

CLAG: the conditions paper (25 September 2026)

Annex G: The National Planning Policy Framework of 17 August 2026 (“the NPPF”) asks whether an otherwise unacceptable proposal could be made acceptable through planning conditions. On the harm this design causes, the answer on this file is no. The statutory consultee and the Council’s own conservation officer attribute the harm to the Grade I listed buildings to the new building’s bulk and scale, and every condition a Council officer proposes takes the building as drawn. The Council’s 2025 report found an enhancement “Subject to the conditions requested by the conservation officer”, and the officer’s own reason for those conditions is materials and details. DM6(1)(a) of the NPPF, its policy on the use of planning conditions, permits a condition only where it is necessary to make the development acceptable in planning terms, and that is the rule of this paper: a condition follows a finding of acceptability and cannot supply it. CLAG proposes no condition. No assessment that a benefit or a finding of acceptability depends on can be left to a condition. The temporary kitchen in Second Court, which Christ’s College’s (“the applicant”) own statement says will cause harm to the setting of the Grade I ranges, has been assessed by no officer. The environmental health advice finds the scheme acceptable subject to conditions that rest on approvals under the planning permission of 7 November 2025 on the earlier application for the identical scheme, 25/02161/FUL (“the 2025 permission”, cited by the condition numbers of its decision notice, document 7405037 on that application’s register), which the Council has agreed are not treated as approved for this application. CLAG’s conditions submission of 13 August 2026 (document 9495871; “the submission”) answers the same question for the construction phase, and the Council has said that the case officer’s report to committee on this application (“the report”) will address it

Submitted for the public register of application 26/02109/FUL, to be recorded under the heading above and displayed on the day it reaches the Council, Friday 25 September 2026: the Council’s notice of 19 August 2026 states that views are “published onto the website promptly” (document 9499001), and the applicant’s letters of 5 and 27 August 2026 were displayed within a day (documents 9486713 and 9506331).

Application 26/02109/FUL: Christ’s College Library, St Andrew’s Street, Cambridge. Christ’s Lane Action Group (CLAG). Sections 5 to 7 carry, at length, the grounds of CLAG’s conditions submission of 13 August 2026 that go to the determination. It states every point it relies on, so that it stands on its own. Quotations are verbatim from the document cited, and documents are cited by their numbers on the register of this application unless another register is named.

Filed Friday 25 September 2026.

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1. The NPPF's policy on determining proposals, DM3(1)(e), asks whether conditions could make the proposal acceptable, and on the harm from the building's volume, mass and bulk the answer is no: every condition proposed takes the building as drawn, so the harm is weighed at the degree the consultees find

DM6(1)(a) of the NPPF, its policy on the use of planning conditions and obligations, permits a condition only where it is “Necessary to make the development acceptable in planning terms”. That is the rule of this paper: a condition follows a finding of acceptability and cannot supply it, and CLAG proposes no condition. DM3(1)(e), in the NPPF's policy on determining development proposals, asks the Council to “Consider whether otherwise unacceptable development proposals could be made acceptable through the use of planning conditions or planning obligations”. The Council's 2025 report answered that question for this scheme with the words “subject to conditions” (item 7). The statutory consultee and the Council's own conservation officer find harm to the significance of the Grade I listed buildings, and each attributes it to the new building itself. The statutory consultee names its “excessive bulk”, and the officer names “the relative scale and proximity of the stair tower”. Every condition that a Council officer proposes on this application takes the building as drawn. On that harm the answer to DM3(1)(e) is no, and the harm enters the balance under HE6(4) of the NPPF, its weighing of harm to a designated asset against public benefits, at the degree the consultees find.

If the report states this, the harm is weighed as found. The requirement of HE4(1)(b) of the NPPF, in its policy on securing the conservation of heritage assets, to avoid harm, or where that

is not possible to minimise it, is then answered on the design and the alternatives to it. If the report repeats the finding of an enhancement in the Council's report to its Planning Committee of 29 October 2025 on 25/02161/FUL ("the 2025 report", cited by paragraph and by the page of the public reports pack) "Subject to the conditions requested by the conservation officer", it gives members conditions on materials and details as the answer to a harm that the Council's own officer attributes to scale.

1. The statutory consultee attributes the harm to the bulk and asks for a change to the building. Historic England's letter of 29 July 2025 finds "certain levels of harm to the significance of the listed building, primarily as a result of the excessive bulk of the new building". It states: "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". (Document 9457102, page 4; CLAG's harm register, Annex C, filed with this paper ("the harm register"), section 1, item 1, sets the letter out at length.)
2. The amendment of August 2025 left the massing as it was, and that advice is the advice on this application. Historic England's second letter, of 1 September 2025, records: "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." Its email of 8 July 2026 on this application refers the Council to both letters "for a detailed assessment of the proposals". Its email of 27 August 2026 confirms that advice for the NPPF. (Documents 9457105, page 1; 9457100, page 2; 9508056, page 1.)
3. The Council's own conservation officer finds the harm with the design's mitigation already counted. The officer's comments of 26 August 2026 state: "The stair's impact has been partly mitigated by a setback from Christ's Lane and through the lightness of its design and materiality." They go on: "However, on balance it is considered the mitigations have not fully overcome the impact of the relative scale and proximity of the stair tower, and this part of the scheme remains harmful to the listed building's setting." The harm the officer records is therefore the harm that remains once the materials are counted. (Document 9505685, page 3; the harm register, section 1, item 2.)
4. The conditions the officer proposes secure materials and details. The officer's comments of 13 July 2026 list six "Suggested Conditions": new walls, joinery details, rainwater goods, materials, precise details, and hard and soft landscaping. The reason given for the materials condition is: "To avoid harm to the special interest of the listed building (Cambridge Local Plan 2018, policy 61)." The comments of 26 August 2026 add none: "See comments dated 13.07.26 for recommended conditions." The conditions secure the materials the officer has already counted (item 3). They guard against a further harm from poor materials, and they do not reduce the harm found. No condition in the list concerns the volume, mass or bulk of the building or of its stair tower. (Document 9462719, "Suggested Conditions"; document 9505685, page 2.)
5. The Council's urban design officer proposes one condition, and it holds the elevations as drawn. The response of 23 June 2026 supports the scheme "subject to a design details and materials condition". The condition asks for details of materials, joints and interfaces, and requires that the details "shall demonstrate consistency with the approved elevations". (Document 9439492, pages 1 and 2.)
6. The conditions of the 2025 permission did the same, and officers are minded to impose them again. Condition 2 of the decision notice of 7 November 2025 reads: "The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice." No other condition of that notice concerns the dimensions of the building. The Senior Planning Lawyer's email of 28 July 2026 states:

“Officers are minded to impose afresh all planning conditions that were previously imposed on the permission 25/02161/FUL ...”. The words that follow say that officers will not rely on the approvals given under that permission (section 3). (The decision notice, document 7405037 on the register of 25/02161/FUL; document 9495878.)

7. The 2025 report nevertheless set conditions beside the consultees' positions. It told members: “No statutory consultees have made any objection to the proposed development subject to conditions as set out in this report.” It found: “Subject to the conditions requested by the conservation officer in their comments, it is considered on balance, that the proposed library building, despite the increase in scale, would result in an enhancement to the overall character and appearance of the conservation area.” It found compliance with criterion (d) of Policy 10 “subject to a number of conditions”. The conditions were those at item 6. None of them reduced the “increase in scale” that the sentence names, and none answered the statutory consultee's request of item 1. The statutory consultee asks that “massing is further reduced” (item 1); Cambridge Past, Present & Future asks the Council to “negotiate a lower and less bulky design”; the Victorian Society's letter of 22 August 2025 proposed floors aligned with the Bodley Library's, “thus, reducing the height by approximately half at each floor”. Each asks for a building of a different volume, mass and bulk from the one drawn, and no condition in the list at items 4 to 6 changes the building. (The harm register, section 1, items 1, 3 and 4; the Victorian Society's letter, document 7355397 on the register of 25/02162/LBC, page 2.) (The 2025 report, paragraph 1.14, page 120; paragraph 14.24, page 154; paragraph 11.5, page 139.)
8. The same holds for the daylight of the neighbours. On the applicant's own figures 37 of the 61 windows tested on the two lower floors opposite fail the daylight test. The loss is caused by the building as drawn, no consultee proposes a condition on it, and none could reduce it while the building stays as drawn. (CLAG's design and development plan paper, filed with this paper, section 4.)
9. A condition on the chimneys does not answer the statutory consultee. Historic England's request about the stacks is made for one case only: “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.” (sic). Its finding is of the building: “we are of the view that the building is too big for its location”. The applicant's Planning Statement offers that “modifications to the proportions and detailing could be covered by condition if necessary”. A condition of that kind changes the stacks and leaves the bulk that the statutory consultee finds harmful. (Document 9457102, pages 3 and 4; the Planning Statement, document 9423963, paragraph 7.32, page 35.)

The report must state, for each condition it recommends on heritage or design grounds, what the condition controls. It must state that no condition reduces the harm that the statutory consultee and the Council's own conservation officer find, and it must weigh that harm at the degree each of them gives.

If the report does so, the harm stands at the degree identified under HE5(2)(c) of the NPPF, its policy on assessing effects on heritage assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, HE6(1) of the NPPF, its substantial weight for a designated asset's conservation, and HE6(3) of the NPPF, its considerable importance and weight for any harm to a designated asset, fix its weight. HE4(1)(b) then asks whether the harm can be avoided, and the means on the record are the lower and distributed designs (CLAG's alternatives, justification and public benefits paper, filed with this paper, section 4). The decision that follows on the harm as found, under the development plan and the balance, is refusal, as CLAG's letter

to the case officer, filed with this paper (“the case officer letter”) states on the words of each test (its sections 3, 4 and 10; the harm register, section 4).

If the report instead finds the proposal acceptable, or the harm reduced, “subject to conditions”, it tells members that conditions answer a harm which they leave as drawn. The Council’s own officer gives materials and details as the reason for the conditions, and finds the harm with the materials already counted (items 3 and 4). A report that materially misleads members on a matter bearing on their decision is an error of law (*R (Mansell) v Tonbridge and Malling BC* [2017] EWCA Civ 1314, [2019] PTSR 1452 at [42]).

2. No assessment that a benefit or a finding of acceptability depends on can be left to a condition: a condition is attached only where “Necessary to make the development acceptable”, and members cannot weigh an effect that is assessed after they decide

DM6(1) of the NPPF, its policy on the use of planning conditions, allows a condition only where it is “Necessary to make the development acceptable in planning terms”. A condition of that kind follows a finding of acceptability; it cannot supply the assessment on which the finding rests. On this file four assessments that the decision depends on do not exist, and the record leaves each to a condition. Three are argued in the papers that carry them, and this section points to them. The fourth is the temporary kitchen and dining structure in Second Court, which the Council’s own words in 2025 left to a condition on heritage grounds, and which no officer has assessed on this application. If the report obtains the assessments before determination, the effects are weighed on evidence. If it counts a benefit, or finds an effect acceptable, on an assessment that a condition defers, it gives members a finding that no document supports.

1. The test is DM6(1)(a), and the Planning Practice Guidance, Use of planning conditions (“the guidance”, cited by paragraph and reference number), limits conditions of this kind. DM6(1) permits a condition only where it is “Necessary to make the development acceptable in planning terms”, and DM6(3) adds that conditions “required to be discharged before development commences should be avoided, unless there is a clear justification”. The guidance says that for a full application “it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted”. (The NPPF, DM6(1)(a) and DM6(3); the guidance, paragraph 006, Reference ID 21a-006-20140306.)
2. The light in the lane is counted as a benefit before it is assessed. The applicant claims a public benefit from light the library’s windows will put into Christ’s Lane at night. The Council’s environmental health advice requires an assessment of the artificial lighting at the residential properties before any is installed, and none has been provided. A benefit cannot carry weight under HE6(4) of the NPPF, its weighing of harm against public benefits, on an assessment that does not exist. (CLAG’s letter to the environmental health officer, filed with this paper, section 3.)
3. The odour and plant noise conditions are tied to assessments of another design. The reports the advice carries into its conditions predate the amendment of August 2025, so the design they assess is not the design applied for. (CLAG’s letter to the environmental health officer, section 1.)
4. The traffic management plan for the works is left to a condition. The Local Highway Authority’s advice relies on a plan approved under the 2025 permission, and no plan for this application has been assessed or consulted on. (CLAG’s letter on the timing of determination, filed with this paper, section 6.)

5. The temporary kitchen and dining structure in Second Court was left to a condition in 2025 on heritage grounds, in the Council's own words.
 - (a) The 2025 report: "The extent of the site proposed for this temporary facility is displayed on the provided location plan although no further details have been provided at this stage of the application." It continued: "it is considered that the precise details of the required facilities can be dealt with by a pre-commencement condition to ensure that its scale and appearance is appropriate and that its siting is temporary". (The 2025 report, paragraph 12.24, page 147.)
 - (b) Condition 11 of the 2025 permission required the details before any work to the existing kitchen, and gave as its reason: "To ensure that the proposed development would be acceptable with regards to its impact on relevant heritage assets and protected trees within the site, in accordance with Policies 61, 62 and 71 of the Cambridge Local Plan 2018." So the Council's own reason makes the structure's acceptability in heritage terms depend on details it had not seen. (The 2025 permission, condition 11.)
6. The applicant's own Heritage Statement finds harm from the structure to the setting of the Grade I ranges.
 - (a) "A temporary dining hall and kitchen area will be located within Second Court until works to construct the new facility are completed. This is likely to take around two years." The structure is described as "in part two-storey", and "Views from Second Court especially when looking southwards across the court will be most affected." (Document 9423964, paragraphs 5.60 and 5.61.)
 - (b) "Whilst this does constitute a level of harm", the statement says, the harm is temporary; its conclusion is that the structure "will cause a negligible degree of harm to the setting of the listed ranges comprising Second Court". (Document 9423964, paragraphs 5.62 and 6.5.)
7. What the register holds on this application is a services summary and a hire company's visualisations, and no assessment of either.
 - (a) Document 9424002, "Temporary Kitchen", is one page headed "Summary of Building Services and the Installation Approach": water supply, wastewater, electrical supply and safety systems. It shows nothing of the structure's scale or appearance.
 - (b) Document 9424003 is the hire company's terms and conditions of hire with its plan and views of the structure, issued 18 September 2025, each marked "IMAGE FOR VISUALISATION PURPOSES ONLY. MAY NOT ACCURATELY REPRESENT FINAL SUPPLIED PRODUCTS." The plan gives the structure's dimensions in plan only.
 - (c) The conservation officer's comments of 13 July and 26 August 2026 do not mention the structure. (Documents 9462719 and 9505685.)
 - (d) The applicant's own construction plan treats the structure as awaiting approval: "No works affecting the existing kitchen or dining facilities will commence until the temporary facilities have been approved by the Local Planning Authority." That plan was submitted to discharge condition 3 of the 2025 permission and is filed on this application as an application document. (Document 9423970, section 15.6.)
8. So a structure that the applicant's own statement says will cause harm to the setting of the Grade I listed ranges of Second Court, for about two years, has been assessed by no officer. The only step on the record is the condition of 2025. HE5(2)(c) of the NPPF, its

policy on assessing effects on heritage assets, requires the degree of harm to be identified, and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving the setting of the listed building at the decision, not after it.

The report must obtain the conservation officer's assessment of the temporary structure before determination, on details of its scale, appearance and siting, and identify the degree of harm to the setting of the Grade I ranges. It must state which of the assessments at items 2 to 4 the Council holds, and it must give no weight to a benefit, and find no effect acceptable, on an assessment a condition defers.

If the report does so, the light in the lane, the odour and plant noise, the works traffic and the temporary structure are each weighed on an assessment of the design applied for, and the structure's harm enters the heritage balance at the degree identified.

If the report leaves any of them to a condition, it gives members a benefit, or a finding of acceptability, that no document measures (*R (Mansell) v Tonbridge and Malling BC* [2017] EWCA Civ 1314, [2019] PTSR 1452 at [42], "*Mansell*"). For the temporary structure it discharges the duty in section 66(1) on a structure the Council has not assessed, against the reason the Council itself gave in 2025 for needing the details.

That the details "can be dealt with by a pre-commencement condition" answers none of this. The Council's own reason for the condition was heritage acceptability, and DM6(3) now says that such conditions should be avoided unless there is a clear justification; an assessment the decision depends on is not one.

3. The environmental health advice accepts the scheme subject to conditions resting on approvals under the 2025 permission, which the Council's own email of 28 July 2026 says are not treated as approved for this application, so the report cannot carry it as it stands

The Council stated its position in writing on 28 July 2026: no document approved in discharge of conditions under the 2025 permission is treated as approved for this application. Three weeks later the environmental health officer reissued advice that finds the scheme acceptable subject to conditions requiring compliance with those very documents. CLAG's letter of 13 August 2026 on the Council's letters of 28 July and 13 August 2026 about conditions (document 9495605) argues the point and is incorporated here in one sentence. If the report obtains the officer's advice again on documents assessed and consulted on for this application, the construction effects are decided at determination. If it carries the advice as it stands, it gives members an acceptance that rests on approvals the Council has agreed do not count.

1. The Council's position of 28 July 2026 is in the Senior Planning Lawyer's email. To CLAG's requirement "(b) no document approved in discharge of conditions under 25/02161/FUL is treated as approved for this application, each being consulted upon and determined afresh", the reply is: "Officers agree. Newly imposed conditions would require consideration afresh, including consultation with the relevant requestor of the condition." The same email states: "Officers are minded to impose afresh all planning conditions that were previously imposed on the permission 25/02161/FUL ..."; the words omitted say that officers will not cross reference the approved condition submissions. (Document 9495878, page 1.)
2. The environmental health officer's reissued advice of 18 August 2026 finds the scheme acceptable subject to conditions. Its first box is crossed: "The development proposed is

acceptable subject to the imposition of the condition(s) /informative(s) outlined below.” It repeats the advice of 20 July 2026 that conditions 3, 6 and 7 of the 2025 permission “could be compliance type conditions for this application, subject to planning officer judgement”, and sets each out in terms, requiring compliance with a document titled to the 2025 permission. (Document 9499190; the advice of 20 July 2026, document 9468203.)

3. The documents those conditions would require compliance with are the applicant’s discharge submissions under the 2025 permission, and they are on this register as application documents. The Demolition and Construction Environmental Management Plan of February 2026 states: “The DCEMP is submitted to Cambridge City Council to discharge Condition 3 of planning permission reference 25/02161/FUL.” The dust plan and the noise and vibration assessment of the same month are its companions. (Documents 9423970, 9423965 and 9423966.)
4. The reissue came after the Council’s position and does not answer it. Its “Important note” gives two reasons for the reissue, a soil depth corrected and an earlier trigger for one condition. Neither concerns the discharges. (Document 9499190, “Important note”.)
5. CLAG’s letter of 13 August 2026 argues the point on the register, under the heading “The compliance condition suggestion fails even on the Council’s own premise”, and is incorporated here. CLAG asked for an answer on 20 August 2026, and the Council’s response of 26 August 2026 left the matter to the report: “The three submissions to which you refer will be addressed, as appropriate, in the Officer report.” (Document 9495605, section 3; document 9501516; the Council’s email of 26 August 2026, Exhibit T1 to CLAG’s letter on the timing of determination.)
6. CLAG’s position on conditions is the one in its letter of 13 August 2026. CLAG’s letter of 21 July 2026 asked that any conditions be “imposed afresh, including as pre-commencement conditions where previously so imposed”, so that no approval under the 2025 permission is carried over. CLAG’s position on the scheme is stated in the later letter: “CLAG’s primary position is that conditions cannot make this scheme acceptable, and that permission should be refused.” (CLAG’s letter of 21 July 2026, within document 9495878; document 9495605, paragraph 1.1.)

The report must state whether the environmental health officer’s acceptance rests on the discharge documents of the 2025 permission, and it must obtain the officer’s advice on assessments made and consulted on for this application (CLAG’s letter to the environmental health officer, section 4; CLAG’s letter on the timing of determination, section 4).

If the report does so, the effects of the works on the neighbours and the lane are decided at determination, on documents the Council has assessed for this application (CLAG’s alternatives, justification and public benefits paper, filed with this paper (“the alternatives paper”), section 7).

If the report carries the acceptance as it stands, it gives members advice on this application that rests on approvals the Council does not treat as approved for it (Mansell at [42]). That is the error CLAG’s letter on the timing of determination, section 6, names for the highway advice.

That the same documents can be assessed again answers none of this. They can; the officer has not done it, and the advice on the file says compliance with them is the condition of acceptability.

4. CLAG's conditions submission of 13 August 2026 answers the question the NPPF's policy on determining proposals, DM3(1)(e), now asks, and the Council has said the report will address it, so the report has to answer each of its grounds under DM3(1)(e) and the conditions policy, DM6

The submission asked whether the development could be made acceptable through conditions, in the words of the national policy then in force, and answered no for the construction phase, the public footpath and the condition record. The NPPF was published four days later and asks the same question in DM3(1)(e) of the NPPF, its policy on determining proposals, on whether conditions could make a proposal acceptable. The Council has said in writing that the report will address the submission. This section carries the submission into the NPPF's terms; sections 5 to 7 carry the grounds that go to the determination, each on the Council's own record and the statute. If the report answers each ground, the answer to DM3(1)(e) on those matters follows the evidence. If it leaves the submission out, it leaves out a representation the Council said would be addressed.

1. The submission's question and its answer. It concluded: "On this file the answer to the paragraph 56 question is that the development cannot be made acceptable through the use of conditions." Its grounds are the construction phase and the public footpath through Christ's Lane, the closure regime, the form of the conditions, biodiversity gain, the construction plan and the trees; the grounds that go to the determination are carried at sections 5 to 7, and the rest stand in the submission. (Document 9495871, section 1 and the conclusion.)
2. The NPPF asks the same question and applies from its publication. DM3(1)(e) asks the Council to "Consider whether otherwise unacceptable development proposals could be made acceptable through the use of planning conditions or planning obligations". Annex A, paragraph 1: the policies "are material considerations which must be taken into account in decision-making from the day of its publication". (The NPPF, DM3(1)(e); Annex A, paragraph 1.)
3. The tests for any condition are DM6(1)'s. A condition is attached only where it is "Necessary to make the development acceptable in planning terms", "Relevant to the development and to planning considerations generally", "Sufficiently precise to make them capable of being complied with and enforced" and "Reasonable in all other respects". (The NPPF, DM6(1)(a) of the NPPF, its policy on the use of planning conditions, to (d).)
4. The Council has said the report will address the submission. Its response of 26 August 2026: "The three submissions to which you refer will be addressed, as appropriate, in the Officer report." (The Council's email of 26 August 2026, Exhibit T1 to CLAG's letter on the timing of determination.)

The report must answer each ground of the submission under DM3(1)(e), applying DM6(1)(a) to (d) to every condition it proposes for the construction phase. The works' effect on the footpath and the lane is set out in the submission and in the alternatives paper, section 7.

If the report does so, the answer to DM3(1)(e) on each matter follows the evidence.

If the report leaves the submission out, it leaves out of account a representation the Council said in writing would be addressed. A consideration "so obviously material" has to be taken into account (*R (Friends of the Earth Ltd) v Heathrow Airport Ltd* [2020] UKSC 52 at [116] to [121]).

5. Christ's Lane is a public footpath, the construction plan closes it, and no instrument on the register could lawfully authorise the closures, so the finding TR6(4) requires for the construction phase cannot be made on the file

The applicant's construction plan closes a public footpath by barrier and banks person, whenever a vehicle manoeuvres, "regardless of pedestrian footfall". Christ's Lane is a public footpath maintainable at public expense, fixed by a stopping up order of 2006, a deed of dedication of 2009 and the County Council's own record, and the applicant does not control it. TR6(4) of the NPPF, its policy on assessing transport impacts, directs refusal for an unacceptable impact on highway safety and applies "both during the construction phase and following completion"; TR8(1)(a) asks that rights of way be protected "including through suitable diversions agreed with the highway authority". If the report identifies a lawful mechanism for the closures and states the TR6(4) finding on it, the construction phase is assessed on a method that can operate. If the report finds the construction phase acceptable on the plan as filed, it finds acceptable a method that no instrument on the register authorises and that the only instrument in law forbids.

1. Christ's Lane is public highway on the applicant's own statement: "The rest of the width, although still owned by the two Colleges is public highway." (The Planning Statement, document 9423963, paragraph 7.102.)
2. Its status is fixed by three instruments, each enclosed with CLAG's conditions submission of 13 August 2026 and on the register with it: the Secretary of State's stopping up order of 14 February 2006, made under section 247 of the Town and Country Planning Act 1990, which required a replacement footpath as its condition; the section 38 agreement of 2009 between Cambridgeshire County Council, the College, Jesus College and the then owner of Bradwell's Court, which dedicated and adopted the replacement footpath as "a public footpath maintainable at public expense" and reserves the College's rights to take vehicles, scaffolding, cranes, skips and plant over it "subject to the Owner obtaining the prior consent of the Council"; and the County Council's highway search response CCC738344632 of 11 August 2025, which records the lane as "partially a highway maintainable at public expense" with Cambridge Footpath 43 across it. (Document 9495871, section 2; its Enclosures B, B1 to B4, documents 9495873 to 9495877.)
3. The plan closes the footpath. The Demolition and Construction Environmental Management Plan of February 2026, filed again on this application, provides for a banks person "responsible for managing temporary suspension of footpath access", for barriers that "close pedestrian access", and that "Barriers will be erected, and banksmen will be present for all such manoeuvres regardless of pedestrian footfall". It draws no diversion route and names no closure procedure, and it mentions no footpath, no dedication and no consent. (Document 9423970, section 5.1; document 9495871, section 6.1.)
4. The applicant assured the public that the lane would not be blocked. At its online pre application presentation of 19 May 2025 its agent said: "I can assure you we are not blocking Christ's Lane in doing so"; the Bursar's letter to all City Councillors of June 2026 states that "Christ's Lane will remain open to pedestrians throughout the construction period"; and the Planning Statement states that "Christ's Lane will not be blocked however". The plan and the assurances cannot both be true, and both are before the Council. (Document 9495871, section 3.5, with the times on the recording; document 9465769; document 9423963, paragraph 7.105.)
5. The one instrument that could restrict the public's passage forbids what the plan describes. Section 14 of the Road Traffic Regulation Act 1984 lets a traffic authority restrict the use of a road by pedestrians by order where works are to be executed on or near it, and section 14(4) provides that "no such order or notice shall be made or issued

with respect to any road which would have the effect of preventing at any time access for pedestrians to any premises situated on or adjacent to the road". The premises on the lane are the parade's ground floor shops, and the closures front them. No order has been sought. (The Road Traffic Regulation Act 1984, section 14(1) and (4); document 9495871, sections 3.1 and 3.4.)

6. The licences the applicant could obtain do not authorise the closures. A scaffold on the highway needs a licence, a hoarding the authority's satisfaction and a deposit of materials its consent (the Highways Act 1980, sections 169, 172 and 171), and each is given on terms that protect passage; wilful obstruction of a highway without lawful authority is an offence under section 137(1) of the same Act. A planning condition cannot confer highway powers. (Document 9495871, sections 3.1 to 3.3.)
7. The Local Highway Authority's advice on this application relies on the traffic management plan approved under the 2025 permission, "which is considered acceptable to the Local Highway Authority", and the Council's own email of 28 July 2026 says that no document approved in discharge of conditions under 25/02161/FUL is treated as approved for this application (section 3, item 1). The February 2026 traffic management plan that advice depends on has not been filed on this application. (Documents 9447736 and 9512093; document 9495871, section 8.5.)
8. The public accessible crossing of St Andrew's Street is removed for the works. The plan removes the tactile paving on both sides of the site access "to facilitate safe and unobstructed HGV access and egress", resurfaces the area in mass concrete and reinstates it "upon completion of the works", with no date, no alternative crossing and no equality assessment on the file on which the Council could discharge its duty under section 149 of the Equality Act 2010. (Document 9423970; the alternatives paper, 6.2.1, item 3.)

The report must state the lane's status, identify the instrument that would authorise the closures the plan describes, and state the finding TR6(4) requires for the construction phase on that instrument, or record that none exists on the file.

If the report does so, the construction phase is assessed on a method that can lawfully operate, and on this file that method is not the one the applicant has filed, so the noise, dust and logistics assessments that describe it are assessments of another method.

If the report finds the construction phase acceptable on the plan as filed, it finds acceptable a regime that section 14(4) forbids and that no consent on the register authorises, on advice that rests on an approval the Council itself does not treat as approved. That is a policy applied to a method that cannot operate (TR6(4) and TR8(1)(a) not applied in their terms) and a finding on no evidence, and a report that gives members the applicant's assurance that the lane stays open, beside a plan that closes it, misleads them (Mansell at [42]).

6. Only pre commencement conditions can control the demolition, none can be imposed without the applicant's written agreement, and the deemed biodiversity gain condition bars the demolition until a plan is approved, so the condition route the applicant proposes is closed by statute for the phase of greatest harm

Demolition begins the development in law, so the only conditions that can control the demolition phase are those that bite before commencement. Section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission "may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the

condition", and no such agreement is on the file; the applicant's stated position is that the 2025 conditions be carried over or reduced to compliance form. Paragraph 13 of Schedule 7A to the same Act deems every permission granted subject to the condition that the development "may not be begun unless" a biodiversity gain plan has been submitted and approved, and no exemption is available on this application's dates. If the report states both gates and the report's conditions meet them, the demolition phase is controlled. If the report recommends compliance conditions for the demolition phase, or an informative on biodiversity gain, it recommends conditions the statute makes unavailable, on the phase every assessment on the file finds the most harmful.

1. Demolition begins the development. "Any work of demolition of a building" is a material operation, and development is begun when a material operation begins (the Town and Country Planning Act 1990, sections 56(2) and 56(4)(aa); section 55(1A)(a)). A condition requiring details to be approved before the works they control must therefore take pre commencement form for the demolition phase; a compliance condition cannot secure prior approval of a construction management plan, a noise scheme or a traffic management plan for works that begin the development. (Document 9495871, section 4.)
2. A pre commencement condition needs the applicant's written agreement. Section 100ZA(5): planning permission "may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition"; section 100ZA(6) allows regulations to prescribe circumstances in which the agreement is not needed, and the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 prescribe a notice procedure. No agreement and no notice is on the file. (The Act, section 100ZA(5), (6) and (8).)
3. The applicant's stated position is that the conditions need not be imposed again. Its Covering Statement lists the eight conditions discharged under the 2025 permission, the demolition and construction plan, dust and noise among them, and states: "By submitting these to support this second application, it is envisaged that, should the application be approved, it will not be necessary to re-impose these conditions." The Senior Planning Lawyer's email of 28 July 2026 states that "Officers are minded to impose afresh all planning conditions that were previously imposed on the permission 25/02161/FUL", and no written agreement of the applicant to any pre commencement condition is on the file. (Document 9423967, paragraphs 4.2 and 4.3; the Council's email of 28 July 2026, Enclosure C to document 9495871, document 9495878.)
4. The Council's own 2025 justification for pre commencement form was that the conditions were fundamental. The Planning Practice Guidance provides that pre commencement form "should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission", and that where a necessary pre commencement condition cannot be agreed the options include refusal; DM6(3) of the NPPF, its policy on the use of planning conditions, requires "a clear justification" for such a condition. The 2025 permission imposed conditions 3, 6 and 7 in that form on that justification. (The guidance, Use of planning conditions, paragraphs 007 and 038; the NPPF, DM6(3); document 9495871, section 4.)
5. The biodiversity gain condition attaches by statute. Paragraph 13 of Schedule 7A: "Every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition in sub-paragraph (2). The condition is that the development may not be begun unless a biodiversity gain plan has been submitted to the planning authority, and the planning authority has approved the plan." The exceptions are

fixed by paragraph 17, and no local planning authority can disapply the condition. The 2025 decision notice disposed of it in an informative recording only that in the Council's opinion "one or more of the exemptions / transitional arrangements are considered to apply", without saying which. (The Act, Schedule 7A, paragraphs 13 and 17; document 9495871, sections 5.1.1 and 5.1.2.)

6. No exemption is available on this application's dates, and the one that turns on facts has no calculation. The transitional arrangement is confined to applications made before 12 February 2024; the small site and temporary development exemptions of August 2026 are unavailable where the application was made before 6 August 2026; this application was made in June 2026. The de minimis exemption applies only where the development impacts less than 25 square metres of habitat with biodiversity value greater than zero, and no calculation is on the file, while the temporary kitchen stands on the Second Court lawn for a seventeen month extendable minimum. (Document 9495871, sections 5.1.3 to 5.1.5.)

The report must state, for every condition it recommends for the demolition phase, whether it takes pre commencement form, and if so where the applicant's written agreement is; and it must state which exemption from the deemed biodiversity gain condition it relies on, with the figures, or record that a biodiversity gain plan must be approved before the demolition can begin.

If the report does so, the demolition phase is controlled by conditions the statute allows, or the report records that it cannot be on the material filed.

If the report recommends compliance conditions for the demolition phase, or an informative on biodiversity gain, it recommends what section 100ZA(5) and Schedule 7A make unavailable, and it tells members that the phase of greatest harm is controlled when it is not (Mansell at [42]).

7. The Council's own discharge record under the 2025 permission holds two refusal advices from its own specialists that the same material, filed again, has never answered, so a report that carries the specialists' later "no objection" without them misleads members

Under the 2025 permission the Council's own trees officer found the tree protection and temporary kitchen scheme "totally unacceptable" and asked that the conditions not be discharged, and its own environmental health officer found of the construction noise package that "condition 7 cannot be discharged"; the conditions were then discharged, the noise package on 6 May 2026, eight days after the Council had agreed to the quashing of the permission. The same documents are filed again on this application, and a different trees officer finds "no objections" without engaging the earlier finding. HE5(4) of the NPPF, its requirement that decision makers be satisfied that assessments accurately reflect effects, and DM6(1)(a) govern; and an in house specialist's objection that is "neither confronted nor even noted" in the report is an error of law and misleads members (R (Liverpool Open and Green Spaces CIC) v Liverpool City Council [2020] EWCA Civ 861 at [77], with [74] and [81]). If the report puts both advices before members and resolves them with reasons, the construction material is assessed on the Council's own findings. If it carries the later "no objection" alone, it leaves the Council's own specialists' findings out of account.

1. The trees officer's finding of 9 February 2026. Responding to the revised tree protection scheme of 4 February 2026 on discharge application 25/02161/CONDA, the Council's trees officer marked conditions 9 and 11 "cannot be discharged, as the information is unacceptable", found that the temporary kitchen's footprint "has increased" beyond the application stage scheme, that "the tree will be deprived of natural hydration for at least

two growing seasons, which is totally unacceptable”, and that “if the extended footprint of the temporary building had been identified at the application stage then objections would have been raised earlier in the planning process. I would respectfully request that conditions 9 & 11 are not discharged.” The conditions were discharged in full on 17 and 18 February 2026 with no further trees response on the file. (The trees officer’s response of 9 February 2026, document 9296357 on the register of 25/02161/CONDA, headed “25/02161/CONDB & 25/02161/CONDA”, and the decision notices of 17 and 18 February 2026 on the registers of 25/02161/CONDA and CONDB; document 9495871, section 9.1.)

2. The same scheme is filed again, and a different officer finds no objection. The tree protection scheme on this application is an exact copy of the scheme of 4 February 2026 that the first officer found unacceptable, and the trees response on this application states: “From an arboricultural perspective, there are no objections to this planning application”, without engaging the earlier finding. The two arboricultural documents show two different temporary kitchens, one with tree T10’s rooting area left open and one with the footprint extended across the grass and T10 islanded, and the scheme’s own appendix list names a plan, “Tree Protection Plan (P3783-TPP01 V4)”, that appears nowhere in the submission. (Documents 9461449 and 9509840; document 9495871, sections 9.2 and 9.3.)
3. The environmental health officer’s finding of 20 March 2026. On discharge application 25/02161/CONDG the Council’s environmental health officer found: “no noise and or vibration monitoring / locations are proposed having regard to or acceptability criteria threshold levels. Considering the constrained location and proximity to noise sensitive residential this is considered paramount ...” and concluded: “Therefore condition 7 cannot be discharged and the additional info requested above is required.” The response lists the package under “Documents/drawing numbers to be refused”. The package predicts, without mitigation, 81 dB during demolition, 87 dB during piling and 84 dB during general site activities at flats 18 metres away, against a criterion of 65 dB. (The response of 20 March 2026, document 9348511 on the register of 25/02161/CONDG; document 9423966, paragraph 1.12 and Table 4; document 9495871, section 6.2.)
4. The condition was discharged on the same package after the Council had agreed to the quashing. The decision notice of 6 May 2026, headed “Condition Discharged in Full” under reference 25/02161/CONDG, approves the same February 2026 package as the sole approved details and recites that the environmental health officer “has been consulted on the above information” and that “the details submitted are considered acceptable”, eight days after the Council signed the draft consent order of 28 April 2026, and without reasons for departing from the advice that had found the information unacceptable. The package filed on this application is identical. (The decision notice of 6 May 2026, document 9391742 on the register of 25/02161/CONDG; document 9495871, sections 6.2 and 8.1.)
5. The discharges do not count for this application, on the Council’s own statement, and the findings stand. The Senior Planning Lawyer’s email of 28 July 2026 answers “Officers agree” to CLAG’s requirement that “no document approved in discharge of conditions under 25/02161/FUL is treated as approved for this application” (section 3, item 1). The approvals fell with the permission the Council has agreed should be quashed; the two refusal advices are the only substantive assessments of the trees scheme and the noise package on the Council’s files. (Document 9495878; document 9495871, sections 8.3 and 8.4.)
6. The carried over conditions incorporate the 2025 application’s own reports by name and date. Conditions 17, 23 and 25 of the decision notice of 7 November 2025 tie the

applicant to the Flood Risk Drainage Strategy of 16 May 2025, the Plant Noise Assessment of 23 May 2025 and the Sustainability Statement, and condition 25 states no operative requirement; the Environmental Quality and Growth response of 20 July 2026 addresses pre commencement conditions 3, 6 and 7 by the 2025 numbering. A permission that fell takes its discharges with it: on the quashing of an approval “the conditions were not at any time discharged” (R (Friends of the West Oxfordshire Cotswolds) v West Oxfordshire District Council [2024] EWHC 2291 (Admin) at [53] and [56]). (Document 7405037 on the register of 25/02161/FUL; document 9468203; document 9495871, sections 8 and 10.)

7. The end state the carried over conditions would authorise. Condition 29 of the 2025 notice permits operational deliveries and refuse collections “09:00 - 1900 hours on Saturdays, Sundays and Bank Holidays” for the life of the building, beside the residential flats, with no stated justification; condition 23 contains no numeric plant noise criterion, requiring only “due regard” to the applicant’s own 2025 assessment, where the Council’s own Sustainable Design and Construction SPD requires the rating level from all plant to be “less than or equal to the existing background level (L90)” (paragraph 3.6.108); and the kitchen odour regime is fixed to the May 2025 assessment with an advisory as its continuing protection (section 3, item 3). (Document 7405037; document 9495871, sections 10.6 and 10.13; the SPD, January 2020.)

The report must put both refusal advices before members in the officers’ own words, state whether each has been answered on the material filed on this application, and resolve with reasons the two trees responses on the one scheme; and it must state, for each carried over condition, what it requires on assessments made for this application.

If the report does so, the trees scheme, the temporary kitchen and the noise package are assessed on the Council’s own findings, and on the file as it stands each is unresolved.

If the report carries the later “no objection” alone, or recommends the 2025 conditions on the 2025 reports, it leaves the Council’s own specialists’ findings out of account, which is an error of law that misleads members (Liverpool Open and Green Spaces at [77], with [74] and [81]), and it rests conditions on assessments of another application that the Council itself says do not count.

8. The report states what each condition controls and weighs the harm as found, or it gives members conditions as the answer to a harm no condition reduces

We do not oppose a new library. The conflicts this paper sets out arise from the volume, mass and bulk of this design, and the lower and distributed designs on the record are the means of avoiding them (the alternatives paper, section 4). Everything the paper relies on is the Council’s own record, the applicant’s own documents or an officer’s advice.

The report on this application has to:

1. state, for each condition it recommends on heritage or design grounds, what the condition controls, and state that none reduces the harm the statutory consultee and the Council’s own conservation officer find (section 1);
2. weigh that harm at the degree each consultee gives, under HE5(2)(c) of the NPPF, its requirement that an assessment identify harm and its degree, HE6(1) and HE6(3) of the NPPF, its considerable importance and weight for any harm to a designated asset, and answer its avoidance requirement, HE4(1)(b), on the design and the lower and distributed alternatives (section 1);

3. obtain, before determination, the assessments at section 2 and the conservation officer's assessment of the temporary structure in Second Court, and give no weight to a benefit, and find no effect acceptable, on an assessment a condition defers (section 2);
4. state whether the environmental health officer's acceptance rests on the discharge documents of the 2025 permission, and obtain the officer's advice on assessments made for this application (section 3);
5. answer each ground of CLAG's conditions submission of 13 August 2026 under DM3(1) (e) of the NPPF, its policy on determining proposals, on whether conditions could make a proposal acceptable, and DM6(1) of the NPPF, its policy on the use of planning conditions, (section 4);
6. state the lane's status, identify the instrument that would authorise the closures the construction plan describes, and state the finding TR6(4) requires for the construction phase on that instrument, or record that none exists on the file (section 5);
7. state, for every condition recommended for the demolition phase, whether it takes pre commencement form and where the applicant's written agreement is, and state which exemption from the deemed biodiversity gain condition is relied on, with the figures, or that a biodiversity gain plan must be approved before the demolition can begin (section 6);
8. put the trees officer's finding of 9 February 2026 and the environmental health officer's finding of 20 March 2026 before members in the officers' own words, state whether each has been answered on the material filed on this application, and state, for each carried over condition, what it requires on assessments made for this application (section 7).

If the report does these things, no condition on the file answers the harm, the harm enters the balance at the degree the consultees find, and the decision that follows on the development plan and the balance, as the case officer letter states it on the words of each test, is refusal (the case officer letter, sections 3, 4 and 10).

If the report does not, it makes one of the errors named at sections 1 to 7:

- (a) conditions on materials and details given to members as the answer to a harm the Council's own officer attributes to scale (Mansell at [42]);
- (b) a benefit counted, or an effect found acceptable, on an assessment that a condition defers past the decision (Mansell at [42]), and the duty in section 66(1) discharged on a structure the Council has not assessed;
- (c) advice on this application that rests on approvals the Council does not treat as approved for it (Mansell at [42]);
- (d) a representation the Council said would be addressed left out of account (R (Friends of the Earth Ltd) v Heathrow Airport Ltd [2020] UKSC 52 at [116] to [121]);
- (e) a construction phase found acceptable on a closure regime that section 14(4) of the Road Traffic Regulation Act 1984 forbids and that no consent on the register authorises, with TR6(4) and TR8(1)(a) not applied in their terms (section 5);
- (f) compliance conditions, or an informative, recommended for a phase that section 100ZA(5) and Schedule 7A to the Town and Country Planning Act 1990 place beyond them (section 6);
- (g) the Council's own specialists' refusal advices left out of account, which is an error of law that misleads members (R (Liverpool Open and Green Spaces CIC) v Liverpool City Council [2020] EWCA Civ 861 at [77], with [74] and [81]) (section 7).

A report that states what each condition controls, weighs the harm as found, obtains the assessments before determination, and answers sections 5 to 7 on the statute and the Council's own record resolves the matters this paper raises.

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