CLAG: the Historic England FOI schedule (25 September 2026)

Annex H: Historic England's own file, released under reference 26/04173, shows that the statutory consultee told Christ's College ("the applicant") in writing in December 2024 how to avoid the harm at the Bodley Library. The Council's own officers and the Victorian Society told it the same in their own terms, and the applicant changed nothing. Five lower or distributed designs stand on the record. The Council's answers, that fundamental change was not reasonable "at this stage" and that amendments were "entirely up to the applicants", are not the finding HE4(1)(b) requires, and the first was given on a live application where this is a new one. Historic England's own casework record classes its advice as concerns; the applicant's account of it to the Council is "no objection". The consented design stands on Historic England's own file as the lower building, rated an enhancement, and it met the College's needs on the Council's own finding; the conservation officer's comparison, "smaller overall", is wrong for the building above ground, where the harm is found. This annex is the record; the findings the report must make on it are stated in CLAG's case officer letter and CLAG's alternatives, justification and public benefits paper

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). 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. The documents cited from Historic England's disclosure under reference 26/04173 are cited as held on Historic England's file. The pages relied on from Historic England's disclosure are Exhibit H1 (12 pages), reproduced as Historic England released them, with its redactions; each exhibit page carries its item number, the released bundle and page it comes from, and its page in the exhibit.

Filed Friday 25 September 2026.

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1. The applicant was told in writing how to avoid the harm at the Bodley Library and filed the same design as a new application, so neither Council answer, "at this stage" or "entirely up to the applicants", is the finding the NPPF's avoidance requirement, HE4(1)(b), requires

HE4(1)(b) of the National Planning Policy Framework of 17 August 2026 ("the NPPF") requires development proposals affecting the significance of heritage assets to "Avoid (or if that is not possible, minimise) harm to the significance of heritage assets, and instead conserve this significance", and HE4(2) requires any harm to a designated heritage asset to have "a clear and convincing justification". The question HE4(1)(b) puts first is whether the harm can be avoided. It is a question about the harm and the design, not about the applicant's willingness to change.

Historic England released its casework file on this scheme under the Freedom of Information Act, reference 26/04173, on 28 August 2026 ("the disclosure"). It shows that on 20 December 2024 Historic England's Inspector of Historic Buildings and Areas for the East of England ("the Inspector") wrote to the applicant, copying the Council's conservation officer. The Inspector wrote that Historic England's strongest concerns were the massing at the Bodley Library, and recommended scaling down that end. The Council's own officers told the applicant the day before to step the building away from the Bodley Library and inwards from Christ's Lane. The Victorian Society specified in August 2025 how the floors could be rescaled. The applicant made one change, which the statutory consultee's own file records as not answering the recommendation, and then filed the same drawings. The Council has twice answered the question of change by leaving it to the applicant, and neither answer is a finding whether the harm can be avoided.

If the case officer's report to committee on this application ("the report") records the recommendations, the designs on the record and the absence of any change or reason, and finds on that record whether the harm could be avoided, the answer on the file is that it could. HE4(2) then permits no justification of harm the chapter required to be avoided. If the report does not, or answers again that change was for the applicant or was not possible at the stage reached, it leaves a matter on the Council's own file out of account. The authority is R (Friends of the Earth Ltd) v Heathrow Airport Ltd [2020] UKSC 52 at [116] to [121]. It applies HE4(1)(b) otherwise than in its terms, and it repeats the error of the fourth ground of the judicial review (items 11 to 13).

1. On 20 December 2024, after the second pre-application meeting, the Inspector wrote to the applicant's agent, copying the Council's conservation officer (Exhibit H1.1, exhibit pages 2 and 3; released bundle "HE_applicant_pre-app and apps emails_Redacted.pdf", pages 25 and 26):
    (a) "The massing of the building puts considerable pressure on what is a domestic space. The design has sought to mitigate this aspect through design, maximizing the openness of the lower floors, adopting a more silent wall towards the upper levels to avoid overdominance and visual intrusion. However, this relationship feels quite tight.";

(b) “Our strongest concerns relate to the massing of the building, particularly on its encounter with Bodley Library, which at the moment feels rather uncomfortable, given its proximity and height. We strongly recommend this area is revised, maybe receding, scaling down this end and relating more to the alignment of the library might improve this relationship.”

2. The applicant’s agent replied the same morning: “Many thanks … These are really helpful.” (Exhibit H1.1, exhibit page 2). The recommendation was received by the applicant and by the Council’s conservation officer on the day it was sent.

3. The Council’s own officers had said the same the day before. The Council’s written advice of 19 December 2024, given after the pre-application meeting of 18 December 2024, states: “The proposal is higher and larger in scale than the consented schemes, and the proposed scale and massing of this raises concern. The proposed building would not appear smaller in section than the consented scheme.” and “Further work is needed in regard to the proposed building and its relationship, siting and design in regard to the Bodley Library. The proposed building should be stepped away from the Bodley Library and inwards from Christ’s Lane.” (the applicant’s Planning Statement, Turley, document 9423963; “the Planning Statement”; Appendix 3, page 55).

4. One change followed. The applicant’s own record of the workshop of 30 January 2025 states: “Reduction in scale of the stairs facing the Bodley in a revised design was welcomed. The Library volume decreased toward this West end.” (Design and Access Statement part 3, Grafton Architects, document 9423962, printed page 57). The same page records Historic England’s feedback on the change: “Stepping back of the staircase gallery was deemed positive, still slightly dominant.”

5. Historic England’s answer to that change is on its file and on the register, and the recommendation was repeated three times:

   (a) 3 February 2025 (Exhibit H1.2, exhibit page 5): “The stepping back of the upper staircase gallery is also positive. This element, however, still feels dominant over the Bodley (particularly thinking on view 7, on page 17). A slight reduction in height would be beneficial to ensure a more sympathetic integration, if possible.”;

   (b) 29 July 2025, the formal letter on the register (document 9457102, page 4): “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.”;

   (c) 1 September 2025 (document 9457105, page 1): “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.”

6. The Victorian Society specified a second written means of avoidance. Its letter of 22 August 2025 (document 7355397 on the register of 25/02162/LBC, page 2) states: “For example, it would not be unreasonable for the scale of the proposed to take its lead from the floor heights of the Bodley, opting to align the floors with the oriel window of the Bodley structure; thus, reducing the height by approximately half at each floor.” On 6 July 2026 (document 9455369) it records: “Advice ignored.” and “Heritage harm has been identified, and the College has a duty to consider less harmful alternatives.”

7. Five lower or distributed designs stand on the record, and the application assesses none of them. They are set out, with their sources, in CLAG’s alternatives, justification and public benefits paper, filed with this annex (“the alternatives paper”), section 4.5:

   (a) the consented design of 2011 and 2016, with part of its floor area below ground (section 3);

(b) the Create Streets variant of it, commissioned by CLAG and on the register since October 2025;

(c) the rescaled building the Victorian Society specified at item 6;

(d) a library on this site as one of the five study and library places of the College's own adopted masterplan of October 2023;

(e) the masterplan's Hobson Street library, the second of the "two possible sites for the library" that the applicant's own letter of 1 August 2026 records its architects put to the Governing Body (document 9481026). No document on the register or in the disclosure assesses any of them against the harm, and none records a reason why the harm could not be avoided.

8. The applicant changed nothing. The Council's report to its Planning Committee of 29 October 2025 on the earlier application for the identical scheme, 25/02161/FUL ("the 2025 report", cited by paragraph and by the page of the public reports pack of that date) records: "The height of the staircase tower has been raised as an issue by both the internal Conservation Officer and the Historic England officer, with the latter recommending that a reduction in height would improve the relationship of the proposed building to the Bodley Library." and "The applicant however has chosen to retain the current height of the proposed staircase tower." (paragraphs 14.13 and 14.14, page 152). The applicant's Covering Statement of June 2026 (Turley, document 9423967; "the Covering Statement") states at paragraph 1.7: "It should be noted that no changes have been made to the detail of the drawings nor consequently to the reports submitted in support of that application."

9. The Council's own conservation officer finds the same harm at the same place on the drawings applied for, on 26 August 2026 (document 9505685, pages 3 and 4): "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." and "The harm arises from the relative scale and proximity of the stair tower."

10. The Council has twice answered the question of change by leaving it to the applicant:

(a) the 2025 report, on the concerns raised at the Development Control Forum of 11 September 2025: "Whilst larger, more significant issues were raised at the forum, including concerns with the overall scale and design of the development, officers do not consider it would be reasonable or indeed possible for the applicant to undertake fundamental changes to the scheme at this stage." (paragraph 12.28, page 148);

(b) the chair of the DCF, a delivery manager of the Greater Cambridge Shared Planning Service, answering a member who asked what the meeting was for: "It's entirely up to the applicants whether they want to engage with the process and make amendments but it's an opportunity for the petitioners to make a case that amendments should be made and where." (CLAG's transcript extract of the Development Control Forum of 29 July 2026 (the DCF), filed with this annex ("the DCF record", cited by entry), entry 3.4). A member then asked for "some understanding of any mitigations undertaken in the light of comments from I think it's a Victorian Society and English Heritage", and the chair answered that officers had "made a note of all of those requests" (entry 4.25). No amendment followed.

11. Neither answer is the finding HE4(1)(b) requires, and each is wrong in law:

(a) HE4(1)(b) asks whether the harm can be avoided. Its word "possible" refers to the harm and the design. Whether the applicant is willing to change its scheme bears on which of

the Council's two courses follows, grant or refusal, and not on whether the harm can be avoided;

(b) section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires "special regard to the desirability of preserving the building or its setting", and the presumption in favour of preservation it creates "itself implies the need for a suitably rigorous assessment of potential alternatives" (R (Forge Field Society) v Sevenoaks DC [2015] JPL 22 at [61]);

(c) the answer that an application is assessed on its own merits has been held unlawful where objectors put an alternative siting within the application site. The Court of Appeal in R (Langley Park School for Girls Governing Body) v Bromley LBC [2009] EWCA Civ 734 described a report that answered the alternative with the words "each planning application must be considered on its merits" (at [43]) and held: "The fact that Option 1 was not included in the Interested Party's planning application was not a sound reason for not considering the objectors' Point (b). It is hardly surprising that the application did not contain an alternative siting option." (at [48]);

(d) a fresh application has no stage that rules out change. When the least harmful option test was applied to one component in 2025, the design changed. Historic England asked on 29 July 2025 that "The Council should be satisfied that the proposed solution represents the least harmful option, and that other more sympathetic solutions are not possible" (document 9457102, page 4). The applicant's amendment letter of 27 August 2025 records Historic England as "requiring the College to show that there is no more sympathetic solution" (document 7357152 on the register of 25/02161/FUL, paragraph 1.9), and the wash up area moved and the chimneys were lowered. The applicant chose to file the same drawings in June 2026 (item 8);

(e) the fourth ground of the judicial review is that failure (item 12).

12. The Council's permission of 7 November 2025 on the earlier application for this scheme, 25/02161/FUL, is before the Court. The claim is R (Christ's Lane Action Group) v Cambridge City Council, Christ's College Cambridge interested party, claim AC-2025-LON-004656 (the judicial review). Permission to apply was granted on all four grounds by the order of Kimblin J signed on 6 March 2026 and served on 9 March 2026, which the Court documents call the Order of 9 March 2026. The Council and the College signed a draft consent order on 28 April 2026 agreeing that the permission be quashed on all four grounds; CLAG did not sign it, so that the grounds receive a reasoned judgment; the Court did not make the order on the papers and has listed the claim for a one day hearing on Tuesday 20 October 2026 (documents 9462822, page 18, and 9475597, pages 1 and 55). The first and fourth grounds, as the Statement of Facts and Grounds states them (within CLAG's objection of 10 July 2026, document 9475597), read: "Ground 1 – The Committee was materially misled as to Historic England's advice" and "Ground 4 – The Committee failed to take into account a relevant consideration – the existence of less harmful alternative modes of development."

13. The 2025 answer rested on the stage of a live application, and this application has no such stage: the applicant chose its content and its timetable. The 2025 report tied its answer to "the process of the live application" (paragraph 12.28, page 148). A change that makes a development in substance a different one cannot be granted on a live application and needs a fresh application (Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) 43 P&CR 233 at 241). This application is that fresh application. It was received on Friday 5 June 2026 and validated on Wednesday 10 June 2026, with "no changes … to the detail of the drawings" (item 8). The applicant's agent had told the Inspector on 14 May 2026 that "Submission of a duplicate application will

allow reconsideration by the Committee" and that "This should be possible before October." (section 2, item 3). On this application the Council's own chair treated amendment as open (item 10(b)). The only amendment notice since is the Council's letter of 19 August 2026 (document 9499001), and it records no change to the scheme: its amendment is "To allow further representations to be made on the implications of the updated National Planning Policy Framework (NPPF) (17th August 2026) relating to the proposal." The applicant's own statements of purpose and timetable are set out in the alternatives paper, section 4.1. A stage the applicant chose is not a stage that rules out change, and a timetable the applicant set is not a reason under HE4(1)(b) why the harm cannot be avoided (item 11(a)).

The report must record that the statutory consultee, the Council's own officers and the Victorian Society each stated in writing how the harm at the Bodley Library could be reduced or avoided. It must record that five lower or distributed designs stand on the record, that the one change made did not answer the recommendation on the statutory consultee's own record, and that no reason for going no further is on the file. It must then find, on that record, whether the harm could be avoided, and state that the answer at paragraph 12.28 of the 2025 report does not apply to this application (item 13).

If the report records this and makes the finding, the answer on the file is that the harm could be avoided; HE4(1)(b) then stands unmet, and HE4(2) permits no clear and convincing justification of it (the alternatives paper, section 4.6). If the report does not record it, or answers again that change was for the applicant, a matter on the Council's own file is left out of account (Friends of the Earth at [116] to [121]). HE4(1)(b) is then not applied in its terms, and the error of the fourth ground is repeated on the same drawings (Langley Park at [48]). A report that repeats the 2025 answer, in those words or in others to the same effect, answers HE4(1)(b) with the applicant's choice and states as a fact a stage that does not exist.

2. Historic England's own file classes its advice as concerns and records the applicant's aim of a decision before October, so the report carries the advice in Historic England's words and "no objection" as the casework outcome only

Historic England's advice on this scheme is written. Its letter of 29 July 2025 (document 9457102, page 4) concludes: "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." Historic England's own casework record classes that letter and its letter of 1 September 2025 as concerns, and Historic England has told the Council twice that its written letters are the whole of its input. The applicant's account of the same advice to the Council is "no objection". The applicant's letter of 14 May 2026 to the Inspector, copied to the Council's case officer and conservation officer, records that account as the subject of the first ground and states the applicant's aim of a committee decision "before October".

If the report carries the advice as Historic England records it, the harm enters the balance as the statutory consultee found it. If the report carries "no objection" as the statutory consultee's position, members are misled as to the statutory consultee's advice, the error of the first ground (R (Mansell) v Tonbridge and Malling BC [2017] EWCA Civ 1314, [2019] PTSR 1452 at [42]).

1. Historic England's internal record of the consultation, 19 June 2026, classes the advice (Exhibit H1.4, exhibit page 7; released bundle "Consultation received 2026 emails_Redacted.pdf", page 4): "See previous consultation L01594085 (25/02162/LBC) which was the subject of a 'Y - Concerns' letter on 29/07/25 and 01/09/26 and was

approved by the LPA on 07/11/25" (sic: the second letter is dated 1 September 2025). The letters so classed are on the register of this application, as documents 9457102 and 9457105. They were enclosed with Historic England's response of 8 July 2026 (document 9457100, page 2): "The proposals subject of the present application remain unchanged from those previously assessed. Consequently, we are comfortable to reiterate our position of no objection and do not wish to make any further comments. We defer you to our previous letters of advice for a detailed assessment of the proposals, which are enclosed to this email, for ease." On 27 August 2026 Historic England confirmed them for the NPPF (document 9508056, page 1): "We are comfortable that our existing advice remains relevant and appropriate and consider that our existing responses provide a sufficient basis for the Local Planning Authority to assess the proposals in the context of the revised NPPF."

2. The written letters are the whole of Historic England's input. On 23 September 2025 the Inspector told the case officer (Exhibit H1.5, exhibit page 8; released bundle "HE_CCC_formal consultation emails_Redacted.pdf", page 14): "I have discussed our query with my line manager, and I can confirm that Historic England does not normally attend to planning committees. This is due to our limited resources and workload, but we are happy to stand by our written advice and for this to be presented at the committee, if you would find this helpful." On 20 October 2025 (exhibit page 9; released bundle page 16): "We do not wish to speak at the meting or make any additional representations. We therefore defer you to our written letters of advice dated 29 July and 1 September 2025." (sic).

3. On 14 May 2026, before this application was submitted, the applicant's agent wrote to the Inspector, copying the Council's case officer and conservation officer (Exhibit H1.3, exhibit page 6; released bundle "HE_applicant_pre-app and apps emails_Redacted.pdf", page 66):

    (a) "One of the points which the claimant raised related to the advice given by Historic England and whether that had been misrepresented to Council Members. Regardless of the merits of that opinion, we feel that it is very important that this time around, the Committee are left in no doubt about Historic England's advice.";

    (b) "Submission of a duplicate application will allow reconsideration by the Committee with the report seeking to address the points raised by the claimant in their challenge. This should be possible before October.";

    (c) "As this is such an unusual case, we think it would be useful to meet so we can talk through the various issues. Hopefully this will assist you in producing your response to the latest application when submitted." The disclosure holds no reply to the letter and no meeting note. The same aim is stated on the register: the Covering Statement states at paragraph 2.2: "With the Judicial Review hearing date not until 20 October 2026, it could be into 2027 before the first application returns to the Planning Committee for re-determination – as seems likely. Rather than wait for the application to be referred back to the Council by the High Court, this second application allows the Council to re-consider the application more quickly." The month named in the letter, October, is the month of the hearing (section 1, item 12). The applicant's aim bears on none of the findings the report has to make; the sequence of determination is CLAG's determination timing letter's, filed with this annex.

4. The applicant's account of the advice to the case officer, on 1 August 2026 (document 9481026, page 2), reads: "Historic England have said they have 'no objection' to the scheme on all three times they have been consulted. The fact that they recognise some

harm arising from an aspect of the scheme does not invalidate their overall conclusion that they do not object." The advice is the letter at the head of this section, classed by Historic England as concerns. "No objection" is the outcome Historic England chose after finding the harm, in the same paragraph as its recommendation that the massing be further reduced (section 1, item 5(b)). The account the applicant gave the Council is the account its own letter of 14 May 2026 recorded as the subject of the first ground.

The report must carry Historic England's advice as Historic England itself records it: a letter of concerns finding harm to the significance of a Grade I listed building from the excessive bulk of the building, with a recommendation that the massing be reduced. The advice is unchanged since 29 July 2025 and was confirmed on 27 August 2026 as the basis for the Council's assessment. "No objection" is stated for what it is, the casework outcome. The report must also record the applicant's letter of 14 May 2026 and that Historic England's response stands on its written advice.

If the report does this, the harm enters the balance as the statutory consultee found it. If the report carries "no objection" as the statutory consultee's position, it gives members a note that is factually correct and misleading (R (Loader) v Rother District Council [2016] EWCA Civ 795 at [56] and [57]). It repeats the error of the first ground (Mansell at [42]). A report that attributes "no objection" to a consultee while the consultee's own recorded concerns are left out of it misleads the committee materially. The outcome can be different when those concerns are before the members (R (Guardians of Whitewebbs Park CIC) v London Borough of Enfield [2026] EWHC 1916 (Admin) at [106] to [108] and [130] to [134]).

3. The consented design is the lower building on Historic England's own file and met the College's needs, and the officer's comparison, "smaller overall", is wrong for the building above ground on the applicant's own documents and the Council's own advice

A library on this site was granted permission on 5 July 2013 on the 2011 application (11/0495/FUL) and again on 7 September 2016 (16/0405/FUL) ("the consented design"). It placed part of its floor area below ground and stood lower above Christ's Lane. English Heritage supported it and rated its lane elevation a real enhancement of the conservation area; the Council found that it met the College's needs; the applicant's own documents give it the larger floor area figure. The statutory consultee, the Council's own officers, the Council's own 2025 report and the applicant's own documents each record this scheme as higher and larger than it above ground. The Council's conservation officer, on this application, calls this scheme "smaller overall than the earlier approved scheme". On the building above ground, where every heritage assessment finds the harm, that sentence is wrong on the Council's own advice and the applicant's own documents.

If the report compares the two designs where the harm arises, it records on the statutory consultee's own letter that this scheme is bulkier than a design that avoided the harm, was rated an enhancement and met the College's needs. The consented design then stands on the file as the lower building the assessment under HE4(1)(b) of the NPPF, its requirement to avoid or, where that is not possible, minimise harm to heritage assets, must consider (section 1). If the report carries "smaller overall" as the comparison, it adopts a statement of fact that the applicant's own documents and the Council's own advice contradict (E v Secretary of State for the Home Department [2004] EWCA Civ 49 at [66]), gives members a comparison that misleads them on the building where the harm is found (Mansell at [42]), and decides without the alternative on its own file, the error of the fourth ground.

1. English Heritage's letter of 5 July 2011 on application 11/0495/FUL (Exhibit H1.6, exhibit pages 10 to 12; released bundle "2011app_X_HERef_L00104702_138865_110495FUL_Redacted.pdf", pages 1 to 3) states: "while we support the proposed development we have some observations on both the new building and the proposed alterations to the listed buildings" (page 1) and "The Christ's Lane elevation will only be seen in oblique views up and down the lane, and the illustrative material accompanying the application suggests that a well detailed building in this form will offer real enhancement to this part of the Cambridge Central Conservation Area. One of the design's achievements is that it does not incorporate any prominent heating or ventilation plant on this elevation." (page 3).

2. The Council found that the consented design met the College's needs. Its report to the Planning Committee of 31 August 2016 on application 16/0405/FUL (document 2008719 on that register; "the 2016 report") gives among its reasons for approval: "The proposed new library would meet the needs of Christ's College", and states at paragraph 8.4: "The needs are recognised and accepted and have not been questioned by any of the consultees or third parties."

3. The consented design carried more floor area than the College's present brief asks for, on the applicant's own figures, so the College's stated requirement is met by the lower building with room to spare. The Planning Statement's planning history table records the consented applications as "New library (1539 sq m), the enclosure of Library Court (201 sq m) and the provision of bridge access between the first floor of the new library and the South Range and Bodley Library. Demolition of the existing library (809 sq m).", approved on 5 July 2013 and, in the same terms, on 7 September 2016 (document 9423963, pages 10 and 11). The Design and Access Statement states the present brief: "To meet the present and future needs of College, it is proposed to demolish the current working library of 680m2 to be replaced with a new building extending to 1050m2 (GIA)." (part 1, Grafton Architects, document 9423960, section 3.3, printed page 9). Both figures are the applicant's; on one measure the consented design exceeds the present brief by 489 square metres, and a report that finds it does not meet the brief has to state both figures on one measure first (the alternatives paper, section 4.2).

4. The Council's own advice of 19 December 2024, in the conservation officer's and the urban design officer's comments, found: "The proposal is higher and larger in scale than the consented schemes, and the proposed scale and massing of this raises concern. The proposed building would not appear smaller in section than the consented scheme." The same advice found the design "too close in terms of its siting to the Bodley Library and too busy in terms of its design and detailing, detracting and competing with the listed building". (The Planning Statement, Appendix 3, page 55; section 1, item 3.)

5. The statutory consultee made the comparison on the dimension where the harm arises, on 29 July 2025 (document 9457102, page 4): "The proposals would be bulkier that those that were previously granted consent." (sic). The same letter states why: "In order to meet the requirements of the brief and compensate for the loss of the basement, the building needs to extend further above ground." (page 2).

6. The applicant's own documents say the same. Its Planning Statement summarises the Council's advice: "concerns were raised regarding the proposal being higher and larger in scale and mass than the consented schemes" (document 9423963, page 14). Its Heritage Statement: "Whilst the proposed library will be of a greater scale than the existing and previously approved scheme, the proposed scale (and arrangement) would be contextually appropriate" (document 9423964, paragraph 6.9). Its architects to the Council in December 2024, in the presentation Historic England's file holds: "The new library is larger than the original planning scheme as there is no longer a substantial

basement." (the pre application presentation of 18 December 2024, "Scale and Size", as held on Historic England's file).

7. The Council's own record says the same. Its 2025 report: "The development, and new library building would undoubtedly somewhat enclose part of Christ's Lane as a result of the increase in height." (paragraph 20.25). Its own conservation and urban design team, on the lower consented design in 2016: "It is at least one storey too tall and is likely to be oppressive and overbearing in this part of the CA." (document 1967605 on the register of 16/0405/FUL).

8. The applicant's own Design and Access Statement records where the bulk comes from (part 1, document 9423960, printed page 9): "This accommodation located in the basement in the 2011 proposal has been distributed throughout the new library on the upper floors. 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."

9. The Council's conservation officer compares the two designs on 13 July 2026 (document 9462719, page 1) and 26 August 2026 (document 9505685, page 2) in the same sentence: "The current proposal is smaller overall than the earlier approved scheme (refs: 11/0495/FUL and 11/0516/LBC, renewed under refs: 16/0405/FUL and 16/0406/LBC), omitting the basement and Bath Court roof and thereby avoiding these harmful impacts." For the building above ground the sentence is wrong on the Council's own advice (item 4), the statutory consultee's letter (item 5), the applicant's own documents (items 6 and 8) and the Council's own record (item 7). It counts what this scheme leaves out, the consented design's basement and its roof over Bath Court, neither of which stands in any setting. It does not count what the scheme adds above ground, on the lane and against the Bodley Library, where the officer's own finding of harm lies (section 1, item 9). The officer's first response of July 2025 on the 2025 application described the same building as "less ambitious in scale than the earlier approved scheme" (document 7331958 on the register of 25/02161/FUL, page 2); on the same drawings the words became "smaller overall". CLAG's conservation officer letter, filed with this annex, asks the officer to correct the comparison by Tuesday 29 September 2026 (its section 4).

10. The comparison the Council's own officers asked for was made and shown to officers and to Historic England, and is on the register of neither application. The applicant's own Design and Access Statement records the request: "A comparison of the previously approved scheme with the new proposal was requested so that Officers could clearly consider and compare the two schemes in relation to height, scale, mass, size and overall visual impact."; and records that it was made: "The proposal by Grafton Architects was also compared to a previously approved scheme (2011/2016) to demonstrate the differences of approach in responding to the College's demanding brief." (part 3, document 9423962, chapter 8, "Pre-Application Advice Received from the Officers", printed page 55). The second pre application presentation, of 18 December 2024, lists among its contents "Comparison drawings of the 2011/2016 Rick Mather scheme with the current proposals" (as held on Historic England's file). So the drawings that show the two buildings side by side, on the dimension where the harm arises, exist and were seen by the Council and by the statutory consultee; the public has never seen them, and the report cannot make the comparison the officer's sentence asserts without placing them on the register.

The report must compare the scheme with the consented alternative where the harm arises and record on the statutory consultee's letter that this scheme is bulkier than the consented design. It must record that the consented design avoided the harm, was rated an enhancement, met the

College's needs on the Council's own finding, and carries the larger floor area figure on the applicant's own documents. If the report does this, the consented design stands on the file as the lower building, and the harm found on this application is harm the consented design did not cause. If the report carries "smaller overall" as the comparison, it adopts a mistake of established fact (E v Secretary of State for the Home Department at [66]) and gives members a comparison that misleads them on the building in which every heritage assessment finds the harm (Mansell at [42]). It also leaves the less harmful alternative on the Council's own file out of account (Friends of the Earth at [116] to [121]), which is the error of the fourth ground.

4. The record on Historic England's file supplies two findings for the report, harm from the excessive bulk on the statutory consultee's own advice and a lower consented design that meets the College's needs, and the case officer letter states the report's step on each

4.1 This annex is the record from Historic England's own file. It supplies evidence for two findings of CLAG's case officer letter, filed with this annex ("the case officer letter"). The first is that the effect of the proposal on the significance of the Grade I listed building is harm, from the excessive bulk of the building, on the statutory consultee's own advice as Historic England records it (section 2). Its carriers are the case officer letter, section 2, and CLAG's harm register, Annex C, section 1. The second is that the harm could be avoided by a lower library meeting the College's stated requirements, on the consented design the Council itself approved and found met the College's needs (sections 1 and 3). HE4(1)(b) is then not met and HE4(2) permits no justification of avoidable harm (the alternatives paper, section 4; the case officer letter, section 5).

4.2 Carrying the advice and the record in the words set out in sections 1 to 3, and making the finding under HE4(1)(b) on that record, before the report is written, resolves the matters this annex raises.

Christ's Lane Action Group (residents@christs-lane.com)