. **Nothing in the report cures it.** Paragraphs 16.51 to 16.66 ask of three designs whether the College will build them. Those paragraphs ask of no design whether it avoids the harm.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet confirms the error. The sheet records the advice and the applicant’s

choice, repeats the answer of 2025, and puts the burden on objectors. A finding that the harm cannot be avoided needs evidence from the applicant that a lower or distributed library cannot meet its requirements. No such evidence is on the register, and the Council found the opposite in 2016.

6. **The consequence.** A permission granted for harm to Grade I listed buildings that the Council's own record shows could be avoided is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report puts the Council's advice of 19 December 2024 and its findings of 2016 before members. The corrected report answers the question HE4(1)(b) asks, whether the harm can be avoided by a lower or distributed library, and names the document on which the answer rests. On the Council's own documents the harm can be avoided, and the recommendation is refusal.

5. Historic England found harm from the bulk of the whole building, and the report confines it to one stair tower beside one building with no reason for the difference

5.1 The report breaches section 66(1) of the Listed Buildings Act: it confines the harm to one stair tower beside one building, where Historic England found harm from the bulk of the whole building to the surrounding buildings, gives no reason for departing from the statutory consultee, and still calls its finding "in line with" Historic England's comments.

The law

Section 66(1) of the Listed Buildings Act requires special regard to the desirability of preserving a listed building and its setting. A decision maker who departs from the views of a statutory consultee needs "cogent and compelling reasons" (Shadwell Estates Ltd v Breckland District Council [2013] EWHC 12 (Admin) at [72], "Shadwell"). The Court of Appeal has held a decision invalid where the report's statement about a consultee, "though factually correct, was nonetheless misleading" (Loader v Rother District Council [2016] EWCA Civ 795 at [56] and [57]).

The facts

1. **Historic England found harm from the bulk of the whole building.** Historic England wrote: "the proposals would result in certain levels of harm to the significance of the listed building, primarily as a result of the excessive bulk of the new building, which we consider would detract from the setting of the surrounding buildings" (letter of 29 July 2025, 9457102).
2. **Historic England's conclusion was that the building is too big.** Historic England wrote: "Whilst we acknowledge the proposals represent a more contextual approach and the architectural quality of the scheme, we are of the view that the building is too big for its location."
3. **Historic England found harm to more than one building.** Historic England wrote: "The building feels too big, overdominant on this space, particularly in its relationship with the south range of first court and the Bodley Library".
4. **Historic England stated no degree of harm.** Historic England's words are "certain levels of harm". No letter of Historic England says "low".

5. **Historic England's advice stands in 2026.** Historic England wrote on 27 August 2026: "We are comfortable that our existing advice remains relevant and appropriate" (9508056). The sheet records a further reply from Historic England of 28 September 2026, "reiterating that their previous comments reflect their assessment of the scheme" (item 1).
6. **In 2025 the report's conclusion was also given to members as "in line with" Historic England's comments, and that was the first ground of the judicial review.** The 2025 report said: "In line with comments received from Historic England and the Council's Conservation officer, who raise no objection to the development, the development is not considered to result in any overall harm to the relevant heritage assets" (the 2025 report, paragraph 14.33). The Statement of Facts and Grounds says of that sentence: "This was factually incorrect, and positively misleading." (paragraph 56).
7. **The Council has agreed that the 2025 decision should be quashed on that ground, although Historic England did not object.** The Council's Statement of Matters to the Court records the first ground as being that, "despite the fact that Historic England retained their position of no objection in their second consultation response (following revisions to the scheme), the Officer Report omitted to mention that HE had identified heritage harm in their earlier response" (9540128, paragraph 8). The Council accepts quashing on that ground (2.1, fact 4). The absence of an objection was no answer to that ground.
8. **The case officer told members in July 2026 that Historic England's concern was the scale and bulk of the building.** The Council's minutes of the DCF, which are Appendix 11 to the report, record the case officer saying of Historic England's comments: "it was clearly stated that they had concerns regarding the scale and bulk of the building and would result in a certain level of harm to the significance of the Grade One listed Christ's College buildings" (item 79). The report then puts the cause in the stair tower and confines the harm to the Bodley Library (breach 10).

The breaches

9. **Until the sheet, the report gave members Historic England's agreement to the level and to the limit of the harm. The sheet has taken both out.** The two changes are:
 - (a) paragraph 1.25 as published said: "As considered by Historic England and the Council's Conservation officer the proposed replacement library would result in harm (at the lower end of the scale) to the setting of the Grade I listed Bodley Library". Historic England had stated no level, and had not confined the harm to the Bodley Library (facts 3 and 4). The sheet amends the paragraph "to clarify that the level of harm is an assessment of the officer and not Historic England" (item 5);
 - (b) paragraph 16.38 as published said of the finding of no "further harm beyond that identified to the Bodley Library": "It is considered that this view is consistent with that of both Historic England and the Council's Conservation Officer." Historic England had found harm to the south range of First Court as well (fact 3). The sheet amends the paragraph "to remove reference to Historic England's agreement" (item 5).

10. **So the level and the limit of the harm are now the officers' own, and the report's finding differs from Historic England's in three respects.** The three are:
 - (a) the cause: the report finds the harm in "the scale and siting of the proposed replacement library, specifically the staircase tower" (paragraph 26.5), and Historic England finds it in the bulk of the whole building;
 - (b) the buildings harmed: the report says the harm is "restricted to the setting of the Bodley Library" (paragraph 16.36), and Historic England finds harm to "the setting of the surrounding buildings";
 - (c) the degree: the report says "low", and Historic England states no degree.
11. **The report gives no reason for departing from the statutory consultee. The Council was asked for the reason, and the sheet gives none.** The record is:
 - (a) the report's reasons for confining the harm are the wider space beside the Bodley Library, the design and the landscaping (paragraphs 16.36 and 16.38). Historic England had weighed each of those and still found the building too big (fact 2);
 - (b) the sheet records CLAG's point of 25 September 2026 that there is "no reasoning for narrowing the assessment of harm to the stair tower", and answers that the conservation officer's updated comments "are not required" (item 1);
 - (c) the author of the independent heritage appraisal asked the Council on 5 October 2026 to state its reasons for departing from Historic England's advice. The sheet's whole answer is: "Whilst the officer recommendation is considered unchanged, an amendment is proposed to paragraph 26.7 to clarify the scale of the proposed staircase turret." (item 9).
12. **The report still gives members its own finding as "in line with" Historic England's comments.** The report says the harm to the setting of the Bodley Library is "in line with the comments from the Council's Conservation officer, Historic England and the Victorian Society" (paragraph 16.35). The report says its conclusion "is consistent with the comments of Historic England and the Council's Conservation Officer" (paragraph 16.73). Neither paragraph tells members that Historic England's finding is wider than the report's.
13. **The planning balance tells members that the difference is one of level, and puts the wider finding down to "representations".** The balance says harm has been identified by Historic England and others, "albeit of varying levels" (paragraph 26.5). The balance then refers to "representations that consider the level of harm to heritage assets to be significant and wider ranging" (paragraph 26.31), and does not name Historic England among them. Historic England stated no level, and its finding is wider in the buildings harmed and in the cause (breach 10).
14. **The balance weighs only the officers' narrower harm.** The balance is struck against "a low level of harm to the setting of the Grade I listed Bodley Library" (paragraph 26.13). No paragraph of the balance weighs harm to the south range of First Court or to the other buildings that form Bath Court, which Historic England found (facts 1 and 3).

15. **The report states Historic England’s finding correctly in its summary, and gives members a different finding in its assessment.** The summary says Historic England finds harm “primarily arising from the bulk of the proposed building, which would detract from the setting of the surrounding buildings” (paragraph 1.8). The assessment confines the harm to one stair tower and one building.
16. **The report tells members that the first ground “has been addressed”.** The report says: “Ground 1 of the Judicial Review has been addressed, insofar as this report more thoroughly and clearly sets out Historic England’s position.” (paragraph 16.67). Two days before the meeting the sheet took Historic England’s name off the level of harm at paragraph 1.25, and took Historic England’s agreement out of paragraph 16.38 (breach 9).

5.2 The report breaches HE5(2)(c) of the NPPF: it finds an impact on the other Grade I listed ranges, says design and landscaping “mitigate” it to nil, states no degree, and gives no reason for rejecting the experts who find the harm wider and higher.

The policy

HE5(2)(c) of the NPPF says: “The degree of harm should be identified”. HE5(4) says: “Decision-makers should be satisfied that assessments accurately reflect the effects on heritage assets caused by development proposals.”

The facts

1. **Historic England, the Victorian Society, Cambridge Past, Present and Future and an independent heritage appraisal find the harm wider or higher than the report does.** The four are:
 - (a) Historic England, the statutory consultee, which finds harm to “the setting of the surrounding buildings” (5.1);
 - (b) the Victorian Society, a national amenity society: “The design, as it stands does offer a low-to-moderate level of less-than-substantial harm” (email of 6 July 2026, 9455369);
 - (c) Cambridge Past, Present and Future, which finds harm “including to the Grade 1 listed Bodley Library, Bath Court and the Historic Core Conservation area” (printed at paragraph 9.1);
 - (d) the independent heritage appraisal on the register, which finds “Less-than-substantial harm at the upper end of the scale to the setting of the Grade I listed Bodley Library” and “Less-than-substantial harm at the middle of the scale to the setting of the Grade I listed north range of Bath Court” (9458570, paragraph 58).
2. **The Council’s own advice raised concern about the space by Bath Court.** The Council’s advice of 19 December 2024 says: “Concern is raised regarding the narrowness of the space between Bath Court, the proposed projecting building and the Bodley Library.” (Appendix 3 to the applicant’s Planning Statement, 9423963).
3. **The heritage documents behind the “low” figure do not show the design applied for.** The conservation officer’s comments record that the applicant’s Heritage Statement “does not include subsequent revisions made to the chimney height and internal layout (consented under 25/02162/LBC)” (9505685). The point

has been on the Council's own file since 13 July 2026. CLAG asked for corrected documents on 13 August 2026 and again on 25 September 2026, and no document has been corrected.

The breaches

4. **The report finds an impact on the other Grade I listed ranges, and sets it to nil without stating its degree.** The report refers to “the impact that this has upon the setting of the buildings on the southern side of First Court” (paragraph 16.37). The report then says the design and the landscaping “are considered to mitigate the impact of the increase in scale upon the other aspects of the listed buildings such that they do not result in any further harm beyond that identified to the Bodley Library” (paragraph 16.38, as amended by the sheet). So an impact is found, its degree is never stated, and design and landscaping cancel it.
5. **That is the method of the second ground of the judicial review, applied to the other ranges.** The second ground was that the 2025 report advised harm and no overall harm at once. The Statement of Facts and Grounds says: “The attempt in the report to do both simultaneously is a legal misdirection that risks diluting the mandatory weight to harm.” (paragraph 6). For the other ranges the report again advises an impact and no harm at once.
6. **The report gives the registered park and garden three different effects, and gives the Gardens Trust a finding that the Trust did not make.** The four passages are:
 - (a) the report says the proposal results in “no adverse harm to the Grade II Registered College Historic Park and Garden as set out above and considered by the Gardens Trust” (paragraph 16.47);
 - (b) the Gardens Trust's words, as the report prints them, are: “Although the proposed upper floors would overhang the Court, given the Court's low value as part of the RPG, this would not cause serious harm to the RPG.” (paragraph 6.37). The sheet now records the Trust's position as “No comment” (item 12), and does not amend paragraph 16.47;
 - (c) the report counts “enhancements” to “Christ's College RPG” as a heritage benefit (paragraph 26.11);
 - (d) the conservation officer says the building “is considered to have no effect on its significance” (9505685).
7. **The report answers none of the four, and the sheet does not either.** The report's whole answer is that its own harm is “notably less than the higher level of harm claimed by CLAG and other objectors” (paragraph 16.73). The report does not say what the higher levels are, who found them, or why they are wrong. The report nowhere tells members that an independent heritage appraisal is on the register. The sheet records further comments by the appraisal's author as setting out “additional harm identified by the scheme” (item 9), and does not say what the harm is or why officers do not accept it.
8. **The report relies on documents that do not show the design applied for.** The report accepts that the applicant's images “do not reflect the proposed height of the chimneys” (Table 3). The report still finds, “as is shown within the TVIA”, that the scale and massing “is entirely appropriate” (paragraph 16.29). The sheet says the

documents “remain appropriate to base an assessment upon and in most cases set out a worse scenario” (item 1), and does not say in which cases they do not.

5.3 The report breaches section 72(1) of the Listed Buildings Act: it finds harm in the “key positive views” of the conservation area, and then tells members the conservation area is enhanced “including within important public views”.

The law

Section 72(1) of the Listed Buildings Act requires special attention to “the desirability of preserving or enhancing the character or appearance” of a conservation area. The High Court has held: “If there is harm to the character and appearance of one part of the Conservation Area, the fact that the whole will still have a special character does not overcome the fact of that harm.” (R (Irving) v Mid Sussex District Council [2016] EWHC 1529 (Admin) at [58]).

The facts

1. **The views along Christ’s Lane are key positive views of the conservation area.** The report says: “This view from St Andrew’s Street, along Christ’s Lane is identified as comprising a “key positive view” within the Conservation Area Appraisal.” (paragraph 16.21).
2. **The Local Plan protects those views in terms.** Policy 61(a) of the Local Plan requires proposals to “preserve or enhance the significance of the heritage assets of the city, their setting and the wider townscape, including views into, within and out of conservation areas”.
3. **Two heritage bodies and two heritage consultants say the conservation area is harmed or directly affected.** The four are:
 - (a) Cambridge Past, Present and Future, which finds harm to the conservation area (5.2, fact 1);
 - (b) the independent heritage appraisal, which finds “Less-than-substantial harm at the lower/middle of the scale to the character and appearance of the Central/Historic Core Conservation Area” (9458570, paragraph 58);
 - (c) the Victorian Society, which says the proposal “not only directly impacts the fabric of the College’s Grade-I Listing, but also the setting of the Cambridge Central (Historic Core) Conservation Area” (9455369);
 - (d) a second historic environment consultant, who wrote to members on 5 October 2026 that the proposal “will totally dominate the experience of Christ’s Lane, and will create precisely the canyon effect which the Council sought to avoid at the time of the Christ’s Lane redevelopment”.

The breaches

4. **The report finds harm in the key positive views, and tells members the area is enhanced in its important public views.** The report finds that “the impact upon the setting of the Bodley Library from public views along St Andrews Street and Christ’s Lane is ... harmful” (paragraph 16.35). The report then says the conservation area is enhanced, “including within important public views” (paragraph 1.26).

5. **The report finds that the building encloses and dominates Christ's Lane, and tells members that is no harm.** The report says the building "would undoubtedly somewhat enclose part of Christ's Lane" (paragraph 22.21). The report says: "This increased visual intrusion is not itself considered to result in any harm however, with mitigation provided through a significantly enhanced public facing façade." (paragraph 26.15).
6. **The report measures the enhancement against the 1974 building, and not against what the designation protects.** HE9(1)(b) of the NPPF requires the area's special interest to be considered "as identified as part of the designation of the conservation area". The report finds enhancement "when assessed against the existing library building" (paragraph 26.19). On that measure any replacement of the 1974 building enhances the area, whatever its volume, mass and bulk.
7. **The report's assessment of the conservation area answers none of the four.** Paragraphs 16.40 to 16.46 name none of them. The sheet records a representation "Disputing the conclusion that the proposal would not harm the Conservation Area", and answers: "These comments are not considered to change the officer recommendation." (item 10).
8. **The report relies on a policy whose condition the scheme does not meet, on the report's own finding.** The report quotes HE9(3) of the NPPF: "Proposals which conserve those elements of a conservation area that make a positive contribution to the area (or which better reveal its significance) should be supported" (paragraphs 16.42 and 16.68). HE9(3) supports only proposals that conserve those elements. The key positive views are among them, and the report finds harm in those views.

Error if left unchanged (5.1 to 5.3)

1. **The illegality.** Four errors of law in the finding of harm:
 - (a) the report gives members a narrower finding as "in line with" Historic England's comments, and nowhere says that its finding is narrower than Historic England's, or why (5.1);
 - (b) the report departs from the statutory consultee without the "cogent and compelling reasons" the law requires, and does not weigh the harm that Historic England found to the other Grade I listed buildings (5.1; Shadwell at [72]);
 - (c) an impact on other Grade I listed buildings is found and set to nil, with no degree stated (5.2). That is the method of the second ground of the judicial review;
 - (d) the duty in section 72(1) is performed on two findings that contradict each other (5.3).
2. **This is law, not judgment.** Section 66(1) and section 72(1) are statutory duties. How serious a harm is can be a judgment. What Historic England wrote is a fact. Whether the report gives a reason for departing from Historic England is a fact. Whether a degree of harm was stated is a fact. On each the documents give one answer.
3. **Corrected, the decision is refusal.** The harm to be weighed is then the harm Historic England found: harm from "the excessive bulk of the new building" to "the setting of the surrounding buildings", with harm to the conservation area in its key

positive views. The report's balance is struck against "the identified low level of harm" to one setting (paragraph 26.34). No paragraph says the benefits outweigh a wider or greater harm.

4. **Nothing in the report cures it.** The report prints Historic England's letters, and its balance does not weigh the harm those letters find. Paragraph 16.67 records that "reservations remain with the scheme in terms of the scale and massing of the development", and the balance leaves those reservations out.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet now says the level of harm is the officers' assessment and not Historic England's, and gives no reason for the difference. The words "in line with" and "consistent with" can be struck at the meeting. The missing reasons, and the degree of harm to each building, need a written heritage assessment of the design applied for, and the sheet says the conservation officer's comments "are not required" (item 1).
6. **The consequence.** A permission granted on a harm narrower than the harm the statutory consultee found, with no reason given for the difference, is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report weighs the harm Historic England found, in Historic England's words, or gives cogent and compelling reasons for departing from it. The corrected report states the degree of harm to each Grade I listed building and to the conservation area, before any benefit is set against it, on an assessment of the design applied for.

6. The tall buildings policy is declared "not engaged" when the report's own words meet it, and the policy that requires refusal is never stated

6.1 The report breaches Policy 60 of the Local Plan: the policy applies to any structure that "breaks the existing skyline", the report itself says this building "could be seen to break the immediate skyline", and the report still declares the policy "not engaged".

The policy

Policy 60 of the Local Plan applies by its own words. The policy says: "Any proposal for a structure that breaks the existing skyline and/or is significantly taller than the surrounding built form will be considered against the following criteria". Criterion (c) requires applicants to "clearly demonstrate that there is no adverse impact".

The facts

1. **On the report's own words, the building "could be seen to break the immediate skyline".** The report says there are "short distance ground level views of the scheme where the built form could be seen to break the immediate skyline above the existing built form of the existing College" (paragraph 13.20).
2. **The applicant and the independent heritage appraisal say the same.** The applicant's Heritage Statement says the new building "will extend the building upwards and reduce the visible skyline in the view from the southern side of St Andrew's Street" (9423964, paragraph 5.20). The independent heritage appraisal says "the proposal does clearly break the skyline in the important views from St

Andrew's Street and is considerably higher than the Bodley Library and First Court buildings which adjoin the site" (9458570, paragraph 53).

3. **The independent heritage appraisal finds that the proposal breaches the tall buildings policy, and that the Grade I listed buildings are the context against which it is measured.** The appraisal says: "Given that these are buildings of the highest heritage significance, they form the relevant context in terms of defining heights, rather than Bradwell Court, the taller sections of which are completely invisible from St Andrew's Street." The appraisal concludes: "I consider that the proposals do breach the adopted tall buildings policy, a matter that is not mentioned or considered by either the Urban Design or any of the Conservation Consultation responses from GCSP." (9458570, paragraph 53).
4. **The building rises beside a Grade I listed library of two storeys.** The report says the stair tower rises "from approximately 5.7 metres currently to approximately 13 metres" (paragraph 16.32). The conservation officer describes the Bodley Library as "of two storeys with a domestic scale" (9505685).
5. **At the lane the building applied for is the higher building.** The report says of the building opposite: "approximately 10.3 metres in height of the building directly abuts Christ's Lane", and "The upper floors are set back such that they are not immediately visible above the initial 10.3 metres above ground." (paragraph 14.5). The building applied for stands at the lane with a parapet of "approximately 13 metres" (paragraph 13.19).
6. **The applicant has made no assessment against Policy 60.** The report says: "It is acknowledged that there has not been any assessment from the applicant with regards to Policy 60 of the Local Plan." (paragraph 13.17).
7. **The Local Plan's own guidance says buildings of four storeys in the historic core may need assessment.** Appendix F to the Local Plan says: "However, dependent on the exact location within the historic core, buildings of four to six storeys may also need to be evaluated against the assessment criteria herein, due to proximity to heritage assets and potential impacts on key views." (paragraph F.10(i)). The report records that "the building is four storeys in height and within close proximity to heritage assets" (paragraph 13.19).
8. **An Inspector applied Policy 60 beside Christ's College in November 2025, on the Council's own refusal.** The Inspector dismissed the appeal at 21 Hobson Street on 21 November 2025, and measured that building against the one it replaced and those beside it: "the proposal would appear significantly taller than the building it replaced, and those immediately adjacent, in views from the Master's Garden within Christ's College." (appeal decision APP/Q0505/W/25/3365274, paragraph 41). The Inspector found conflict with "LP Policies 10c), 60, 61 and 62" (paragraph 71). By that measure this building is compared with the library it replaces and with the Bodley Library beside it (fact 4).

The breaches

9. **The report says the building could be seen to break the skyline, and declares the policy "not engaged".** The report says: "In the view of officers, because of the location and comparative heights of buildings in the immediate context, Policy 60 is not engaged." (paragraph 13.20). Policy 60 contains no exception for the location or for the buildings nearby.

10. **The report tells members that whether the policy applies is “a matter of judgement”.** The report says: “the question as to whether Policy 60 is engaged relative to the scheme before the Council is a matter of judgement.” (paragraph 13.20). Whether a policy applies is a question of the policy’s words.
11. **The report compares the building with one building only, at that building’s highest point.** The report says: “it remains lower than the adjacent modern Christ’s Lane re-development which reaches a height of approximately 15.5 metres” (paragraph 13.19). The report leaves the Bodley Library out of the comparison. On the report’s own words the floors that reach 15.5 metres are set back and “not immediately visible” above the first 10.3 metres (fact 5).
12. **The report tells members of “thresholds” that the policy does not contain.** The report says: “Officers consider the proposal would not trigger the thresholds as stated under Policy 60” (paragraph 13.21). Policy 60 states no figure.
13. **The report tests the building against 19 metres, which is the Local Plan’s figure for the case where assessment is automatic.** The report says: “The proposed replacement library building does not, at its highest point, measure 19 metres in height above ground level.” (paragraph 13.19). Appendix F to the Local Plan says that “building proposals of six storeys or more (assuming a flat roof with no rooftop plant and a height of 19m above ground level) would automatically trigger the need to address the criteria set out within the guidance” (paragraph F.10(i)). The next sentence of Appendix F deals with buildings of four to six storeys (fact 7).
14. **On the report’s own finding of harm, criterion (c) cannot be met.** Criterion (c) requires the applicant to “clearly demonstrate that there is no adverse impact”. The report itself finds harm to the setting of a Grade I listed building (paragraph 16.72).
15. **On the report’s own finding, criterion (d) cannot be met either.** Criterion (d) requires the applicant to demonstrate “that there is no adverse impact on neighbouring buildings and open spaces in terms of the diversion of wind, overlooking or overshadowing, and that there is adequate sunlight and daylight within and around the proposals”. The report itself records harm to the daylight of the shops opposite, in the words “this harm” (paragraph 26.16; 8.1, breach 5).

6.2 The report breaches DP3(3) of the NPPF: it tells members the proposal conflicts with no national policy that requires refusal, and never states DP3(3), which requires refusal for unjustified conflict with the development plan’s design standards.

The policy

DP3(3) of the NPPF requires refusal where a proposal conflicts with the development plan’s design standards without clear justification. The policy says: “Development proposals should be refused if, without clear justification, they conflict with paragraph 1 of this policy or relevant aspects of the principles in paragraph 2, or with any explicit design standards set out in the development plan (including those in locally-specific policies, guides, codes or masterplans).”

The facts

1. **Policy 61(c) is a design standard of the development plan.** Policy 61(c) requires proposals to “be of an appropriate scale, form, height, massing, alignment and detailed design which will contribute to local distinctiveness, complement the built

form and scale of heritage assets and respect the character, appearance and setting of the locality”.

2. **The report finds harm from the building’s scale and massing, and conflict with Policy 61.** The report finds “a level of heritage harm arising from the scale and massing of the proposed development” (paragraph 16.72), and finds that “the application would be in conflict with Policy 61 of the Local Plan” (paragraph 16.75).
3. **The conflict has no clear justification.** The applicant has given none, and the report’s own reasons rest on no document (section 3).

The breaches

4. **The report tells members that no refusal policy is in play.** The report says: “The proposal is not considered to conflict with any Policies within the NPPF that state that “development proposals should be refused in specific circumstances” (S4(2)(c)).” (paragraph 26.3).
5. **The report never states DP3(3) to members.** The report’s account of Policy DP3 leaves out the paragraph that requires refusal (paragraphs 5.2.13 and 5.2.14).
6. **The report calls the scale and massing “entirely appropriate” in one paragraph, and the cause of the harm in another.** The report says “the scale and massing of the proposed building within what is a central location, is entirely appropriate” (paragraph 16.29). The report finds harm “arising from the scale and massing of the proposed development” (paragraph 16.72).
7. **The report finds compliance with DP3 on the policies that are met, and leaves out the policies in conflict.** The report names Policies 55, 56, 57 and 59 of the Local Plan and concludes that the proposal “would not therefore conflict with this national decision-making policy” (paragraph 26.19). That paragraph names neither Policy 61 nor Policy 60.

Error if left unchanged (6.1 and 6.2)

1. **The illegality.** Two errors of law:
 - (a) a policy of the development plan is misinterpreted (6.1). Policy 60 applies by its own words to a structure that “breaks the existing skyline”, and the report says this structure “could be seen to break the immediate skyline”;
 - (b) a national policy that requires refusal is left out, and members are told that no such policy is in play (6.2).
2. **This is law, not judgment.** The report tells members the opposite: it calls the application of Policy 60 “a matter of judgement”. The meaning of a development plan policy is a question of law for the court, and planning authorities “cannot make the development plan mean whatever they would like it to mean” (Tesco at [19]). Whether the criteria of Policy 60 are met is a judgment. Whether the policy applies is settled by its words, and the report’s own words meet them.
3. **Corrected, the decision is refusal.** If Policy 60 applies, criteria (c) and (d) apply, and neither can be met on the report’s own findings of harm. The proposal then conflicts with two design standards of the development plan, Policies 60 and 61, with no clear justification. DP3(3) says such a proposal should be refused.
4. **Nothing in the report cures it.** The report says the applicant has “nonetheless submitted a townscape and visual impact assessment” (paragraph 13.21). That

assessment is not made against Policy 60, and the report accepts that its images do not show the design applied for (5.2).

5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet says the report sets out “an assessment of Policy 60 (tall buildings) and its applicability” (item 1), and changes no word of paragraphs 13.17 to 13.21. Policy 60 requires the applicant’s own demonstration by “scaled drawings, sections, accurate visual representations and models”. No such document is on the register.
6. **The consequence.** A permission granted with Policy 60 set aside against its own words, and with DP3(3) left out, is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report applies Policy 60 to the building, on an assessment by the applicant against each criterion. The corrected report states DP3(3) to members and applies it to the conflict with Policy 61. On the report’s own finding of harm, criterion (c) is not met, and the recommendation is refusal.

7. The report finds conflict with the development plan, and never decides whether the proposal accords with the plan as a whole

7.1 The report breaches section 38(6) of the Planning and Compulsory Purchase Act 2004: it finds conflict with Policies 61 and 10, never decides whether the proposal accords with the plan as a whole, and tells members in its summary that Policy 10 is met.

The law

Section 38(6) requires the decision to be made “in accordance with the plan unless material considerations indicate otherwise”. The duty “can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole” (R (Corbett) v Cornwall Council [2020] EWCA Civ 508 at [27], “Corbett”).

The facts

1. **The report finds conflict with the plan’s heritage policy.** The report says: “the application would be in conflict with Policy 61 of the Local Plan” (paragraph 16.75).
2. **The report finds conflict with the plan’s city centre policy.** The report says: “The heritage balance is considered to result in overall harm to the setting of the Grade I listed buildings and therefore there is conflict with criteria (c) of Policy 10.” (paragraph 13.4).
3. **The roof does not meet Policy 31.** The report says: “Whilst Policy 31 of the Local Plan requires flat roofs to be either green or brown roofs, in this case, access is required to this entire roof to serve the plant located at this level.” (paragraph 14.25). Policy 31 contains no exception for access to plant.
4. **The tall buildings policy applies and is not met** (6.1).

The breaches

5. **The report never decides whether the proposal accords with the plan as a whole.** The report’s only words on the question are that the proposal “is in accordance with Policy 43 of the Cambridge Local Plan 2018 and the overall

objectives of the Development Plan” (paragraph 13.9). Those words stand in the section on the principle of development, before the report reaches tall buildings, design, heritage or amenity.

6. **The summary tells members that Policy 10 is met, and the body of the report finds it breached.** The summary says “the proposed development is considered to be compliant with the criteria of Policy 10” (paragraph 1.23). The body finds “conflict with criteria (c) of Policy 10” (paragraph 13.4).
7. **The sheet tells members the proposal complies with policy overall, and no paragraph of the report finds that.** The sheet says: “The report acknowledges harm, however, remains overall, in compliance with local and national policy.” (item 1). The report finds two conflicts with the plan and makes no finding on the plan as a whole.
8. **The report tells members the proposal accords with Policy 31, for a roof that does not meet it.** The report says “subject to conditions the proposal is in accordance with policies 31 and 32 of the Local Plan” (paragraph 19.7).

7.2 The report breaches Policy 43 of the Local Plan: the policy supports development only “when it meets the principles set out in this policy and other planning policies”, the report leaves those words out, and itself finds two other planning policies are not met.

The policy

Policy 43 supports development only where the other planning policies are met. The policy opens: “The development or redevelopment of faculty, research and administrative sites for the University of Cambridge and Anglia Ruskin University (including teaching hospital facilities) will be supported when it meets the principles set out in this policy and other planning policies.”

The facts

1. **On the report’s own findings two other planning policies are not met.** The report finds conflict with Policy 61 and with criterion (c) of Policy 10 (7.1, facts 1 and 2).
2. **Policy 43 is a policy for the sites of the two universities.** The policy’s subject is “faculty, research and administrative sites for the University of Cambridge and Anglia Ruskin University”. The applicant’s own Planning Statement says “there is no specific policy in the Local Plan in relation to development within a college campus other than student accommodation” (9423963, paragraph 7.3).

The breaches

3. **The report states Policy 43 to members without its condition.** The report says Policy 43 “supports university development within the city centre so long as it” meets two criteria (paragraph 13.7). The report leaves out the words “and other planning policies”.
4. **The report rests accordance with the plan on Policy 43.** Policy 43 is the only policy the report names for its conclusion at paragraph 13.9. On the policy’s own words its support is not available to a proposal that conflicts with Policies 61 and 10.

5. **The report applies a policy for the universities' sites to a college's library, and does not say why.** Paragraphs 13.7 to 13.9 apply Policy 43 without saying why a college's library is one of the sites the policy names.

Error if left unchanged (7.1 and 7.2)

1. **The illegality.** Two errors of law:
 - (a) the duty in section 38(6) is not performed (7.1). The report finds conflicts with the plan and does not establish whether the proposal accords with the plan as a whole (Corbett at [27]);
 - (b) Policy 43 is stated without its condition and applied against its own words (7.2).
2. **This is law, not judgment.** Section 38(6) is a statutory duty. Whether a proposal accords with the plan as a whole is a judgment, and the law requires that judgment to be made. The report does not make it. What Policy 43 says is a question of its words (Tesco at [18]).
3. **Corrected, the decision is refusal.** The proposal conflicts with the plan's heritage policy, its city centre policy, its tall buildings policy and Policy 31, and Policy 43 gives no support against those conflicts. A decision in accordance with the plan is then refusal. A grant needs material considerations that outweigh the plan, and the report names none, because the report never finds that the plan is not met.
4. **Nothing in the report cures it.** Paragraph 26.1 states the duty, and section 26 of the report makes no finding under it.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet asserts compliance "overall", against the report's own findings, and gives no reasons. A finding on the plan as a whole has to weigh each conflict, and no document before members does so.
6. **The consequence.** A permission granted without the finding that section 38(6) requires is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report states, policy by policy, whether the proposal accords with the Local Plan, and makes the finding that section 38(6) requires on the plan as a whole. On the conflicts the report itself records, the decision in accordance with the plan is refusal.

8. The daylight of the shops opposite is not assessed, and the lane is given as wider than the applicant's drawings show it

8.1 The report breaches P3(2)(b) of the NPPF: the policy protects "neighbouring residents and occupiers", the report declines "to assess the impact of the proposed development upon these units", and it then tells members that the harm to the shops' occupants "is limited".

The policy

P3(2)(b) of the NPPF protects the daylight of neighbouring occupiers as well as residents. The policy says proposals should "Not give rise to, or contribute to, an unacceptable level of access to daylight and sunlight for neighbouring residents and occupiers". The policy adds:

“Adverse impacts of this nature should be avoided where possible, or else mitigated to an acceptable degree.”

The facts

1. **Thirty six windows of the shops and coffee shops opposite fall below the daylight targets.** The daylight consultants eb7 wrote on 5 October 2026: “Thirty-six windows serving the retail units and coffee shops fall below the BRE targets.” eb7 also wrote: “Twenty-six windows experience reductions exceeding 50% against the 20% guideline, four of them exceeding 90%.”
2. **Four rooms opposite also fail the second daylight test.** eb7 wrote: “Four of those rooms also fail the No-Sky Line test of daylight penetration set out in the BRE guide.”
3. **The policy’s word is “occupiers”, and the occupiers of a shop are the people who work in it through its opening hours.** P3(2)(b) protects “neighbouring residents and occupiers”, and contains no test of how long a person stays.
4. **The lane beside the library is about 6 metres wide.** Four documents show it:
 - (a) the applicant’s own sections across the lane, drawn at 1:100, show the proposed library and the building opposite between 6 and 6.5 metres apart at street level (Short Sections CC and DD, 9423845 and 9423850);
 - (b) the independent heritage appraisal reads the first of those drawings as showing “the width of Christ’s Lane, building to building, as about 6 metres” (9458570, paragraph 26);
 - (c) the report took its own figures for the buildings from the second of those drawings (paragraph 14.5);
 - (d) the Council’s report of 20 October 2004 on the building opposite records the lane as “between 6-8m along its length”, wider at its two entrances (application C/04/0632, paragraph 8.21).

The breaches

5. **The report says it has not assessed the effect on the shops, and then tells members the harm to them is limited.** The report says: “It is therefore not considered to be reasonable to apply the BRE guidelines and to assess the impact of the proposed development upon these units.” (paragraph 22.16). The planning balance then says “this harm is not considered so significant to be unacceptable”, and “the harm to their occupants is limited” (paragraph 26.16).
6. **The report never states P3(2)(b) to members, and the sheet gives the policy’s words to the wrong policy.** The sheet says: “Policy DP3 of the updated NPPF now refers to daylight and sunlight impacts of proposals.” (item 8). Policy DP3 does not refer to daylight or sunlight. The words are in P3(2)(b), as eb7’s letter had told the Council, and no paragraph of the report mentions that policy.
7. **The sheet and the report apply a test that the policy does not contain.** The sheet applies the guidance only “where occupants have a reasonable expectation of daylight” (item 8). The report’s reasoning is about customers: “The majority of users of shops or services such as these are likely to only visit for a short period of time before leaving.” (paragraph 22.16).

8. **The report gives members no figure for the shops.** The report tells members that “every one of the rooms assessed passed the test” (paragraph 22.5). That sentence is about the homes. On eb7’s findings four rooms of the shops do not pass.
9. **The report names no step to avoid the harm.** The report accepts that the shops “would experience a reduction in daylight” (paragraph 26.16). P3(2)(b) says such impacts “should be avoided where possible”. A lower building avoids or reduces them.
10. **The report relies on daylight information that it accepts does not follow the guidance.** The report says CLAG raises “the fact that the provided daylight & sunlight assessment information does not accord with BRE guidance. Officers acknowledge this” (paragraph 22.7). The report does not say in what respects the information falls short.
11. **The report gives members the lane as wider than the applicant’s own drawings show it.** The report says: “Christ’s Lane is approximately 8 metres in width” (paragraph 2.3). The report gives no source. Its own paragraph 22.1 says the first and second floors of the building opposite are “separated by approximately 6.5 metres from the southern elevation of the proposed library building”. On the Council’s own report of 2004 the lane is 8 metres wide only at its widest.

Error if left unchanged (8.1)

1. **The illegality.** Two errors of law:
 - (a) a national policy is applied under the name of another policy, and by a test that it does not contain;
 - (b) a conclusion is given to members with no assessment behind it.
2. **This is law, not judgment.** P3(2)(b) is national policy, and whom it protects is a question of its words. Whether a level of daylight is “unacceptable” is a judgment, and a judgment can be made only on an assessment. The report says none was made for the shops. How wide the lane is beside the library is a measurement on the applicant’s drawings.
3. **Corrected, the decision is refusal.** On eb7’s findings thirty six windows of the shops fall below the targets. P3(2)(b) says such impacts “should be avoided where possible”. A lower building avoids or reduces them, and the Council’s own record is that a lower building is possible (section 4). Criterion (d) of Policy 60 requires the applicant to demonstrate that there is no such impact on neighbouring buildings (6.1, breach 15). The harm to the shops then joins the harm to the Grade I listed buildings on the same side of the balance, and both have one cause: the building’s volume, mass and bulk.
4. **Nothing in the report cures it.** Paragraph 22.5 concerns the homes. Paragraph 22.14 quotes guidance on expectation, and guidance does not displace the words of the policy.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** Item 8 of the sheet names the wrong policy, applies a test that P3(2)(b) does not contain, and calls acceptable an effect that the report did not assess. An assessment of the shops’ daylight is a document, and cannot be given orally at the meeting.

6. **The consequence.** A permission granted on a finding that the harm to the shops is limited, with no assessment of that harm, is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report applies P3(2)(b) to the people who work in the shops opposite, gives members the findings, and states the width of the lane beside the building from the applicant's drawings.

9. The temporary building in Second Court, among Grade I listed ranges, has been assessed by no officer and no consultee

9.1 The report breaches section 66(1) of the Listed Buildings Act: a two storey building on the lawn of Second Court, among Grade I listed ranges, has had no heritage assessment by officer or consultee, and its effect is left to a condition after permission.

The law

Section 66(1) of the Listed Buildings Act applies when the Council considers whether to grant permission. The special regard has to be had before the decision, and a condition discharged afterwards cannot supply it. HE6(3) of the NPPF says: "Any harm to a designated heritage asset will be a matter of considerable importance and weight". The High Court has held: "There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact." (*R (James Hall and Company Ltd) v City of Bradford Metropolitan District Council* [2019] EWHC 2899 (Admin) at [34], "James Hall"). In that case the officers had left the harm out of their report, and the Court quashed the permission: "the officers have made the decision and, in effect, withdrawn it from the Area Planning Panel" (at [47]).

The facts

1. **The application includes a building of two storeys on the lawn of Second Court.** The development applied for includes the "installation of temporary kitchen and dining facility in Second Court for the duration of the works" (paragraph 3.1). The applicant describes "a two-storey structure of 200sq m per floor", with a dining hall and a link (Planning Statement, 9423963, paragraph 5.26).
2. **The applicant itself records harm from that building to the Grade I listed ranges of Second Court.** The applicant's Heritage Statement says: "The temporary dining hall and kitchen structure will cause a negligible degree of harm to the setting of the listed ranges comprising Second Court." (9423964, paragraph 6.5).
3. **The applicant's documents on the building contradict each other, and the report says no details of it are required.** The report says: "Whilst it is noted that the supporting documents show differing information relating to the temporary kitchens. No details of this are required or to be secured as part of this application." (Table 3). The report also says "no further details have been provided at this stage of the application" (paragraph 14.26).
4. **Nobody can say how long the building will stand.** The applicant gives "around 18 months" in its Planning Statement (paragraph 5.28) and "around two years" in its Heritage Statement (paragraph 5.60). The report says: "The length of the construction period for the proposed development is not understood to be fully known at this stage." (paragraph 22.32).

5. **The Council's trees officer found the tree protection for this building "totally unacceptable" in February 2026.** The trees officer wrote on 9 February 2026, on the tree protection scheme of 4 February 2026, that the footprint of the dining room "now extends over the entire grass area adjacent to T10". The officer went on: "This means that the tree will be deprived of natural hydration for at least two growing seasons, which is totally unacceptable." The officer asked "that conditions 9 & 11 are not discharged" (9296357, on the conditions of the 2025 permission).
6. **That tree has since died, and a second tree stands beside the building.** The report records a notification "for the removal of T10 on the basis that the tree has died" (paragraph 15.4). The report says: "The two category B trees most likely to be affected by the proposed development are T6 and T10, both Acacia species in close proximity to the temporary kitchen structures proposed within the Second Court." (paragraph 15.3).
7. **The building takes more of the lawn than the exemption for small impacts allows.** The exemption applies only where a development impacts "less than 25 square metres of onsite habitat that has biodiversity value greater than zero" (the Biodiversity Gain Requirements (Exemptions) Regulations 2024, regulation 4). The same regulation says: "a habitat is impacted where the habitat is lost or degraded such that there is a decrease in the biodiversity value of that habitat". The report says the temporary facilities are "proposed on the grass within Second Court and would have a footprint of greater than 25m²" (paragraph 18.2). The applicant gives the lawn "a baseline BNG of 0.27 biodiversity units" (Planning Statement, paragraph 7.125).
8. **The exemption made in 2026 for temporary development does not apply to this application.** That exemption is regulation 7B, added by the Biodiversity Gain (Town and Country Planning) (Amendments and Transitional Provisions) (England) Regulations 2026. Regulation 7B applies only where "the whole of the development for which the planning permission is granted consists solely of temporary development" (regulation 7B(3)), and the library is permanent. Regulation 7B does not apply "where the application for planning permission was made before 6th August 2026" (regulation 7B(5)), and this application was made in June 2026. The exemption added at the same time for sites "no larger than 0.2 hectares" is subject to the same date (regulation 7A(4)).

The breaches

9. **The report's heritage assessment does not mention the temporary building, and members are not told of the harm that the applicant itself records.** Section 16 of the report tells members the harm is "restricted to the setting of the Bodley Library" (paragraph 16.36). The conservation officer's comments and Historic England's letters do not assess the temporary building. The applicant's own Heritage Statement records harm from it to the Grade I listed ranges of Second Court (fact 2).
10. **The report leaves the building's nature, and its effect on the listed ranges, to conditions after permission.** Condition 11 requires details of the building after permission. The condition's own reason is: "To ensure that the proposed development would be acceptable with regards to its impact on relevant heritage assets and protected trees within the site". Paragraph 15.7, as the sheet amends it, says "further details regarding the nature of the temporary kitchen and its impact upon surrounding trees and the lawns of Second Court" can be secured by condition

11 and a condition on tree protection. So neither the building nor its effect on the listed ranges has been judged, and members are asked to grant permission before either is.

11. **The report calls the trees officer's finding "concerns".** The report says: "Officers acknowledge that the Tree Officer raised concerns during the discharge of these conditions." (paragraph 15.6). The trees officer's words were that the conditions "cannot be discharged, as the information is unacceptable".
12. **The report tells members the trees officer has no objection, on a scheme the report itself says cannot be relied on.** The trees officer's comments of 14 July 2026 find no objection "Subject to compliance with the submitted Tree Protection Scheme" of 4 February 2026 (9461449). The report says of that scheme: "the details within this document are not considered able to be relied upon through a compliance condition" (paragraph 15.2).
13. **The report sets aside a condition imposed by statute, because applying it is "not considered to be reasonable".** Schedule 7A to the Town and Country Planning Act 1990 says: "Every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition in sub-paragraph (2)." (paragraph 13). The report says: "Given their temporary nature however, and the fact that the grass will be returned to its previous condition, this is not considered to be reasonable to trigger BNG requirement for the proposal." (paragraph 18.2). The statute contains no test of what is reasonable. The report's own reason accepts that the grass under the building is lost while the building stands, and the sheet's new wording for condition 11 requires "details of the restoration of the ground to its original condition".
14. **The report tells members officers are "satisfied", and the sheet says officers need more time.** The report says: "subject to an appropriate condition, officers are satisfied that the proposed development complies with policy 70 of the Local Plan, the Biodiversity SPD 2022, the requirements of the Environment Act 2021 and 06/2005 Circular advice" (paragraph 18.5). The sheet says: "Officers require additional time to investigate this matter and will report any further update orally on the day of planning committee." (item 14).
15. **The report pointed members to the wrong condition for the building's removal, and the sheet's new wording still fixes no date.** The report says condition 9 "would ensure that the temporary building required during the works would be removed" (paragraph 13.14). Condition 9 concerns the protection of trees. The sheet now adds to condition 11 a requirement for details of "how and when the facilities will be removed", and those details come after permission.

Error if left unchanged (9.1)

1. **The illegality.** Two errors of law:
 - (a) the duty in section 66(1) is not performed for part of the development. No officer and no consultee has assessed the building's effect on the Grade I listed ranges of Second Court, and a harm that the applicant itself records is not put to members (James Hall at [47]);
 - (b) a condition that statute attaches to the permission is set aside by a test that the statute and the Regulations do not contain.

2. **This is law, not judgment.** Section 66(1) is a statutory duty, and Schedule 7A is part of an Act of Parliament. Whether the statutory condition applies turns on the words of the Regulations. The report itself says the building stands on the grass with a footprint greater than 25 square metres. The only exemption the Regulations give for temporary development is regulation 7B, and it does not apply to this application (fact 8). Officers have no power to decide that a statutory condition is not reasonable.
3. **Corrected, permission cannot be granted on this report.** If the building is assessed, the harm that the applicant itself records to further Grade I listed ranges joins the harm to be weighed, and the balance has to be struck again. If the statutory condition applies, the finding at paragraph 18.5 falls.
4. **Nothing in the report cures it.** Condition 11 requires details after permission, and its own reason shows that the building's effect has not been judged. No condition fixes how long the building stands.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet rewrites condition 11 and leaves its reason as it was. On the statutory condition the sheet gives no answer in writing and promises one orally. An oral answer at the meeting cannot be read, checked or answered by the public beforehand (10.1, breach 7).
6. **The consequence.** A permission granted before part of the development has been assessed, and before the Council has decided whether a statutory condition applies, is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report rests on one settled set of details of the temporary building, on the register, and on the conservation officer's and Historic England's assessment of them. The corrected report gives members the trees officer's finding of 9 February 2026, and states whether the statutory biodiversity condition applies, and on which words of the Regulations.

10. The report was written without CLAG's seventeen documents, and the sheet changes no finding in answer to them

10.1 The report breaches section 70(2) of the Town and Country Planning Act 1990: the sheet says the report could not consider CLAG's seventeen documents, tells members the report answers one of them in full, and says the conservation officer's updated comments "are not required".

The law

Section 70(2) of the Town and Country Planning Act 1990 requires the Council to have regard to all material considerations. Section 149 of the Equality Act 2010 requires the Council to have due regard to the needs that section lists when it decides the application.

The facts

1. **The report was finished before CLAG's seventeen documents of 25 September 2026 arrived, and the sheet says the report could not consider them.** The sheet says the documents "were received following the finalisation of the officer report which was sent to Democratic Services around midday on the 25th" (item 1). The

sheet adds: “It has not therefore been possible to consider these representations in the report itself.” (item 1).

2. **The sheet itself sets out the errors that CLAG put to the conservation officer.** The sheet records CLAG’s points as being that “the identified heritage harm is stated only after positive effects have been weighed against it”, and that there is “no reasoning for narrowing the assessment of harm to the stair tower” (item 1).
3. **A different specialist did answer CLAG’s letter of the same date.** The sheet records “Updated comments received from the Council’s Environmental Health Officer clarifying their position in light of the CLAG representation of the 25 September” (item 13).
4. **The applicant’s construction plan takes away the tactile paving at the crossing on St Andrew’s Street for the whole period of the works.** The plan says: “The corresponding tactile paving located directly opposite on the northern/eastern side of St Andrew’s Street (forming the paired crossing point) shall also be removed to ensure consistency of surfacing and to avoid creating misleading tactile cues for visually impaired pedestrians.” (9423970, page 8). The plan puts the paving back “Upon completion of the works” (page 9).

The breaches

5. **The sheet tells members that the report answers in full a letter which, on the sheet’s own words, the report could not consider.** The sheet says of CLAG’s letter to the conservation officer: “This report sets out in full the officer heritage assessment response to all of the points raised within this letter.” (item 1). A report finished before a letter arrived does not contain the answer to it.
6. **The sheet says the conservation officer need not be asked.** The sheet says: “Updated comments from the Council’s Conservation Officer are not required.” (item 1). The whole balance rests on that officer’s “low” figure (2.2), and the sheet answers none of the errors that CLAG put to the officer.
7. **The sheet promises an answer on a statutory condition orally, at the meeting.** The sheet says officers “will report any further update orally on the day of planning committee” (item 14; 9.1). The public cannot read or answer an oral update before the vote. The High Court has held: “Information must be published by the public authority in good time for members of the public to be able to digest it and make intelligent representations” (R (Joicey) v Northumberland County Council [2014] EWHC 3657 (Admin) at [47]).
8. **Neither the report nor the sheet shows any regard to the people who depend on the tactile paving.** The report lists the “Equalities Act 2010” under national policy (paragraph 5.1). Neither the report nor the sheet refers to section 149 or to the tactile paving. CLAG raised the point in its documents of 25 September 2026.
9. **The report and the sheet carry errors that show they were not checked.** Five examples:
 - (a) the report misnames the statute it applies as the “Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990” (paragraphs 16.1 and 26.35);
 - (b) the report gives HE6(1) of the NPPF as applying “irrespective of whether any potential harm amounts to a positive effect” (paragraph 16.8), where the

policy says “irrespective of whether any potential effect amounts to a positive effect”;

- (c) the report gives the earlier application the number “26/02161/FUL” (paragraphs 6.71 and 16.30), and the number is 25/02161/FUL;
- (d) the sheet dates the letters of 4 and 5 October 2026 to September: “On Sunday 4th September a letter was received from HGH Consulting” (item 5);
- (e) condition 22, as the sheet amends it, still requires an assessment of “Internal lighting within the proposed covered Library Court”, and the design applied for has no covered court.

Error if left unchanged (10.1)

1. **The illegality.** Two errors of law:
 - (a) material considerations are left out of account. A report finished before CLAG’s documents arrived does not contain the regard that section 70(2) requires;
 - (b) the duty in section 149 of the Equality Act 2010 is not performed. Nothing before members shows any regard to the needs of visually impaired pedestrians at the crossing.
2. **This is law, not judgment.** Section 70(2) and section 149 are statutory duties. How much weight a representation carries is for members. Whether a representation was considered at all is a question of fact, and the sheet’s own dates answer it.
3. **Corrected, the decision is refusal.** The seventeen documents put to the Council the points on which sections 2 to 8 turn, and the sheet’s own summary of the documents shows it (item 1). A report that takes those points into account has to correct the errors at sections 2 to 8, and the corrections lead to refusal.
4. **Nothing in the report cures it.** On the sheet’s own account the report was written without the seventeen documents, so the answer to them is not in the report.
5. **The Amendment Sheet does not cure it, and nothing said at the meeting can.** The sheet gives the seventeen documents short responses, changes one condition in answer to them, and changes no finding. The conservation officer’s answer to CLAG’s letter is a written assessment. No officer can supply it orally at the meeting, and the sheet says it is “not required”.
6. **The consequence.** A permission granted without regard to representations made before the vote, and without the regard that section 149 requires, is unlawful, and the High Court can quash it on judicial review.

What correction requires. A corrected report takes the seventeen documents, the consultants’ letters and this letter into account. The corrected report rests on the conservation officer’s written answer to CLAG’s letter of 25 September 2026, and states the Council’s regard under section 149 to the removal of the tactile paving.

11. What CLAG asks: deferral, and a design that avoids the harm; refusal if the Committee will not defer

1. **The Committee defers item 6, and asks the applicant to come back with a design that avoids the harm.** The report, as the sheet leaves it, contains each error set out at sections 2 to 10, and the Council has described the report to the High Court

in terms that the report contradicts (section 1). On the Council's own documents the harm can be avoided (section 4).

2. **The deferral runs until the High Court has heard the case on the 2025 permission, on Tuesday 20 October 2026, and until the errors in the report have been corrected.** The Council corrects every error in a new report, and the application comes back to the Committee on that report. The corrected report:
 - (a) tells members what the Council has told the High Court about the report and about the 2025 permission, with no difference between what members are told and what the Court is told (section 1);
 - (b) takes the continued use of the listed buildings out of the degree of harm and out of the benefits, and strikes the balance again under the presumption against permission (section 2);
 - (c) withdraws the statements that the stair tower and the scale of the building are required, and tells members that the applicant has given no justification (section 3);
 - (d) puts the Council's advice of 19 December 2024 and its findings of 2016 before members, and answers whether the harm can be avoided by a lower or distributed library (section 4);
 - (e) weighs the harm that Historic England found, and states the degree of harm to each Grade I listed building and to the conservation area before any benefit is set against it (section 5);
 - (f) applies Policy 60 and DP3(3) (section 6);
 - (g) makes the finding that section 38(6) requires on the development plan as a whole (section 7);
 - (h) applies P3(2)(b) to the people who work in the shops opposite, and states the width of the lane from the applicant's drawings (section 8);
 - (i) assesses the temporary building in Second Court, and states whether the statutory biodiversity condition applies (section 9);
 - (j) takes the seventeen documents, the consultants' letters and this letter into account, and states the Council's regard under section 149 of the Equality Act 2010 (section 10).
3. **If the Committee will not defer, it refuses the application, and asks the applicant to come back with a better application.** Each error, corrected, leads to refusal, for the reasons at sections 2 to 8.
4. **If the Committee resolves to grant permission, the decision notice does not issue before the Court's judgment, and the judgment is put to the Committee first.** The reason is at section 1, breach 15.
5. **The Council displays this letter on the register, and places it in full before every member of the Committee, before item 6 is taken on Wednesday 7 October 2026.**

Each error in this letter has been stated to the Council in writing before the vote.

Christ's Lane Action Group