10 July 2026

OBJECTION TO APPLICATION 26/02109/FUL

Christ's College Library, St Andrew's Street / Christ's Lane, Cambridge

Judicial Review AC-2025-LON-004656: all grounds conceded; substantive hearing fixed for 20 October 2026

THE OBJECTION

CLAG objects to application 26/02109/FUL. The Council should not determine this materially unchanged scheme before the substantive hearing fixed by the Planning Court for 20 October 2026 and the Court's reasoned judgment. If the application is determined thereafter, it should be decided by the Planning Committee, not under delegated powers, on a fresh officer report that expressly identifies and lawfully addresses each of the four grounds on which permission for judicial review was granted.

1. The court record is exceptional

This is not a case in which objectors have merely threatened legal proceedings. **The Planning Court has granted permission on every ground pleaded.** Mr Justice Kimblin held that the claim raises "important issues" concerning key planning considerations, that the grounds are "strongly arguable", and that they merit a full hearing. He also directed that the case was not suitable for determination by a Deputy High Court Judge.

After permission was granted, Cambridge City Council and Christ's College did not continue to defend the first permission. They signed a draft Consent Order providing that the claim be allowed and planning permission 25/02161/FUL be quashed. In its covering letter to the Court, the Council stated that both it and the College had agreed to quashing **"on all four grounds"** and that their position was **"not materially different"** from conceding the claim on all grounds in their acknowledgments of service.

That is a substantive concession, not a procedural technicality. The Council and College accepted all four pleaded grounds as a sufficient basis for allowing the claim and quashing the permission, with the Council paying CLAG's reasonable costs. The fact that the final order was not made on paper does not diminish what they formally accepted; it means those accepted grounds will now receive the reasoned judicial determination for which CLAG pressed.

CLAG did not sign the proposed Consent Order because quashing without a reasoned judgment would leave unresolved the legal errors that must be corrected when the identical scheme is redetermined. The Court did not dispose of the claim on the papers. After the Council and College asked the Court either to make their proposed order or list a short hearing, the Administrative Court instead confirmed that the substantive hearing is fixed for 20 October 2026, in person at the Royal Courts of Justice, with a one-day time estimate. The four grounds therefore remain before the Planning Court for substantive determination.

2. The defects concern the scheme, not a technicality

The four grounds go to the heart of the heritage assessment and planning balance:

- **Ground 1: Historic England's advice was materially misrepresented.** The pleaded case is that the Committee was not told that Historic England had found harm from the building's excessive bulk and massing, considered it "too big" and "overdominant", and said that the overall massing remained unchanged after amendments.
- **Ground 2: The Committee received legally inconsistent advice about heritage harm.** It was told both that less-than-substantial harm existed and required a public-benefits balance, and that the overall effect was neutral or caused no harm. Those positions cannot rationally be applied simultaneously without risking dilution of the great weight due to harm to Grade I heritage assets.
- **Ground 3: "Optimum viable use" was relied upon without an adequate evidential or logical basis.** The listed College buildings have remained in continuous educational use for centuries. The pleaded case is that continuation of that established use could not properly be manufactured into a new public benefit capable of outweighing heritage harm.
- **Ground 4: Less harmful alternatives were not considered.** Once harm to the setting of a listed building was identified, realistic ways of reducing or avoiding that harm were material considerations. The Committee was not advised accordingly.

These are not peripheral procedural complaints. They concern the building's bulk and massing, the accuracy of the account given of the Government's statutory heritage adviser, the existence and weight of heritage harm, the asserted public benefits, and the failure to address less harmful design solutions. They are inseparable from the merits of application 26/02109/FUL.

3. Resubmission does not cure the errors

Application 26/02109/FUL seeks permission for materially the same development. Re-submitting the plans under a new application number does not answer any of the four grounds. Nor can the first decision be treated as a lawful precedent or starting point when the Council and applicant have jointly invited the Court to quash it on every pleaded ground.

The central question is therefore not whether officers can produce a differently worded conclusion. It is whether the second decision demonstrably avoids the substantive errors identified in the claim. That requires, at minimum, a transparent and internally consistent assessment which:

- sets out Historic England's advice fully and accurately, including its findings of harm from excessive bulk and unchanged massing;
- identifies each affected designated heritage asset and reaches a clear finding on the existence and degree of harm to each;
- gives any heritage harm the considerable importance and weight required by the statutory duty;
- applies the public-benefits balance consistently, without relabelling harm as "neutral" or beneficial in order to avoid it;
- does not rely on optimum viable use without cogent evidence that the development is necessary to secure that use; and
- examines realistic less harmful alternatives, including a material reduction in height, bulk and massing.

4. Determination now would be premature and unsafe

The substantive hearing is not hypothetical or merely anticipated: the Administrative Court has fixed it for 20 October 2026, in person at the Royal Courts of Justice, with a one-day time estimate. The Court will determine the legality of the Council's treatment of the very heritage matters reproduced by the second application. Determining the materially identical scheme first would deliberately deprive the

decision-maker of imminent High Court guidance and create an obvious and avoidable risk of repeating the same errors.

The position is more serious than the mere existence of unresolved litigation. Permission was granted on all four grounds; a High Court judge found that those grounds raise important issues bearing on key planning considerations and are strongly arguable; the Council and College then agreed that the first permission should be quashed on all four grounds; and the Council told the Court that this was "not materially different" from conceding the claim on all grounds. The claimant declined a paper disposal precisely so that the public, the Council and any future decision-maker could have the benefit of a reasoned judgment. The substantive hearing is now fixed. In those circumstances, deciding the identical application first would be indefensible unless the Council could demonstrate, transparently and ground by ground, both why the Court's imminent judgment should be pre-empted and how every conceded defect has already been cured. It cannot do so: the design and supporting reports have not been changed.

Administrative speed cannot outweigh the need for a lawful decision. A short deferral would cause no planning prejudice that could sensibly outweigh the risk of a second defective permission, further proceedings, wasted public resources and renewed uncertainty for all parties.

5. Specific action requested

CLAG respectfully requests that the Council:

- **records this representation as a formal objection to application 26/02109/FUL;**
- **places this objection and all four enclosed court documents on the public planning file;**
- **does not determine the application before the substantive hearing fixed for 20 October 2026 and the resulting reasoned judgment;**
- **refers any subsequent determination to the Planning Committee rather than deciding it under delegated powers;**
- **ensures that the officer report reproduces the material passages from the enclosed order, grounds and Council covering letter, and addresses each of the four grounds separately;**
- **if officers nevertheless recommend approval before the 20 October hearing and reasoned judgment, explains expressly why pre-empting the Planning Court is considered lawful and prudent, and identifies the evidence showing how each of the four grounds accepted by the Council and College as a basis for quashing has been cured in an unchanged scheme.**

6. Documents submitted

1. Order of Mr Justice Kimblin, served 9 March 2026: permission granted on all grounds, with observations and reasons.

2. CLAG Statement of Facts and Grounds: the four grounds and supporting particulars.

3. Draft Consent Order signed by Cambridge City Council and Christ's College on 28 April 2026, together with the Council's covering letter to the Administrative Court.

4. Administrative Court List Office confirmation dated 28 May 2026: substantive hearing fixed for 20 October 2026 at the Royal Courts of Justice, with a one-day time estimate.

Conclusion

The first permission is not merely an unreliable foundation for the second application. It is a decision that a High Court judge found open to challenge on every pleaded ground and that the Council and College subsequently agreed should be quashed on all four grounds. Their own lawyer told the Court that this was not materially different from conceding the entire claim. CLAG declined to let those errors disappear through an unexplained paper order, and the Administrative Court has fixed a full substantive hearing for 20 October 2026. The applicant has meanwhile resubmitted the same design and reports. The Council must not pre-empt that hearing by granting the same permission again. It should await the reasoned judgment and then, if the application remains live, subject it to genuinely fresh, legally correct and transparent Committee scrutiny.

Yours faithfully,

CHRIST'S LANE ACTION GROUP

[redacted]

DOCUMENT 1 · Order of Mr Justice Kimblin (9 March 2026)

Permission granted on all grounds

AC-2025-LON-004656
HIGH COURT OF JUSTICE
09 Mar 2026
LONDON
PLANNING COURT
AC-2025-LON-004656

In the High Court of Justice
King's Bench Division
Planning Court

In the matter of an application for judicial review

THE KING

on the application of

CHRIST'S LANE ACTION GROUP

Claimant

-and-

CAMBRIDGE CITY COUNCIL

Defendant

-and-

THE MASTER, FELLOWS, AND SCHOLARS
OF CHRIST'S COLLEGE

Interested Party

Notification of Judge's Decision (CPR 54.11, 54.12)

Following consideration of the documents filed by the Claimant, the Defendant's and Interested Party's Acknowledgement of Service and Summary Grounds of Defence and the Claimant's Reply

ORDER BY THE HON. MR JUSTICE KIMBLIN

1. Permission to apply for judicial review: Permission is granted on all grounds.

2. Expedition: The application for expedition is refused.

3. Costs cap: The Claimant's exposure to adverse costs orders shall be limited to £10,000 inc VAT, with a reciprocal cap of £35,000 inc VAT (i.e. the potential costs liability of the Defendant to the Claimant).

4. Case Management Directions:

   (a) The Defendant and any other party which intends appear at the substantive hearing must, within 35 days of the date of service of this Order, file and serve (i) Detailed Grounds for contesting the claim or supporting it on additional grounds and (ii) any written evidence to be relied on.

(b) The Parties may comply with sub-paragraph (a)(i) above by filing and serving a document which states that its Summary Grounds are to stand as the Detailed Grounds required by CPR 54.14.

(c) If the Interested Party wishes to rely upon the witness statement of Mr Parsons, or a revised version of it, at the hearing it must file an application with its Detailed Grounds which explains why each part of that evidence is relevant to the legal issues which the court is to determine.

(d) Any application by the Claimant to serve evidence in reply must be filed and served, together with a copy of that evidence, within 21 days of the date on which the Defendant serves evidence pursuant to (a) above.

(e) The parties must agree the contents of a Core Hearing Bundle and a Supplementary Bundle.

(f) An electronic version of the bundles must be prepared and lodged, in accordance with the Administrative Court Judicial Review Guide Chapter 21 and the Guidance on the Administrative Court website, not less than 28 days before the date of the substantive hearing. The parties must, if requested by the Court, lodge 2 hard-copy versions of the hearing bundle.

(g) The Claimant must file and serve a Skeleton Argument (maximum 20 pages), complying with CPR 54 PD para. 15 and the Administrative Court Judicial Review Guide paras 20.1 to 20.3, not less than 21 days before the date of the substantive hearing.

(h) The Defendant and any other party wishing to appear must file and serve a Skeleton Argument (maximum 20 pages), complying with CPR 54 PD para. 15 and the Administrative Court Judicial Review Guide paras 20.1 to 20.3, not less than 14 days before the date of the substantive hearing.

(i) The parties must agree the contents of a bundle containing the authorities to be referred to at the hearing. An electronic version of the bundle must be prepared in accordance with the Guidance on the Administrative Court website. The parties must, if requested by the Court, prepare a hard-copy version of the authorities bundle. The electronic version of the bundle and if requested, the hard copy version of the bundle, must be lodged with the Court not less than 7 days before the date of the substantive hearing.

(j) The time estimate for the substantive hearing is 1 day. If either party considers that this time estimate should be varied, they must inform the court as soon as possible.

OBSERVATIONS AND REASONS

(1) The Claimant raises important issues about the decision making in this case which had a bearing on key planning considerations which informed the grant of consent. I consider that they are strongly arguable and merit consideration at a full hearing.

(2) Mr Parson's witness statement appears to me to be solely directed to expedition. If it is intended to rely upon it at the hearing, then I would be concerned that it argues the planning merits. I have directed that an application be made to rely upon it, which application will be decided at the hearing.

(3) Judicial review of planning cases benefits from an expedited timetable by reason of CPR PD54D. In respect of planning judicial reviews (cf statutory reviews) paragraph 3e of the PD states "judicial reviews are to be heard within ten weeks of the expiry of the period for the submission of detailed grounds by the defendant or any other party as provided in Rule 54.14.". In that context it will only rarely be appropriate to grant expedition and thus to make other litigants wait longer than they otherwise would. I have read and note the contents of Mr Parson's witness statement as to expedition. However, 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.

(4) I have directed provision of core and supplementary bundles. This case turns on a relatively small number of key documents. They are the candidates for the core bundle. Counsel should give careful thought to the content and ordering of those materials.

(5) If (4) is complied with, there is no reason why this case should not be fully argued in 1 day before an experienced judge of the Planning Court.

(6) I consider that costs protection is appropriate in this case, at the levels in the draft order. The financial information is adequate.

This case is NOT suitable for hearing by a Deputy High Court Judge

Signed: MR JUSTICE KIMBLIN Date: 6th March 2026

The date of service of this order is calculated from the date in the section below

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For completion by the Administrative Court Office

Date: 09/03/2026

Notes for the Claimant

To continue the proceedings, a fee is payable.

For details of the current fee please refer to the Administrative Court fees table at https://www.gov.uk/court-fees-what-they-are.

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained at https://www.gov.uk/get-help-with-court-fees

You are reminded of your obligation to reconsider the merits of your claim on receipt of the Defendant's evidence.

DOCUMENT 2 · CLAG Statement of Facts and Grounds

IN THE HIGH COURT OF JUSTICE AC-2025-LON-xxxx

KING'S BENCH DIVISION

PLANNING COURT

B E T W E E N :

THE KING

(on the application of CHRIST'S LANE ACTION GROUP)

Claimant

and

CAMBRIDGE CITY COUNCIL

Defendant

and

CHRIST'S COLLEGE CAMBRIDGE

Interested Party

STATEMENT OF FACTS AND GROUNDS

Preliminaries

References	[CB/x] = page in the claim bundle
Essential reading (2 hours)	Historic England's first [CB/161] and second [CB/176] consultation responses Officer's report to Committee and amendment/de-brief sheet [CB/63 and 133]

INTRODUCTION

1. The Claimant seeks permission to challenge the Defendant's decision to grant planning permission in respect of the Interested Party's planning application 25/02161/FUL for development described as "Demolition of 1970s library and

replacement with new library and social and study spaces and including re-provision of bridge to the Bodley Library (and associated development)".

2. The planning application was considered by the Defendant's Planning Committee ('the Committee') on 29 October 2025. The decision notice was issued on 7 November 2025 [CB/141].

3. In determining the application, the Defendant was subject to the statutory duty in s. 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990 to "have special regard to the desirability of preserving the building or its setting".

4. Listed Building Consent ('LBC') was also required for the demolition of the existing library and various internal works. The Interested Party applied for LBC under reference 25/02162/LBC. The LBC application was the subject of a separate report to Committee, a separate presentation by the case officer, and a separate resolution and decision. It was considered after the Committee had already resolved to grant planning permission. For the avoidance of doubt, the Claimant does not seek to challenge the LBC decision.

5. The Claimant is an unincorporated association of individuals, who have joined together for the common purpose of seeking to protect the amenity, heritage, and environmental interests of Christ's Lane and the surrounding historic core of Cambridge. The Claimant has consistently objected to the Interested Party's proposals to redevelop its library and submitted several objections to the scheme, which has now been granted planning permission and listed building consent.

6. In summary, the Claimant contends that the Defendant's decision was legally flawed in the way it dealt with heritage matters. The Defendant's statutory duty was not lawfully discharged. The following grounds are pursued:

Ground 1 – The Committee was materially misled as to Historic England's ('HE') advice. The statutory consultee had identified harm arising from the bulk and overall massing of the proposal, and advised that

this remained "unchanged" following scheme amendments. The Committee was materially misdirected as to HE's position by the officer's report and presentation. An incomplete and misleading summary of their advice was given, which omitted to mention that HE had identified harm arising from the proposal.

Ground 2 - The Committee was materially misled as to the existence and/or extent of harm to the significance of designated heritage assets. The report to committee provided confusing and inconsistent advice as to whether there was harm to the listed building that needed to be outweighed in a para 215 public benefits balance commensurate with harm to Grade I significance, or whether the impact on the listed building was 'neutral' – meaning that there is by definition no 'harm' to engage para 215. The attempt in the report to do both simultaneously is a legal misdirection that risks diluting the mandatory weight to harm. Further inconsistent advice was given during the Committee meeting itself.

Ground 3 - The Committee took into account an irrelevant consideration - optimum viable use ('OVU'). The Committee was advised that the proposal would "help to secure the listed building's optimum viable use". The NPPF identifies OVU as a particular type of public benefit and further guidance is provided in the PPG. The Defendant's decision was based on a misunderstanding/misapplication of the PPG, was unsupported by any evidence and was based on flawed logic. The continuation of an existing, baseline, OVU cannot lawfully be elevated into a distinct public benefit capable of outweighing heritage harm.

Ground 4 - The Committee failed to take into account a relevant consideration – the existence of less harmful alternative modes of development. The Defendant's position is that harm to the setting of the listed building was clearly identified. That being the case, the possibility of that harm being reduced or avoided through an alternative scheme or

mode of development was a material consideration. There were realistic modes of development that could reduce/avoid harm, but the Committee was not advised of their relevance and they were not considered.

7. The Claimant complied with the pre-action protocol ('PAP'). Its PAP letter contained a detailed explanation of the relevant facts and proposed grounds of challenge [CB/307], which are now replicated below in substantially the same terms. Both parties responded to the PAP letter [CB/334 and 344], and the Claimant has sought to address their arguments within this document.

AARHUS CONVENTION CLAIM

8. The proposed claim falls within the scope of the Aarhus Convention. Both the Defendant and the Interested Party have accepted this in their PAP responses. However, they argue that because the Claimant is an unincorporated association full financial details need to be provided for each member of the association, because they would be personally liable for any debts [CB/335 and 344].

9. CPR 46.25 provides:

> "(1) Subject to paragraph (2), rules 46.26 to 46.28 apply where a claimant who is a member of the public has—
>
> (a) stated in the claim form that the claim is an Aarhus Convention claim; and
>
> (b) filed and served with the claim form a schedule of the claimant's financial resources, which is verified by a statement of truth and provides details of—
>
> (i) the claimant's significant assets, liabilities, income and expenditure; and
>
> (ii) in relation to any financial support which any person has provided or is likely to provide to the claimant, the aggregate

amount which has been provided and which is likely to be provided."

10. The Claimant is an unincorporated association. There is no doubt that an unincorporated association is entitled to bring a claim for judicial review, notwithstanding that it lacks legal personality: *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 45 Admin. The Defendant and the Interested Party do not suggest otherwise.

11. The requirement in CPR 46.25(1)(b) is to provide details of the claimant's financial resources, along with details of financial support which any other person "has provided or is likely to provide". The Claimant has complied with this requirement. The financial schedule sets out details of the Claimant's assets, liabilities and expenditure and the support which has been and is likely to be provided by supporters in the form of donations [CB/58]. The schedule also confirms that the Claimant's funds are held in a community bank account used exclusively for its activities and are ring-fenced. It demonstrates that the Claimant has sufficient funds to meet a liability of up to £10,000, commensurate with the applicable costs cap for persons who are not claiming "only as an individual".

12. Neither the Defendant nor the Interested Party provide any authority whatsoever to support the proposition that individuals who are not the Claimant are required to provide full financial disclosure. Such a requirement is unprecedented and contrary to the underlying purpose of the Aarhus Convention and the relevant parts of the CPR.

13. For the above reasons, the Claimant seeks an order limiting its liability for costs to £10,000, and a reciprocal cap on the Defendant's liability of £35,000.

RELEVANT FACTS

The application site and designated heritage assets

14. Christ's College is located in the historic core of the City Centre, immediately east of St. Andrew's Street. The College itself was founded in 1505 and is one of the oldest Cambridge Colleges. The existing two-storey library was built in 1976. The south-eastern elevation of the library abuts Christ's Lane, a busy pedestrian thoroughfare (and public right of way) linking St Andrew's Street with Christ's Pieces and the Drummer Street bus station. The north-western elevation of the library opens into Bath Court, a small and enclosed courtyard to the rear of the South Range of First Court. The library connects into the 19th Century Bodley Library, which stands at the end of the West Range of First Court, on the corner of Christ's Lane and St Andrew's Street. The application site is shown on the submitted site plan [CB/62].

15. Part of Christ's College is designated as a Grade I listed building. The full list description is contained in the Applicant's Heritage Statement. The listing applies to "The Buildings surrounding Entrance Court, with the South-East range of Second Court". The Bodley Library is part of the listed building. The existing 1970s library and other buildings at the eastern end of Bath Court are not within the listing. They are considered to be 'curtilage listed' (s. 1(5) Planning (Listed Buildings and Conservation Areas) Act 1990), but are not identified as being of historic or architectural interest in their own right.

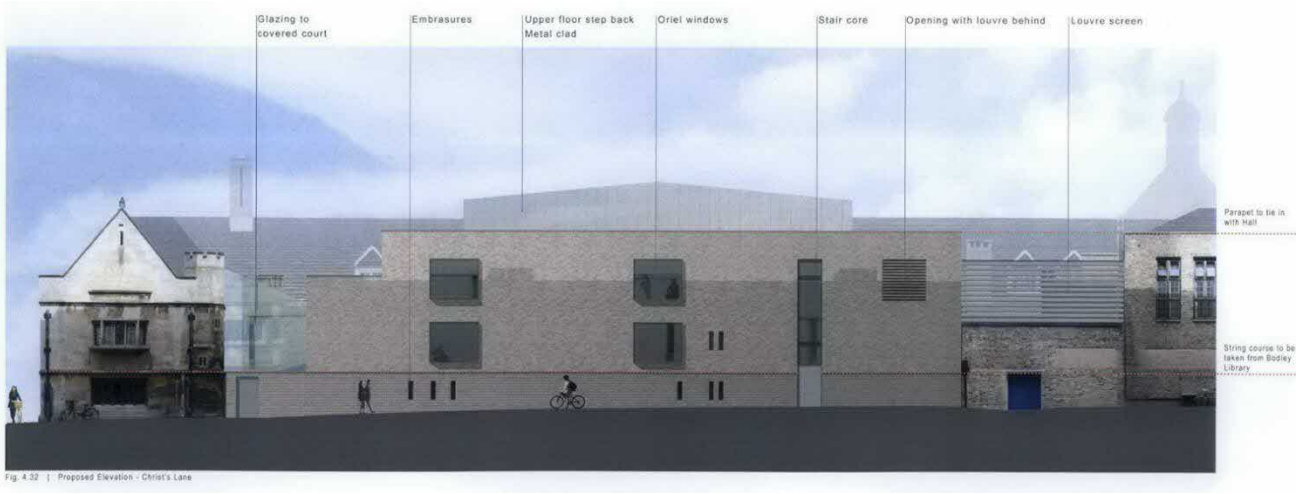
16. In addition, Christ's College is designated as a Registered Park and Garden (Grade II) and falls within the Central Conservation Area. Many surrounding buildings within and outside the College grounds are also listed.

2011 and 2016 schemes

17. In May 2011 the Interested Party applied for planning permission and listed building consent to demolish the 1970s library and replace it with a new building ("the 2011 scheme"). It was proposed that the replacement library would

included a basement level and four above-ground storeys. There was to be a new bridge link to the Bodley Library with glazed sliding doors, a glazed bridge link between the new library and the South Range of First Court, and a glazed 'roof' to Bath Court.

18. The Christ's Lane elevation was illustrated as follows in the submitted Design and Access Statement (p.49):



19. English Heritage did not object to the 2011 scheme, although they raised concerns around the proposed glazed doors linking to the Bodley Library.

20. The officer's report to Committee in respect of the 2011 scheme [CB/95] concluded that it was compliant with policy 4/10, which required amongst other things that the proposed development did not "harm any aspects of the building(s) interests or to allow these to be reversible", and where there was harm "that this is the least damaging of the potential options and that there are clear benefits for the structure, interest or use of the building(s) or wider public benefit" [CB/259], para 8.56. The report identified English Heritage's concerns about the glazed doors, but determined that conditions should be imposed "to control the detailed execution of these elements to seek the best available solutions" [CB/257], para 8.45. It concluded that the scale and massing of the proposed building would "not be harmful to the character and setting" of the listed buildings [CB/252], para 8.22, and that overall the scheme would "protect the special interests" of the

Grade I listed buildings [CB/265], para 9.1. Planning permission and listed building consent were granted in July 2013, but the 2011 scheme was not implemented.

21. Identical applications for planning permission and listed building consent were re-submitted in April 2016 (2the 2016 scheme"). The officer's report in respect of the 2016 scheme [CB/267] noted that the national policy context had changed with publication of the NPPF and PPG. Again, the report found that the "scale and massing" of the building would not harm the character or setting of the listed buildings [CB/290], para 8.27. The report discussed the fact that the Defendant's Urban Design and Conservation team (but not Historic England or the Design and Conservation Panel) had described the proposed bridge between the new library and the South Range as "unacceptable" [CB/294], paras 8.43, 8.48. The officer concluded that the benefits outweighed the less than substantial harm caused by the bridge, such that the proposal was acceptable [CB/298], para 8.65. Planning permission and listed building consent were granted on 7 September 2016, but the 2016 scheme was not implemented.

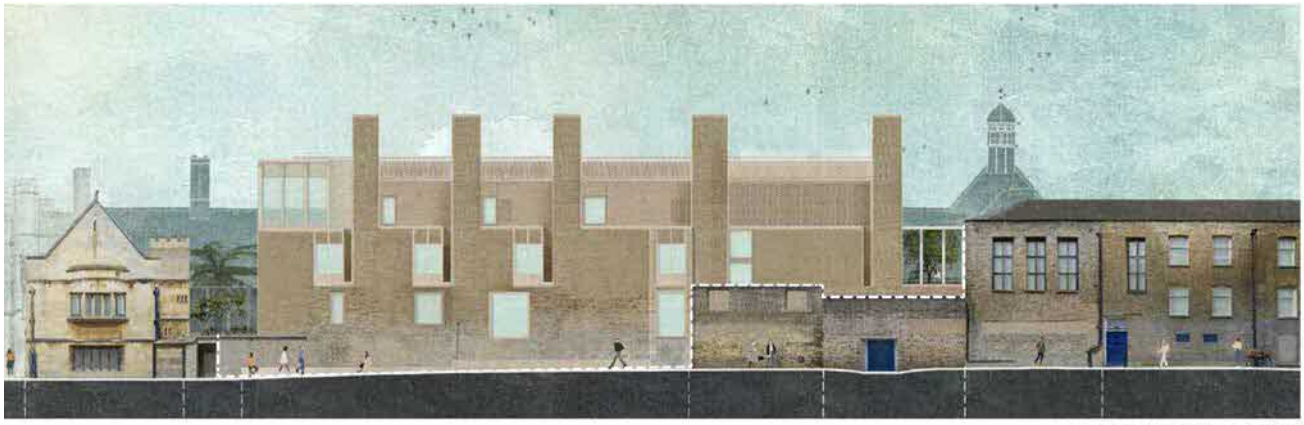
2025 scheme

22. The Interested Party submitted fresh applications for planning permission and listed building consent in June 2025. These proposed an alternative design for the new library, which had followed an architectural competition in 2023/24 ("the 2025 scheme"). Section 3.2 of the Design and Access Statement described two key differences between the 2025 scheme and the earlier 2011 and 2016 schemes:

> "The new library proposals no longer include a basement, as there were concerns that a basement construction in Bath Court would have a negative impact on the sensitive historic fabric of the building ranges that enclose the court on two sides. The carbon intensity of providing a new basement was also taken into account in the new design, opting for a more

sustainable option without a new basement floor …While the originally approved plans proposed a four storey library and the new library retains this number of floors, the upper floors have extended, with a longer 37.5m elevation at this scale facing Christ's Lane. It is also planned to have Bath Court open to the air and not enclosed or with a glazed roof, as had been originally proposed in the 2011/2016 design, thereby avoiding any potentially damaging contacts with the existing historic fabric."

23. The Christ's Lane elevation was illustrated as follows in the submitted Design and Access Statement (p.14 - extract):



Proposed - Christ's Lane Elevation

24. The applications were accompanied by a Heritage Statement. The concluding section of this document is provided at [CB/156]. The Heritage Statement which concluded that the proposed development would "cumulatively" cause "a small degree of adverse impact (and harm) to the significance and setting of the Grade I listed Christ's College building ranges", but also "some clear heritage benefits and enhancements resulting from the proposed development" [CB/156], para 6.4. It concluded:

"…the proposed development would result in a small amount or low level of heritage harm, but will also result in clear heritage benefits resulting from aspects of the proposals to the Grade I listed building ranges and within their setting. On balance, and taking into account the clear benefit/enhancement to the character and appearance of the

> Conservation Area, it is considered identified heritage harm is outweighed by the resulting heritage benefits and enhancements. Thus, it is identified that the character, appearance and/or significance (and setting) of the designated heritage assets, which have been scoped in as relevant to the proposed development, would, in overall terms, be sustained or otherwise materially unaffected by the proposed development. This would accord with paragraphs 212 and 213 of the NPPF.
>
> In this way, paragraphs 214-215 of the NPPF in relation to potential heritage harm do not apply …". [CB/158], paras 6.16 - 17

25. The Defendant consulted on the 2025 scheme.

26. On 15 July 2025 the Claimant submitted a petition calling for the application to be considered at the Defendant's Development Control Forum, arguing that the proposed library design was "a tall bulky building that is vastly disproportionate to its surroundings, would lead to harm to the heritage setting, specifically the neighbouring Grade I listed buildings, in a Cambridge core conservation area", and that changes should be made.

27. Historic England responded to the consultation on 29 July 2025 [CB/161]. The letter should be read in full, but key extracts are provided here:

> "New building
>
> …
>
> The removal of the basement and glazed enclosure have removed instances of harm to the significance of the listed college. However, the resulting increased massing brings other instances of harm, as it puts considerable pressure on the surrounding buildings forming Bath Court. The building feels too big, overdominant on this space, particularly in its relationship with the south range of first court and the Bodley Library.

Similarly, the increased height towards Christ's Lane feels quite large when seen alongside the relatively modest elevations of the college. This impact is evidenced in the visualisations presented, particularly those looking towards St Andrew's Street.

Internal Works

…

The most contentious aspect here would be the introduction of a large wash-up pod in the historic buttery, a highly significant space within the 16th century building. It would require enclosing and lining a large section of the room, alongside the introduction of ductwork and pipework. Albeit this room has been already modified to adapt it to its current use as offices, its conversion into a wash up area would strongly affect the character of this space and ability to understand its historic plan form.

…

Historic England position

The introduction of a new primary building of the massing proposed within what historically was a domestic kitchen garden is challenging. 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.

…

Changes introduced to the western end of the building (staircase, prayer room and landscaping) have improved the relationship of the building with the Bodley.

The treatment to Christ's Lane has also been refined and simplified from the competition and subsequent designs discussed at pre-application stage. The wall level which initially aligned with the Bodley's stringcourse

has been now lifted up to turret level. Whilst this simplifies the design and improves the building's own proportions, it feels more overbearing in its relationship with the Bodley and evidences the difficulties to accommodate a building which is too large for what is a very domestic setting.

…

To summarise and conclude, in their present form, 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.

The proposals would be bulkier that those that were previously granted consent. We also acknowledge the benefits of removing the basement and glazing from the court and the architectural merits of the current scheme. With this in mind, we do not wish to object to the application but would strongly encourage that massing is further reduced so it sits better within this context.

Should the Council be minded to grant permission for the proposals in their current form, we would ask that refinements are introduced to the chimney/ventilation stacks to that their bulk is reduced as far as practicable. Clarity should also be given in relation to how their height would sit alongside the chapel turret, as we consider the prominence of the latter should remain unchallenged - and bearing in mind that the massing of these elements would be larger than traditional chimney stacks. Ideally, the combined lift and ventilation shaft would be reduced to match the adjacent shafts, if possible.

In relation to the wash-up pod. The Council should be satisfied that the proposed solution represents the least harmful option, and that other more sympathetic solutions are not possible. You should also be satisfied

that the adaptation of the space for the proposed use would not have any adverse impacts on sensitive early historic fabric."

28. The Defendant's Conservation Officer also responded to the consultation on 27 July 2025 [CB/166]. The officer raised concern regarding the height of the chimneys, which were described as "excessive and unjustified" due to the harm they would cause to the setting of the grade I listed building when viewed from First Court. Concern was also raised about the kitchen layout. The Conservation Officer identified that less than substantial harm at a moderate level and recommended that "amendments are made to address the above points".

Scheme amendments

29. On 27 August 2025 the Interested Party submitted amended plans and explanatory documents. The amendments were explained in a letter from the Interested Party's heritage consultants [CB/172]. In summary, the changes were:

    a. A reduction in the height of the proposed chimneys of c. 900mm and the introduction of vertical slots to provide additional ventilation and "break up the bulk" of the stacks. It was noted that the proposed chimney height was now "virtually identical to the heights presented at a previous pre-application meeting (considered acceptable by the Conservation Officer)".

    b. The kitchen space was reconfigured, with the wash-up area moving into the main kitchen to allow "more benign office uses to remain in the old buttery", although it was noted that this "has compromised some of the functional enhancements which the College were seeking".

30. The Defendant carried out a further consultation on the proposed amendments.

31. Historic England responded to the second consultation on 1 September 2025 [CB/176]. Their letter stated:

> "An additional set of plans has been submitted in support of this application. The overall massing of the building remains unchanged but revisions have been introduced to the chimney/ventilation stacks and the position of the wash up pod, which were raised in our letter of advice dated 29 July 2025.
>
> The height of the ventilation stacks has been reduced 90cm; further louvered slots have been added to the side and rear elevations to compensate for the loss ventilation area; this also helps to break up the mass of these elements.
>
> The wash up area has been relocated within the kitchen space, with the former buttery now accommodating the chef's offices. This is a more benign use of the space which would require less alteration, allowing the character of the space - and legibility of plan form - to be better retained.
>
> We fully appreciate the challenges of trying to accommodate an ambitious program within the constraints of the existing space, and welcome the additional work carried out in response to consultation feedback.
>
> We are of the opinion that if the height of the staircase turret could similarly be slightly reduced, this would better retain the prominence of the reduced chimney/ventilation stacks. This in turn would improve the relationship of the building with the Bodley library and its perceived bulk in views from St Andrew's Street. We would encourage this is considered.
>
> Overall, Historic England welcomes the revisions introduced to the scheme and retains its position of no objection."

32. The Defendant's Conservation Officer also provided a further consultation response on 18 September 2025 [CB/178]. The officer said that the changes to the

chimneys had “satisfactorily addressed the previous concerns in relation to the setting of First Court and can therefore be supported”. The changes to the kitchen area also addressed earlier concerns. The officer identified a “degree of harm” from the “change in scale between the proposed stair tower and the southern end of the Bodley Library”, but also stated that “the principle and scale of the stair tower is accepted” and that “The overall scale of the building, including the stair tower, is not considered inappropriate or harmful in relation the college and conservation area more widely”. The Conservation Officer concluded that there would be less than substantial harm to the listed building “at the lower end of the scale”, such that “NPPF paragraph 215 is engaged”. The officer said that that harm was “clearly and convincingly justified” and that the proposal “includes public benefits in the form of heritage benefits and the works overall would help to secure the building’s optimum viable use”. The officer concluded that “the proposal would preserve the character and appearance of the conservation area”.

33. The proposals were considered at the Defendant’s Development Control Forum on 11 September 2025. The Interested Party, the Claimant, supporting petitioners, a ward councillor and the case officer all addressed members of the planning committee.

34. On 26 September 2025 the Interested Party’s heritage consultants wrote to the Defendant [CB/183], summarising their responses to comments that had been raised by other parties. The letter specifically addressed comments made by objectors at the Development Control Forum about the assessment of heritage impact and weighting of harm against benefits. The consultants said that “On a scheme such as this where numerous heritage assets have the potential to be impacted in various ways, the overall heritage impacts need to be considered and only then can the ‘paragraph 215’ balance be applied” [CB/189], para 43. The letter noted that the Conservation Officer had identified a low level of less than substantial harm, although had found it to be justified, and stated that “Our assessment of heritage impact is done slightly differently as we assess whether

the works would be beneficial or harmful to each asset and we arrive at the conclusion that overall the works are beneficial" [CB/191], para 56.

35. On 21 October 2025 the Claimant submitted consultation responses formally objecting to the 2025 scheme [CB/194]. The objection letter was accompanied by a planning assessment prepared by HGH Consulting and a heritage assessment authored by Alec Forshaw IHBC, MRTPI, MA (Cantab). The Claimant also submitted a "Critical review and alternative design proposal" developed by Create Streets [CB/209]. The stated purpose of this document was "to show how a new library on the site can be a better fit for Christ's Lane while retaining the important function of being a library". It was noted that the proposals were "not definitive but rather seek to show a design that presents an attractive, more contextual response" and took as their starting point the "massing and scale" of the 2016 scheme.

Consideration by the planning committee

36. The 2025 scheme was considered by the Defendant's Planning Committee on 29 October 2025. The Committee was provided with a report from the case officer, setting out the proposed development and the consultation responses that had been received and analysing and providing advice on the various planning issues [CB/63]. The officer recommended that the planning application be approved, subject to conditions.

37. Following publication of the committee report, the Claimant sent rebuttal documents to the Defendant, from CLAG itself and from Mr Forshaw, taking issue with various parts of the officer's assessment.

38. An amendment/de-brief sheet was prepared by the case officer before the meeting, to update the report [CB/133]. This identified that "Five total further representations have been received by or on behalf of the Christs Lane Action Group (CLAG)". The officer summarised these documents and provided brief

responses. The five documents appear to be those submitted on 21 October 2025 [CB/133]; the rebuttal documents were not mentioned.

39. During the committee meeting the case officer presented the application and advised the Committee on the planning balance to be struck. There was a lengthy discussion, during which the case officer was specifically asked to advise on the issue of public benefits, and gave further advice on balancing heritage harms and benefits. A recording of the meeting is available and a link is provided on the Defendant's website, but no transcript is available and the printed minutes do not summarise the discussion. All parties have referred to comments made by speakers during the meeting (the Defendant and Interested Party in PAP correspondence). It is not anticipated that it will prove necessary to obtain a full transcript in order to determine the claim, but that my need to be reconsidered in the event permission is granted.

RELEVANT LAW AND POLICY

Statutory duty

40. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or the Secretary of State "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses …"

41. The discharge of this statutory duty has been described as "a demanding duty for a decision-maker, whose rigour has been repeatedly emphasised in the case law": *East Quayside 12 LLP v Newcastle upon Tyne City Council* [2023] EWCA Civ 359.

42. Paragraph 215 NPPF provides that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

43. There is no single correct approach to determining the harm to an asset. Despite not being required to do so, a decision-maker may lawfully carry out an internal balance of heritage-related benefits and heritage-related harm in order to determine whether harm exists to the asset overall (or whether harm has been 'neutralised'): *City and Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2021] 1 WLR 5761 (CA). Whatever approach is used, the decision maker must attach "considerable importance and weight" to any finding of harm to a heritage asset: *East Northamptonshire DC v Secretary of State* [2015] 1 WLR 45 (CA).

Challenges based on content of officers' reports

44. The principles to be applied when considering a challenge to a planning officer's report were summarised in *R (Mansell) v Tonbridge & Malling BC* [2019] PTSR 1452 (CA), paragraph 42:

    a. Planning officers reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge.

    b. Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave.

    c. 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.

d. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

e. Where the line is drawn between an officer's advice that is significantly or seriously misleading – misleading in a material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it … But unless there is some distinct and material defect in the officer's advice, the court will not interfere.

45. A failure to provide accurate and complete information about consultation responses provided by individuals or bodies with expertise in the conservation of heritage assets may lead to a decision being quashed. The purpose of consulting such individuals and bodies is so that the local planning authority can "draw upon that expertise", to provide assistance in discharging its duty under s.66(1): see *R (Loader) v Rother DC* [2016] EWCA Civ 795 and *R (Liverpool Open and Green Spaces CIC) v Liverpool CC* [2020] EWCA Civ 861. Although there is no requirement to repeat such advice verbatim, a summary must not materially mislead members as to the substance of the advice; it should still communicate the 'gist' or the 'main points': *R (Zins) v East Suffolk Council* [2020] EWHC 2850 (Admin).

46. In *R (Kinsey) v LB Lewisham* [2021] EWHC 1286 (Admin) a committee report had failed to mention that the Council's Senior Conservation Officer had been consulted and provided detailed comments, and a formal objection. Although the report summarised the SCO's comments, there were "some significant omissions and changes", including the omission of several comments which identified harmful impacts and the judgement was of "moderate" harm. The omissions meant that members had an "incomplete picture".

47. Internal inconsistency within a committee report on the existence of heritage harm can be a basis for quashing a permission. In *R (Widdington Parish Council) v Uttlesford DC* [2023] EWHC 1709 (Admin) the report had identified harm to a listed building, but later concluded that the significance of all listed buildings would be preserved. The Court found that there was no internally consistent analysis which could support the overall conclusion of no harm, such that there was "flawed logic" within the report and this was "not corrected before planning permission was granted".

Optimum viable use

48. Paragraph 215 NPPF provides that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal "including, where appropriate, securing its optimum viable use".

49. Paragraph 015 of the Historic Environment section of the PPG is as follows:

> "**What is the optimum viable use for a heritage asset and how is it taken into account in planning decisions?**
>
> The vast majority of heritage assets are in private hands. Thus, sustaining heritage assets in the long term often requires an incentive for their active conservation. Putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation.
>
> By their nature, some heritage assets have limited or even no economic end use. A scheduled monument in a rural area may preclude any use of the land other than as a pasture, whereas a listed building may potentially have a variety of alternative uses such as residential, commercial and leisure.

In a small number of cases a heritage asset may be capable of active use in theory but be so important and sensitive to change that alterations to accommodate a viable use would lead to an unacceptable loss of significance.

It is important that any use is viable, not just for the owner, but also for the future conservation of the asset: a series of failed ventures could result in a number of unnecessary harmful changes being made to the asset.

If there is only one viable use, that use is the optimum viable use. If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one. Nor need it be the original use. However, if from a conservation point of view there is no real difference between alternative economically viable uses, then the choice of use is a decision for the owner, subject of course to obtaining any necessary consents.

Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised. The policy on addressing substantial and less than substantial harm is set out in paragraphs 193 to 196 of the National Planning Policy Framework."

Relevance of alternative proposals

50. Although there is not general requirement to consider alternative development proposals when assessing planning applications; where a proposal would cause harm to a heritage asset then the possibility of the harm being reduced or avoided

by development on an alternative site, or through an alternative design or "mode of development", is a material consideration: *R (Forge Field Society) v Sevenoaks DC* [2015] JPL 22 para 56, *Gibson v Waverley BC* [2015] EWHC 3784 (Admin), para 70, *City and County Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 3437 (Admin) para 86 (in a passage not doubted by the Court of Appeal).

GROUNDS OF CHALLENGE

Ground 1 – The Committee was materially misled as to Historic England's advice .

51. As set out above, there were two consultation responses from HE. The committee report summarised HE's position between paras 6.19-6.21, in the following terms [CB/77]:

> "Historic England - No Objection
>
> 6.19 The changes made introducing louvered slots and reducing the height of the chimneys helps to break up the massing of these elements. The re-location of the wash up area allowing better retention of a historic part of the building.
>
> 6.20 We fully appreciate the challenges of trying to accommodate an ambitious program within the constraints of the existing space, and welcome the additional work carried out in response to consultation feedback.
>
> 6.21 Overall, a position of no objection is retained, with the suggestion that the height of the staircase turret is reduced."

52. That summary was materially misleading as to the substance of HE's position and the expert advice it had provided. It failed to accurately communicate the 'gist' of the advice. In particular:

a. It only summarized HE's second letter, which was directed towards two specific amendments to the 2025 scheme, and not the first letter which addressed the scheme as a whole;

b. In summarising HE's second letter, the officer omitted the reference to the 'overall massing remaining unchanged' (cf. [CB/176]), which would have indicated the existence of earlier concerns about that issue that were unresolved;

c. It failed to advise the committee that, although HE had not formally objected, they had identified harm to the listed building and setting of surrounding buildings arising from the "excessive bulk" of the building which they considered "too big"; and they had "strongly encouraged" that the massing be reduced.

d. It repeated HE's suggestion that the height of the staircase turret could be reduced, but failed to advise that the reason for that suggestion was that it would "improve the relationship of the building with the Bodley library and its perceived bulk in views from St Andrew's Street".

53. In their PAP responses both the Defendant and the Interested Party argue that the summary of HE's position does make clear that there had been an earlier consultation response, relying in particular on the reference to the position of no objection being "retained" [CB/336, 348] and the reference to the changes 'helping' to break up the massing as indicating that an earlier issue remained unresolved [CB/349]. Even if that was adequate to alert the Committee to the existence of an earlier consultation response, they were not told anything about the substance of that response.

54. The Defendant refers to the fact that consultation responses were available on the Defendant's website and "accessible to members of the Planning Committee". This is not good enough, and notably the Interested Party does not seek to rely on

this fact. The role of the report is to advise the Committee and to pull together relevant material. It contained summaries of all consultation responses. There is no evidence that members of the Committee reviewed, or were advised that they needed to review, the underlying letters and no reason why they would do so. In the absence of such evidence, it cannot be assumed that the Committee had regard to the consultation responses themselves: see *R (Save Stonehenge World Heritage Site Ltd v Secretary of State for Transport* [2024] EWCA Civ 1227, paras 95-100. The same point applies to the content of a letter from the Claimant's heritage consultant dated October 2025 which quoted from HE's first consultation response. The Defendant suggests this was "before the Planning Committee" [CB/337] – but it was not provided in the report pack, or with the amendment/de-brief sheet, and the Committee was not advised to read it.

55. The incomplete and misleading summary of HE's position in paragraphs 6.19-21 of the report was compounded by paragraph 14.33, within the conclusion on heritage matters, where the officer 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, applying paragraph 215 of the NPPF". [CB/101]

56. The reasonable reader would interpret this as a statement that HE was in agreement with the conclusion that there would be no overall heritage harm, applying para 215 NPPF. This was factually incorrect, and positively misleading. HE had identified the existence of harm, arising from the "excessive bulk" of the proposed new library and its "overbearing" relationship with the Bodley library, and had pointed out that this remained unchanged despite the scheme amendments. Furthermore, HE did not purport to 'apply paragraph 215 NPPF', and did not carry out any sort of balancing exercise of harms against benefits.

57. Overall the report was seriously misleading as to HE's position. As in *Kinsey*, members were not given a complete picture. This was not corrected by the officer either in the amendment sheet or at the meeting itself. The fact that one public speaker (Mr Hepher, on behalf of the Claimant) made one reference to the proposal being "regarded by Historic England as causing harm to designated assets" was not legally capable of correcting the error (cf. both PAP responses, [CB/338 and 349]).

58. The seriousness of the error is exacerbated by the fact that HE is a statutory consultee and the Government's expert adviser on heritage. It is well established that the views of a statutory consultee such as HE should be given great weight and a decision maker should not depart from them unless there are "cogent and compelling reasons": *Visao Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 276 (Admin), para 23. That makes it particularly important that decision makers are given a complete and accurate summary of the advice so that they can have regard to it in discharging their duty under s.66.

Ground 2 – The Committee was materially misled as to the existence and/or extent of harm to the significance of designated heritage assets

59. The Applicant's heritage consultants were clearly advocating an 'internal heritage balance' approach in the Heritage Statement, weighing up harm to the listed building against identified heritage benefits to reach a conclusion that overall the significance of the designated heritage assets would be sustained or materially unaffected, such that paras 214-215 NPPF were not engaged. This was further confirmed in their letter of 27 September 2025.

60. As the *Bramshill* case confirms, the officer was entitled to follow the Applicant in carrying out an internal heritage balance if he judged that to be appropriate, alternatively he could have chosen to balance the heritage harm against the benefits (including heritage benefits) under para 215. But he could not rationally apply both approaches at the same time. Whichever approach he took, it needed

to be clear and consistent to ensure that the committee was correctly advised as to the existence and degree of any harm and able to correctly weigh the benefits.

61. The committee was instead provided with inconsistent and confusing advice on this issue:

    a. In respect of the listed building, the report contains a finding of less than substantial harm at the lower end, restricted to the setting of the Bodley Library [CB/98], paras 14.14-15. The officer correctly cites para 215 NPPF and the need to weigh harm against public benefits including securing the optimum viable use [CB/99], para 14.18.

    b. The report concludes that the scheme would "help to secure the ongoing use of the listed buildings for their intended educational use" and that there would be public benefits in (i) the enhancement of façade compared to existing 1970s building and (ii) the provision of large public bench [CB/99], paras 14.19-20.

    c. The report also identifies an enhancement to the significance of College heritage assets, through facilitating the continued use of Bodley Library and allowing glimpsed views into a reconfigured Bath Court [CB/100], para 14.22.

    d. The report then refers to the overall impact on listed building as "being neutral" [CB/100], para 14.23.

    e. In conclusion on the heritage issue, the report again states that there would be lower level less than substantial harm, and that this is clearly and convincingly justified and secures the optimum viable use. It then states that the "overall impact upon the relevant listed buildings" is neutral and would "preserve their special historic and architectural interest" in accordance with s. 66 [CB/101], para 14.31. This is a clear finding of no harm. The officer then states that there will be no "overall harm to the

relevant heritage assets, applying para 215 NPPF", and notes the public benefits of "enhancements to the Christ's Lane façade and provision of integrated seating along Christ's Lane [CB/101], para 14.33.

f. In the overall planning balance the officer (i) repeats the finding of less than (ii) states that there is clear and convincing justification and the development helps secure the optimum viable use of the building (iii) finds enhancement to other elements of the listed building (iv) overall finds that the development preserves the significance and setting of the listed building (v) finds enhancements to the Conservation Area and Registered Park and Garden (vi) concludes that the impact on heritage assets is neutral with no overall harm (vii) identifies public benefits of the bench and public art, but says these are attributed "limited positive weight" [CB/118], paras 24.3-7.

62. Thus in some places the report advises that there is harm, and that this needs to be weighed against the public benefits of the scheme. However in other places the report advises that there is no overall harm, and that the impact is neutral. These two conclusions are logically inconsistent.

63. The amendment sheet provided some clarification [CB/134], confirming that "the proposed development is only considered to result in heritage harm to the setting of the Bodley Library" and that "given heritage harm is identified", para 215 NPPF applies. The officer advised that the public benefits proposed "in addition to securing the optimum viable use of the buildings are considered to be sufficient to outweigh the harm".

64. However, confusion and inconsistency was re-introduced during the Committee meeting itself. The officer was asked to comment on pubic benefits and he said (timestamp 3:22) that :

> "there is a balance to be made in that there is harm identified to an aspect of the overall Grade I site, that being said the overall harm is considered to be neutral, in that the harm to setting of Bodley is outweighed by other heritage benefits. Nevertheless because there is harm identified, public benefits need to be provided including securing the viable use of the site. These are the enhancements to the public realm along Christ's Lane including provision of public bench and public art with increased public views from Christs Lane and through. Given the overall neutral heritage impact, these are considered sufficient to outweigh the harm in the planning balance".

65. Again, the officer was saying that the overall impact was neutral, but at the same time that there was harm that needed to be outweighed. The findings of "less than substantial harm" and "neutral impact" are logically inconsistent and cannot be reconciled.

66. The cumulative effect of the inconsistent advice was to mislead the Committee on the discharge of their statutory duty under s. 66 and the policy in para 215 NPPF. If an internal heritage balance results in a conclusion of "neutral" impact (as the officer appeared to be advising), then there is no 'harm' to engage para 215 NPPF and no need to identify benefits to balance against it. Whereas a finding of harm to the significance of a Grade I listed building is a matter which must be given "great weight" as a matter of law and policy, and therefore requires commensurate public benefits to justify it .

67. In this case the committee report advised that the main public benefits were the bench and the public art, but that they were given "limited positive weight". An additional benefit comprising "increased public views from Christs Lane and through" was identified during the meeting although it is not clear what this relates to or what weight the officer was placing on it. Members were advised that these benefits were sufficient to outweigh harm "given the overall neutral heritage impact".

68. The overall effect was to minimise the existence or extent of heritage harm. Although the officer recited the statutory duties [CB/102], para 14.34, the treatment of harms vs. benefits provides a positive indication that the duties were not in substance performed. This compounds the error identified under Ground 1. Not only was the committee not told that HE had identified harm, they were also being advised that the harm/impact was 'neutral'.

69. The committee were also incorrectly advised regarding the impact on the Registered Park and Garden ('RPG'). The Applicant's heritage statement had described the impact on the RPG as "neutral" [CB/157], para 6.11. At paragraph 14.24 the report concluded that there would be "no adverse harm" to the RPG (ie. a neutral impact) [CB/100]; but in paragraphs 14.32, 14.34 and 24.5 it was instead reported that there would be an "enhancement" to the RPG [CB/101-102 and 118]. The nature of this enhancement, and how it arose, was not explained. As in *Widdington* there is no internally consistent analysis which could support the overall conclusion of 'enhancement' and that conclusion was unsupported by any evidence.

70. The Defendant did not respond to this aspect of the claim in the PAP response, but repeated the argument that there would be enhancement of the RPG [CB/339], paras 21 and 24. The Interested Party states that "Whilst the proposals cause no impact on the RPG, at para 14.32 the OR sets out that there is an improved quality of the proposed design and materials as well as the new view into Bath Court" [CB/351], para 22. However, paragraph 14.32 of the report actually says "the proposed elevation to Christ's Lane represents an enhancement to the conservation area due to the improved quality of the proposed design and materials as well as the new view into Bath Court" [CB/101]. The Claimant's point stands – there is no explanation as to why the report advises both a neutral impact and an enhancement to the same asset.

71. This is particularly important in light of the Defendant's argument in its PAP response that the report "sought to address the wider context when considering

impacts on the heritage assets taken as a whole, having acknowledged the less than substantial harm to the setting of one asset" and that "it was entirely proper and sensible for the OR to draw attention to the bigger picture when looking at the impact on designated heritage assets in the round". This implies that harm to the listed building was weighed against enhancement to the RPG. But if there was no such enhancement, then this overall "in the round" balance was made on a flawed basis.

Ground 3 – The Committee took into account an irrelevant consideration – optimum viable use.

72. At paragraph 14.19 [CB/99] the committee report advises that:

> "by proposing a significant increase and improvement in the library facilities available to students within the College site, it is bringing the library of the College up to date with the current requirements of the students. As considered through paragraph 215, officers consider that the proposed development would help to secure the ongoing use of the listed buildings for their intended, educational use."

73. The point is repeated at paragraph 14.31 [CB/101] which provides:

> "Whilst there is a level of harm identified to the highly significant Grade I listed Bodley Library, this harm, at the lower end of the less than substantial scale, is considered to have been clearly and convincingly justified. Additionally, as concluded by the Council's Conservation Officer, the development of new increased library facilities would help to secure the listed building's optimum viable use. The overall impact upon the relevant listed buildings is therefore considered to be neutral …".

74. The point was again repeated in the overall conclusion at paragraph 24.4 [CB/118].

75. The Council fell into error by applying the concept of optimum viable use ("OVU") to the 2025 scheme. This amounted to a misunderstanding or misapplication of the guidance in the PPG, for the following reasons:

    a. The buildings which are identified in the list description as being of special architectural and historic interest are those buildings surrounding the First Court, the Bodley Library and the South East range of the Second Court. These are the oldest parts of the College. They have been in their current use, as part of an educational institution, for hundreds of years. That is the use for which they were designed. There can be no question that the optimum viable use of the listed buildings as an educational institution is already secured, and that would continue to be the case regardless of whether the current library remains or is demolished and rebuilt in accordance with the 2025 scheme. It was therefore illogical and irrational to suggest that securing the OVU would be a benefit of the 2025 scheme justifying the harm that it would cause. There was no evidential basis or reasoning to explain how the new library could make any difference to the OVU of the listed building. The Interested Party did not advance a case that the scheme would secure, or even help to secure, the OVU; either in the Heritage Statement (see [CB/156] paras 6.4-6.6), or in the consultant's letter of 27 September 2025 [CB/191] para 58 onwards. The point made in the Committee report was that the scheme would 'bring the library up to date with the current requirements of students'; that does not provide a rational and logical basis for concluding that the 2025 scheme would deliver the benefit of securing the OVU.

    b. In its PAP response the Interested Party refers to evidence given orally by the Master of the College that the current library is "slowly falling down", and states that this was "direct evidence from the College as to the doubtful future of the library and its use and its optimum viable use" [CB/25]. First, this is overstated and seeks to convert obvious rhetoric into evidence. The Applicant's Heritage Assessment referred to the fact that the

current library has “not aged well” and that the “quality and condition of the existing building fabric has continued to age” since 2011 and 2016, but there was no evidence to suggest that the library structure was at risk. Second, the Interested Party’s PAP response falls into the same error as the Committee report in suggesting that the relevant issue was the OVU of the library, whereas in fact the concept of the OVU relates to the designated heritage asset – of which the existing library forms one part, and only by virtue of being curtilage listed.

c. The NPPF identifies that “securing” the optimum viable use of a designated heritage asset is a type of public benefit. The committee report does not identify that a replacement library would secure the OVU of the listed buildings; only that it would “help” to do so. There is no explanation of how that would be the case, or why the design for the new library promoted in the 2025 scheme (or even the continued presence of the library in its current location) would be necessary or even relevant to helping secure the long term, viable use of the listed buildings.

d. The PPG makes clear that securing the OVU is important for the “long term” and “future” conservation of heritage assets. But there was no evidence from which it could be concluded that the future conservation of the listed buildings was at risk due to the continued existence of the 1970’s library; or that the OVU of the listed buildings (ie. as part of an educational institution) might cease if permission were refused; or that the use of the listed buildings as part of the College would become unviable. As noted above, the Applicant did not advance any argument that securing the OVU was a benefit of the scheme. This point appears to derive solely from the Conservation Officer’s second consultation response of 18 September 2025 [CB/181] - but this contains no more than a bare assertion devoid of any explanation.

e. The PPG says that "if there is only one viable use, that use is the optimum viable use". It then suggests that it may be necessary to compare alternative viable uses to determine which is the "optimum" ie. least harmful. In this case, not only are the listed buildings already in their OVU, no alternative uses for the listed buildings was proposed or remotely on the table. Whilst there may be alternative designs for a new library, these are not alternative uses of the designated heritage asset.

76. Simply put, OVU was just not a relevant consideration in this case. The report advised the committee that this was a benefit of the 2025 scheme, but this was based on flawed logic/a misunderstanding of the concept at set out in the PPG and was unsupported by any evidence. The officer repeatedly asserted that the proposals would help to secure the OVU in the report, in the amendment sheet and during the Committee meeting itself. As a result, the committee was misled into taking account of an irrelevant consideration in applying s. 66 and para 215 NPPF, and in any event, one that was unsupported by evidence.

77. Both the Defendant and the Interested Party point out in their PAP responses that the improvements to library facilities, accessibility, sustainability and the environment of Bath Court were relevant considerations [CB/340 and 352]. That is not disputed, however (i) these were mainly private benefits for the College and (ii) they are not to be equated with the concept of securing the OVU. That concept is of particular importance because it is specifically identified as a public benefit in the NPPF, capable of outweighing harm to heritage assets.

Ground 4 – The Committee failed to take into account a relevant consideration – the existence of less harmful alternative modes of development.

78. Where a proposal would cause harm to a heritage asset then the possibility of the harm being reduced or avoided by development on an alternative site, via an alternative design or "mode of development" is a material consideration. The High Court in *City and County Bramshill Ltd v Secretary of State for Housing,*

Communities and Local Government [2019] EWHC 3437 (Admin) confirmed that it is not necessary for a specific alternative development to be "put forward in some detail or even in outline" in order for a decision maker to be entitled to have regard to such a possibility. In that case the Inspector "was not persuaded that a different scheme could not be designed which would have less harmful effects", and the developer had argued that this "was an illegitimate approach where no alternatively designed scheme had been put before her by any party or by C&C itself". That challenge was rejected.

79. In this case there were two alternative schemes which the Council was aware of.

80. First, the Council was well aware that an alternative scheme had been advanced, and consented, in 2011 and again in 2016. The officer's report in 2011 did not identify any harm arising from that scheme. The 2016 report identified harm arising only from a glazed bridge linking the new library with the South Range, but found that to be outweighed by heritage enhancements. The only point of concern raised by Historic England was the glazed doors connecting the proposed new library to the Bodley Library.

81. The officer's report said nothing whatsoever about the 2011/2016 schemes, whether in the context of OVU or generally. Although no comparative exercise was carried out, putting at its lowest it was at least possible that the 2011/2016 scheme was a less harmful alternative scheme in heritage terms. The report advised that "the planning history is a material consideration for members" (para 4.1), but contained no further guidance on how it should be considered within the heritage section of the report. The report failed to grapple with those earlier consents as a plainly relevant benchmark for whether less harmful modes of development exist.

82. Contrary to the Defendant's PAP response, it is not suggested that it was possible to "turn the clock back" to the lapsed permissions (cf. [CB/341], para 35). That permission could not be implemented. But the point is that a less harmful scheme

for a replacement library had previously been devised and consented. That was clear evidence of a possibility that the harm caused by the current scheme could be reduced or avoided, which was a material consideration that needed to be taken into account. The Interested Party's assertion that "earlier scheme would never be revived by the College" is unevidenced and was not the stated position before the Committee: in his presentation the Master of the College told the Committee that the Interested Party had "considered dusting off the initial design by Rick Mather for which planning permission was granted in 2011 and 2016, but rejected it".

83. Second, the proposed Claimant had submitted an alternative mode of development produced on its behalf by Create Streets [CB/x]. This had also been discussed (albeit without supporting detail) in the Development Control Forum. The alternative approach was based on the form and massing of the 2011/2016 scheme. The Create Streets material was expressly advanced to illustrate a feasible approach to massing aligned with the previously consented schemes. The fact that it was not a fully worked up scheme did not absolve the Defendant from taking it into account, as was confirmed in *Bramshill*.

84. The Create Streets proposal was not addressed in the committee report, but was mentioned in the officer's amendment/de-brief sheet. Members were simply advised that "the current proposal must be assessed on its own merits" and that the proposal was "considered acceptable and is what is being put forward for consideration".

85. 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. The Committee was not advised as to the relevance of possible less harmful alternative schemes in determining the application.

86. The Council failed to have regard to a material consideration by failing to consider the possibility that there were less harmful modes of development.

EXPEDITION

87. In its PAP response the IP said that it would apply for expedition in order to minimise disruption and because it is subject to a fixed timetable to implement works around the academic year and needs of its students. It committed “to take no further steps to implement the permission pending the outcome of this PAP process and any issued claim at first instance, before 28th February 2025, on the basis that the parties agree to support its application for an expedited hearing if permission is granted”. The Claimant is agreeable to this proposal and would support an expedited hearing.

CONCLUSION

88. For the above reasons, the Claimant has identified grounds of challenge which are at least arguable, with a realistic prospect of success. Permission should be granted on all grounds. Ultimately, the Claimant seeks an order that the planning permission be quashed.

Emma Dring

18 December 2025

cornerstone barristers

DOCUMENT 3 · Draft Consent Order & Council covering letter (28 April 2026)

IN THE HIGH COURT OF JUSTICE **Claim No. AC-2025-LON-004656**

KING'S BENCH DIVISION

PLANNING COURT

BETWEEN: -

THE KING

(on the application of CHRIST'S LANE ACTION GROUP)

Claimant

and

CAMBRIDGE CITY COUNCIL

Defendant

and

CHRIST'S COLLEGE CAMBRIDGE

Interested Party

CONSENT ORDER

UPON the Court granting permission for the above claim to proceed by Order of 9 March 2026

AND UPON the Court considering the enclosed statement of matters relied upon as justifying this Order

AND UPON the Court noting that the Claimant, the Defendant, and the Interested Party are agreed as to the terms of this Order and the statement of matters relied upon

AND UPON the Court being satisfied that the Order should be made as sought.

IT IS ORDERED THAT:

(1) The Claim is allowed and the Decision Notice granting planning permission dated 7 November 2025 (25/02161/FUL) issued by the Defendant is quashed.

(2) The Defendant do pay the Claimant's costs, agreed in the sum of **[TBC]** to include the Court fee.

SIGNED on behalf of the Claimant: DATED:

SIGNED on behalf of the Defendant: [redacted] DATED: 28 April 2026

[redacted]

SIGNED on behalf of the Interested Party: DATED: 28 April 2026

[redacted]

Approved by the Court

3C Shared Services - Legal Practice
acting for Cambridge City Council
Please send all correspondence to:
South Cambridgeshire Hall, Cambourne Business Park
Cambourne, Cambridge, CB23 6EA
DX 729500, Cambridge 15
Main Switchboard: 01223 457000
Head of Legal Practice: Tom Lewis

Planning Court
Administrative Court
The Royal Courts of Justice
Strand
London
WC2A 2LL

Practice Ref: 2555204
Claim No: AC-2025-LON-004656

Date: 28 April 2026

By way of email to administrativecourtoffice.caseprogression@justice.gov.uk

Dear Sirs

Ref: Claim - AC-2025-LON-004656
Application for Permission for Judicial Review by Christ Lane Action Group

1 By this letter, the Defendant, Cambridge City Council, seeks:

(1) To update the Court on the above judicial review claim; and
(2) To invite the Court to make a final order in the terms set out in the enclosed draft Consent Order which has been signed by the Defendant and Interested Party; or
(3) List the matter for a short hearing to consider the position.

Relevant Background

2 In a claim issued on 23 December 2025, the Claimant Action Group sought to challenge the Council's decision as local planning authority to grant planning permission for the demolition of a 1970s library and replacement with a new library and social study spaces including reprovision of a bridge to the Bodley Library at Christ's College, Cambridge. There were 4 grounds of challenge.

3 Both the Defendant and Interested Party lodged Summary Grounds for contesting the claim. Following consideration on the papers, permission was granted on all grounds by Kimblin J (Order dated 9 March 2026) with standard case management directions for a Planning Court matter.

Fact of settlement discussions and position of parties

4 The grant of permission has caused the Defendant to review its position and engage in without prejudice discussions with the Claimant and Interested Party with a view to settlement.

5 This has resulted in the draft Consent Order attached and Statement of matters relied upon in support of a Final Order (drafted pursuant to para. 17.1 of Practice Direction 54A), which were drafted on 7 and 8 April 2026 and sent to the Claimant.

6 The Defendant and Interested Party have agreed to a Consent Order quashing the Council's decision on all four grounds, with a supporting Statement. In the normal way, the Defendant has also agreed to pay the Claimant's reasonable costs, to be assessed if they cannot be agreed.

7 Since then, despite being invited to agree the Consent Order and Statement of matters relied upon on more than one occasion, the Claimant has not provided any comments on the draft. Instead, it has raised matters which, in the Defendant's view, are not relevant to the judicial review claim.

8 The substantive hearing of the claim is currently listed for a date in mid-October 2026 (1 day on 13th, 14th, or 15 October, as per email to the Court of 17 March 2026).

Defendant's request

9 It is acknowledged that there is no agreed final order before the Court, since the Claimant has refused to sign the Consent Order attached.

10 In the unusual circumstances of this case, where both the Defendant and Interested Party agree that the grant of planning permission can be quashed on all grounds relied upon by the Claimant, we invite the Court of its own motion to make a final order in the same terms as the Consent Order, or else to list the matter to be considered at an early short hearing of no more than 1.5hrs.

11 Pursuant to the overriding objective under CPR 1.1(2), dealing with a case justly and at proportionate cost, includes (inter alia) saving expense (b), ensuring that it is dealt with expeditiously and fairly (d), and allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases (e).

12 None of the above would be achieved by this matter having to await a substantive hearing in October, when the Defendant and Interested Party agree that the Defendant's decision can be quashed as set out above. The position is not materially different from if the Defendant and Interested Party had conceded the claim on all grounds in its Acknowledgement of Service. Quite apart from the further time and expense that will be incurred by the parties in preparing for and attending a substantive hearing, the court's time and expense will be needlessly wasted in following the directions through to a substantive hearing in these circumstances.

13 We therefore request that this letter, enclosures, and the Court file are placed before a Planning Court Judge as soon as possible. We invite the Court, of its own motion, to make a final order as per the terms of the draft, or else to list the matter for a short hearing of 1.5hrs at the earliest date possible.

14 We are aware that the Interested Party is in complete agreement with this approach. The Claimant and Interested Party are copied into this correspondence.

Yours faithfully,

[redacted]

[redacted]
Senior Planning Lawyer
acting for Cambridge City Council

Tel: [redacted]
Email: [redacted]

CC: Claimant - Christ Lane Action Group
Interested Party The Master, Fellows, And Scholars Of Christ's College

DOCUMENT 4 · Administrative Court: hearing fixed for 20 October 2026

From: "Administrative Court Office, List Office" <administrativecourtoffice.listoffice@justice.gov.uk>
Date: 28 May 2026 at 10:21:16 GMT-4

Subject: RE: AC-2025-LON-004656 // Christ's Lane Action Group v Cambridge City - 2555204

Dear Sir/Madam,

The **Substantive Hearing** in the above case has been listed for hearing on **20th October 2026** with a time estimate of **1 Day .**

The time of the hearing will be published in the Cause List the day before the hearing (available online from 2.30pm that day).

Daily Cause List: http://www.justice.gov.uk/courts/court-lists/list-rcj

The hearing will take place **in person at the Royal Courts of Justice** in accordance with the ordinary practice in the Administrative Court.

The Judge hearing the case may, if there are compelling circumstances, either:

(a) permit some persons to attend the hearing by video link with others attend in court as usual (a "CVP hearing"); or

(b) decide that the hearing should be conducted entirely by video or phone call (hearings by video call take place using Microsoft Teams).

If you wish to make any such application you must do so as soon as possible, and in any event no later than 14 working days before the hearing date to Administrative Court Office, General Officegeneraloffice@administrativecourtoffice.jus The application must be made by Application Notice (Form N244), with a fee of £313 and must set out in full, all matters relied on.

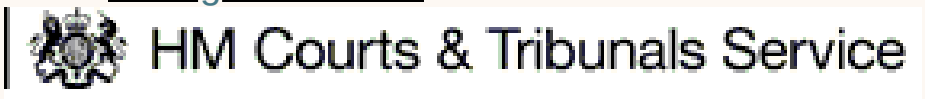
Kind regards

[redacted]

Administrative Court List Office

King’s Bench Division **|** HMCTS **|** Royal Courts of Justice**|** Strand, London **|** WC2A 2LL **Phone:** 020 7947 6655

Web: www.gov.uk/hmcts * OFFICIAL *



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General Enquiries:administrativecourtoffice.generaloffice@justice.gov.uk
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Criminal & Extradition Enquiries:administrativecourtoffice.crimex@justice.gov.uk
Skeleton Arguments:administrativecourtoffice.london.skeletonarguments@justic
In accordance with **Practice Direction 5B - Electronic communication and filing** we ask you to do the following when sending an e-mail message to the court:
• Clearly state the Court's action number, parties’ names and any dates relating to an up-coming hearing in the subject header.
• In accordance with Practice Direction 3.3a, please do not submit documents which carry a payable fee; such e-mails will be deleted.
• We do not accept documents over 20 pages by electronic means.