



Appeal Decision

Inquiry Held on 13-16 June and 26-29 September 2017

Site visit made on 14 June 2017

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 December 2017

Appeal Ref: APP/G3110/W/16/3155486

Land South of Manor Place, Oxford, Oxfordshire OX1 3UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McLaren (Manor Place) Ltd and the Warden and Scholars of the House or College of Merton in the University of Oxford against the decision of Oxford City Council.
 - The application Ref 15/01747/FUL, dated 5 June 2015, was refused by notice dated 19 April 2016.
 - The development proposed is the erection of four buildings on one, three and four levels to provide 286 student study rooms together with ancillary facilities including dining room, reception, lounge areas, car and cycle parking, bin storage and landscaped gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme was amended during the course of the planning application, such that I have used a description of the development proposed as it appears in the Statement of Common Ground between the Council and the appellant. This is mainly because it provides a better representation of the scheme before me compared to the description as it appears on the original planning application form and also as it is agreed between those main parties.
3. A Supplementary Statement of Common Ground has also been submitted, which confirms that, in the view of the appellant and Council, the nature of the proposed development is such that it could be used as a self-catered facility or catered facility. I have found no reason to disagree and have, therefore, determined the appeal on that basis.
4. A legal agreement dated 25 September 2017, made under S106 of the Town and Country Planning Act 1990 in the form of a unilateral undertaking (the UU)¹, was submitted during the course of the Inquiry. I have had regard to the UU in my consideration and determination of the appeal.

¹ Inquiry Document 18

Main Issues

5. The main issues are:

- The effect of the appeal scheme on the character and appearance of the area, having regard to the Central (University and City) Conservation Area;
- Its effect on the living conditions of the residents of 13 Manor Place; and
- Having regard to any benefits and disbenefits of the scheme, whether the proposal would represent a sustainable form of development.

Reasons

Character & Appearance – Heritage Assets

6. The appeal site is roughly L-shaped, measuring some 1.19ha, and located on the eastern edge of Oxford city centre. It consists of disused grass and hardstanding tennis courts, and abandoned allotments and orchards.
7. In broad terms, the site is bordered by the residential properties of Manor Place to the North; Holy Cross Cemetery and the Grade I listed St Cross Church and student accommodation of St Cross and Brasenose Colleges to the west; Holywell Mill Stream and the Grade I listed St Catherine's College and its Grade II Registered Park and Garden to the east; the buildings around Holywell Mill Stream to the southeast, which include the Grade II listed building Holywell Ford, student accommodation and Magdalen College squash courts; and a private gated drive known as Holywell Mill Lane to the south. A Grade II* listed castellated stone wall (the Longwall) runs alongside Holywell Mill Lane to the south, beyond which is Magdalen Grove (the Grove) the western part of the Grade I Registered Historic Park and Garden of Magdalen College (the RHP&G).
8. The site also lies wholly within the Central (University and City) Conservation Area (the Conservation Area). While in respect to any effect on the historic environment, the reasons for refusal refer only to the Conservation Area, the wider evidence also refers to a wider range of heritage assets, principally the RHP&G, St Catherine's College, Holywell Ford and the Longwall, as well as non-designated assets, including Holywell Cemetery. Consequently, I also take account of these other heritage assets as part of this main issue.
9. It is common ground, at least between the parties who called expert heritage witnesses at the Inquiry, that there would be less than substantial harm to the significance of certain heritage assets in the terms of para 134 of the National Planning Policy Framework (the Framework). However, there is disagreement over where within the less than substantial range the resulting harm would lie. The appellant maintains that it would be to the lower end of the range while the Council and the Rule 6 party Magdalen College and the Oxford Preservation Trust (MC&OPT) consider that it would be towards the middle and higher end of the range respectively.
10. The designated heritage assets for which the appellant has identified less than substantial harm to their significance include the Grade I listed buildings at St Catherine's College, the RHP&G, the Grade II* Longwall and the Conservation Area. The appellant also accepts that there would be less than substantial harm to the significance of the Holywell Cemetery as a non-designated heritage asset in the context of para 135 of the Framework. I have found nothing that leads me to believe that any harm resulting from the appeal scheme on the

significance of heritage assets would be anything other than less than substantial.

11. Notwithstanding the criticism that was made of the Council's and of the MC&OPT's evidence in this regard, that evidence is nonetheless helpful and indicates that the appellant's witness is, in my view, likely to have understated the degree and extent of harm that would arise from the appeal scheme to the significance of at least some of the relevant heritage assets. I use the example of the Grove to illustrate the point in greater detail.
12. The Grove dates from the 16th Century and created enclosed grounds outside the city walls as a setting for Magdalen College, which is now Grade I listed. The significance of the RHP&G, which the Grove forms a part of, lies - at least in large part - in its historical value as early landscaped gardens designed to be enjoyed through a series of walks and vistas, including views beyond to the north, by the occupants of the College. The Longwall acted as a boundary between and point of transition to / from the College grounds and the open fields, allotments and woodlands beyond; its significance lies in this historic role.
13. The Longwall continues to provide a sense of enclosure to the Grove helping to contain outward views such that much of the development to the north that has taken place over the years is not discernible. Notable exceptions to this are the development that has taken place around Holywell Mill, including the Magdalen College squash courts building to the east and the Brasenose College accommodation to the west.
14. However, the evidence indicates that there has been development to the east and west in the form of a vicarage, which was replaced by the Brasenose development, while a mill once stood in the vicinity of Holywell Ford. In any event the existing development here is not particularly prominent when viewed from the Grove due to its scale and height, along with the filtering effect of trees.
15. While criticism has been made of the reasonably recent squash court building, any shortcomings in its quality cannot justify harm to the historic environment. Furthermore, there remains a substantial gap between the built form of these neighbouring developments through which views remain available from the Grove above the Longwall and beyond across/above the appeal site, such that the impression remains that the land to the north is largely undeveloped, much as it would have appeared since the Longwall was erected.
16. Given its proximity and its historical role as forming part of the more open, rural area beyond Magdalen College and the city, the appeal site forms part of the setting of both the Longwall and the RHP&G. The continued impression that the site is undeveloped in views from the Grove makes an important contribution to the significance of the RHP&G in terms of helping to maintain the sense that it has remained undisturbed over time by the changing world beyond.
17. The proposed development would include two, two and a half to three and a half storey buildings each with an L-shaped footprint, Blocks B and C, which would be connected via a single storey structure. These Blocks would be positioned in the southern portion of the site and as a result the visual gap, free of construction, as perceived from the Grove above the Longwall between

the Brasenose and Holywell Mill Stream developments, would be very much diminished. Consequently, the impression that the land to the north is largely undeveloped would be significantly undermined, thereby harming the significance of the RHP&G.

18. In making this assessment I have taken into account the screening / filtering effect of existing planting within the Grove and the effect of additional planting that could be provided within the appeal site as part of the development. However, given the height, scale and proximity of these proposed buildings along with the effect of lighting associated with the use, the development would be very readily perceptible and harmful in the terms described above.
19. While I broadly agree with the appellant's assessment of the appeal scheme's effect on the heritage assets within the St Catherine's site, I also consider that the effect on Holywell Ford, the Conservation Area and the Longwall is also somewhat understated, as is the effect on Holywell Cemetery as a non-designated heritage asset.
20. Nevertheless, for the purposes of determining the appeal I have applied the appellant's conclusions in this regard as a benchmark as to the minimum amount of harm that would be caused to the historic environment. Specifically, in respect to designated heritage assets, the appellant accepts that the less than substantial harm to the significance of those heritage assets would be, much closer to the 'negligible harm' end of the scale than to the other, 'almost substantial harm', end of the scale.
21. Bearing in mind the 'benefits' of the appeal scheme claimed by the appeal, as discussed below under the final main issue, it is also worth taking a moment to consider the effect that the proposal would have on the general character and appearance of the area, particularly that of Manor Place. Manor Place is a residential cul-de-sac lined by houses. The majority of these houses are two-storey, set back a little distance from the street in short terraced rows and feature a number of common characteristics, such as gables, ground floor bay windows and facing materials. Notwithstanding the greater variety in the built form towards the southern end of the street closest to the appeal site and the contrasting University buildings to the north, these factors combine to give the overall street scene a strong rhythm and coherence.
22. Only Block A of the appeal development would be visible from the public realm within Manor Place. Views of it, standing at the head of the street, would be limited by existing development and retained planting. Block A would be a tall, wide building that would visually contain the head of the street. As it is already contained by mature planting, this aspect of the changed street scene is not objectionable in principle.
23. However, Block A would be of a significantly greater scale relative to the existing buildings in Manor Place, and perceptibly so notwithstanding that it would be set back some distance from the head of the street and that much of it would be screened. This is due primarily to its proposed height of three and a half storeys. It would also be set at a rather awkward angle to the head of the street and the fairly regularly arranged buildings that are within it. These factors, combined with its contrasting architectural detailing, would be rather at odds with and detract from the pleasant order of the Manor Place street scene. Therefore, the appeal scheme would have a harmful effect on the character and appearance of the area.

24. Moreover, when applying the level of harm to heritage assets identified by the appellant - as a benchmark of minimum harm - to the lower end of the less than substantial range, given the statutory duties² to have special regard to the desirability of preserving a listed building's setting and to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and bearing in mind the requirements of the Framework, including that great weight should be given to the conservation of designated heritage assets, the identified harm carries substantial weight against the proposal.
25. Accordingly, in those respects the appeal development would conflict with Policy CS18 (urban design, townscape and the historic environment) of the Oxford Core Strategy 2016, March 2011 (the Core Strategy), Policies CP.6 (effective use of land & density), CP.8 (designing development to relate to its context), CP.9 (creating successful new places), CP.11 (landscape design), HE.3 (listed buildings and their settings) and HE.7 (conservation areas) of the Oxford Local Plan 2001-2016, November 2005 (the Local Plan), and Policy SP27 (Land off Manor Place) of the Sites and Housing Plan, 2011-2026, February 2013 (the S&HP).
26. In coming to this conclusion I have had regard to all of the evidence, including the input of both the Oxford Design Review Panel and Historic England during the evolution and determination of the appeal scheme. In doing so I have also been mindful that decision-makers are not bound to follow the advice of consultees, and that neither of these parties are likely to have had available to them all of the information I have received as part of the appeal process, nor to have witnessed the testing of evidence in the manner achieved during the Inquiry.

Living Conditions

27. The Council's third reason for refusal relates to the effect of the appeal development on the living conditions of the occupants of 13 Manor Place in terms of it having an 'overbearing impact' experienced in the garden of No 13. The occupants of No 13 also raised wider concerns in respect to living conditions as a Rule 6 party to the Inquiry.
28. No 13 is a two-storey house, located to the southern end of Manor Place. Its boundary abuts the north-eastern corner of Holywell Cemetery and also adjoins the appeal site to the south and east. The main portion of its garden is positioned to the south of the house adjacent to the appeal site. The proposed Block A building would be located to the south of and at an angle to the principal elevation of No 13, some 34m to 60m away, and some 17m from the common boundary.
29. While views out from No 13, from both the house and garden, are contained to an extent by planting on each side of the boundary as well as by the boundary wall, there remains a sense of space and openness due largely to the size of the garden and the extent to which the sky can be seen between and through the planting.
30. Block A would be a substantial building measuring some 45m long, with a height of 9m and 11.4m to the parapet and 'ridge' respectively.

² S66(1) & S72(1) respectively of the Planning (Listed Buildings and Conservation Areas) Act

Notwithstanding the distance it would stand from No 13 it would be visible, at least in part, from many points of view out from the house and from within the garden, which would become more open with the removal of a number of trees as proposed as part of the appeal scheme. Consequently, its presence and use would be felt by the residents of No 13.

31. However, from what I have seen and heard during the appeal process, I do not consider that Block A would affect the living conditions of occupants of No 13 to an extent that would warrant withholding planning permission. This is chiefly due to the reasonably substantial distance that it would stand from both the garden and house of No 13 and its proposed siting at an angle to both, combined with the screening / filtering effect of retained vegetation, which could be supplemented along the lines proposed by the appellant. Consequently, the loss of privacy, light and outlook and any 'overbearing' effect to No 13's occupants would not be significant.
32. Indeed the effect would not be out of step with the kind of relationship that the Council supports through its guidelines as appended to the development plan³. Nor would it be untypical of the pattern of development and relationship of uses and buildings found, and found to be acceptable, in many an urban or suburban context in Oxford and elsewhere.
33. Although not expressly covered by the third refusal reason, reference has also been made, including by the Council, to the effect of a bicycle storage building proposed to be sited close to the northern site boundary between Block A and No 13. However, given its limited height and scale, along with its distance from No 13 and the screening effect of the boundary treatment and planting, the built form of the bike store would not have a material effect on the living conditions of occupants of this neighbouring property.
34. Additionally, concern has been raised in respect to the appeal scheme's effect on the living conditions of local residents, including those of No 13, in terms of noise and disturbance associated with the proposed use, such as from students returning from a night-out and from servicing, including bin collection. Matters of this nature were taken into account by the Council when it considered and determined the appeal planning application but they were not found to amount to reasons to justify refusal of planning permission. I also note that, subject to the imposition of conditions, the Council's environmental health service raised no objections in that regard.
35. Moreover, no substantiated evidence has been put to me to indicate that the use would necessarily give rise to such harm, either as a catered or self-catering facility. Subject to appropriate controls being put in place, for instance in respect to site and resident management, I see no reason why the proposed use would necessarily have a significant effect on the living conditions of neighbours. Again the relationship of the proposed development as a use relative to nearby residential uses is not dissimilar to that found elsewhere, including in Oxford, where such uses reasonably coexist.
36. Accordingly, I have found no reason to believe that the appeal development would have a significant effect on the living conditions of nearby residents, including the occupants of 13 Manor Place. On this basis, the scheme would accord with Policy HP14 (Privacy and Daylight) of the S&HP.

³ Appendix 7 to the S&HP - CD 8.3

Other Considerations and Planning Balance

37. As Core Strategy Policy CS18 and Local Plan Policies HE.3 and HE.7 do not include the weighing of the identified less than substantial harm against any public benefit exercise they are out of step with the Framework and therefore out-of-date in the terms of its para 14.
38. Nonetheless, in the context of the legal requirements to give considerable importance and weight to the desirability of preserving the setting of listed buildings and to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, along with the requirements of Framework Chapter 12, including that weight should be given to the conservation of designated heritage assets, Policies CS18, HE.3 and HE.7 carry considerable weight. However, this does not alter the balancing exercise under Framework paras 134 and 135.
39. In contrast, while it does not expressly refer to that balancing exercise, Policy SP27 of the S&HP does not preclude it either. Moreover, given that the S&HP was adopted well after the publication of the Framework, it could not have contained any such preclusion and nor could it have been inconsistent with the Framework in any wider sense at the time it was adopted. Accordingly, Policy SP27 is not out-of-date in those terms and carries full weight.
40. The identified harm to the significance of the Conservation Area, the Grade II* Longwall and the Grade I listed buildings at St Catherine's College should also be considered in the context of those legal requirements. Whilst there is no comparable statutory protection to the setting of Registered Parks and Gardens, in stating that great weight should be given to the conservation of all designated heritage assets, para 132 of the Framework also applies to the RP&G as well as the Conservation Area and to the respective listed buildings. I consider the public benefits and then return to this matter.
41. A number of potential public benefits of the appeal scheme have been put to me, including any benefits associated with delivering student housing and the associated release of market housing. There is currently unmet need for student accommodation, which the evidence indicates will grow in the years to 2026. The appellant's, the Council's and the MC&OPT's witnesses agreed that Oxford has a housing crisis.
42. There is a shortfall of 157 homes to 2015/16 against the requirement of the Core Strategy based on an annualised figure of 400 homes. However, that requirement is drawn from the revoked South East Plan and the evidence indicates that need is likely to be significantly greater. For instance, the more recent SHMA⁴ concludes that Oxford's objectively assessed housing need lies in the range 24,000 to 32,000 for the period 2011-31, equating to 1,200 to 1,600 per annum, while the Oxford SHLAA⁵ identifies capacity for 10,212 homes over that period; a disparity in the range of 13,788 to 21,788 homes.
43. Provision of purpose built student accommodation can play a role in freeing existing market housing while meeting student housing needs. The site is well located for this purpose given its proximity to the city centre and several University Colleges, as reflected in the fact that it is allocated for student

⁴ CD10.2

⁵ CD10.3

accommodation and/or car-free residential development in the development plan via S&HP Policy SP27.

44. A substantial amount of evidence was before the Inquiry from Oxford University (OU) Colleges and Oxford Brookes University (OBU) which indicates that the appeal scheme would not be suitable for their students. However, the submissions made by OU Colleges appear likely to have been informed by the information supplied to them, including unit cost, whereas the appellant's evidence to the Inquiry was that the accommodation price would only be determined much closer to the opening date due, among other things, to changeable market conditions.
45. In any event, notwithstanding that the size, format and location of the proposed accommodation may not be ideal from the Universities' perspectives, from what I have seen and heard during the appeal process I consider it highly unlikely that the proposed development would not be occupied were it to be built, at least to near-full occupation. There are a number of considerations which have led me to this conclusion. These are principally associated with the scale of demand now and in the future for student accommodation relative to supply as expressed in a recently published Council commissioned assessment report⁶, as well as the appellant's, and its partner's, experience and track-record in delivering student accommodation that is attractive to students⁷.
46. In making this assessment I have taken into account that the Universities are well placed to understand the local market and the needs of their students. I also give very little weight to the appellant's point that OU and OBU should be seen as competitors to the appeal scheme given that their role as providers of student accommodation is a function of their primary purpose as Universities. Consequently, any contribution to the supply of bespoke housing for their students would be far more likely to be welcomed by OU and OBU than to be seen as competition. Nonetheless, I have found no reason to believe that the accommodation would not provide reasonable living conditions for occupants, such that for the foregoing reasons I am not persuaded that the appeal scheme would be unattractive to students themselves.
47. There can be no guarantee that all, or indeed any, of the students who would live at the development would attend OU or OBU, particularly bearing in mind the uncertainty regarding rental costs. Nonetheless, given the level of identified need in the context of the evidence regarding the demand and supply of student accommodation and bearing in mind that the significant majority of students in the local housing market are university students, I do not consider that that has a significant effect on the weight carried by the public benefit offered in terms of the scheme's contribution to residential accommodation in Oxford.
48. The appellant presents the public benefit in this regard both in terms of boosting the supply of housing and meeting the identified need for student housing. However, these both relate to the same public benefit of providing housing for which there is an identified need, such that the benefit, while important, is more limited than appears to be claimed by the appellant.

⁶ CD11.8b

⁷ Reference here to the 'appellant' and 'partner' is to McLaren and CRM rather than to Merton College

49. For instance, some 57 homes could become 'freed' for use by the wider housing market as the result of students moving out of that accommodation and into the appeal development, based on a rate of conversion identified in the Council's SHLAA. In that scenario, only one of the two - the provision of the student accommodation or the freeing of market housing - can be reasonably counted as a benefit. This is because the students who would be relocated to the scheme would be likely to be already housed in the city and, while their current accommodation may not be bespoke, there is no evidence to show that such existing accommodation is of significantly poor quality or unsuitable for students' purposes.
50. The case has also been put that, as the appeal site is allocated in the development plan for student and/or market residential development, any public benefits associated with its development, including housing delivery, should be limited. I do not agree on the basis that para 134 of the Framework refers to 'the public benefits of the proposal' in question only. It makes no provision for any kind of netting-off of benefits relative to, for instance, a development plan allocation, which in any event in this case does not expressly foresee a specific quantum of development at the appeal site. Similarly, while the SHLAA refers to the site being potentially capable of hosting 200 student rooms, in this case there is no alternative scheme for the site and even if there were such a scheme, given the wording of para 134, there is no reason to believe the public benefits should be constrained in such relative terms.
51. Equally there is also no evidence to show that, in the event that the appeal were to be dismissed, another scheme for the site could not or would not come forward that might strike a better balance between its effects on the historic environment and its public benefits compared to the proposed development. Consequently, this is a neutral point, which weighs neither for nor against the appeal scheme.
52. The appeal scheme, as discussed in a little more detail in the following section, would also secure resources for the delivery of off-site affordable housing. In the context of the evidence on this matter - which includes that Oxford is the least affordable city in the UK, there are 3,300 households on the Council's Housing Register for social housing and the annualised need for affordable housing in Oxford is 988 homes over the period 2013-31 - the proposed affordable housing is an important benefit of the scheme.
53. The Core Strategy, at paragraph 7.4.2, advises that increases in student numbers at OU and OBU are to be matched by increases in student accommodation. Its Policy CS25 sets a target of having no more than 3,000 full-time students living in the city outside of university-provided accommodation. While the proposed scheme would not be 'university-provided accommodation' as such, its provision could support the expansion of both Universities. This too would be a benefit of the scheme.
54. Local Plan Policy CP.6, amongst other things, states that planning permission will only be granted where development proposals make maximum and appropriate use of land. However, when the development plan is read as a whole, this clearly cannot be at any cost, as is also illustrated by the Framework at large. Given the identified harm, notwithstanding the constraints on land in Oxford, the weight carried by the appeal scheme's contribution to making 'efficient' use of the site is limited.

55. The contribution that the appeal scheme would make to boosting the economy, reinvestment for Merton College and CIL payment as identified in the appellant's evidence would also be of public benefit, as would the proposed biodiversity enhancement and improvements to drainage and flood risk, and any further potential social benefits of students living in a more managed environment.
56. Although the site is disused and unmanaged it is not unsightly. Indeed it makes a pleasant contribution to the verdant character and appearance of the area. In contrast, as identified under the second main issue, the appeal development would have a harmful affect such that there would be no visual or design based public benefit as claimed by the appellant.
57. The combined weight of these benefits would be significant. However, I am not persuaded that they are collectively sufficient to outbalance the identified minimum less than substantial harm to the significance of the identified designated heritage assets bearing in mind the statutory duties, that the Framework states that great weight should be given to the conservation of designated heritage assets and that considerable importance and weight should be given to the desirability of preserving the setting of listed buildings when carrying out a balancing exercise in planning decisions.
58. In doing so I have taken into account that the scale of the proposed housing delivery - be it in the form of the proposed 286 student rooms, some 57 'freed' market homes or a combination of those - would be reasonably modest and that although the need for such accommodation / housing is significant, likely to take some time to address and reliant on delivery in neighbouring Councils' areas, it is likely to be only temporary in comparison to the more permanent harm to the significance of the heritage assets.
59. Therefore, the balancing exercise under a restrictive policy is not favourable to the proposal in the terms of Framework paragraph 14 under the second indent of its fourth bullet point. Consequently, irrespective of the out-of-datedness of heritage policies of the development plan, permission should be refused and the proposal does not represent sustainable development.

Other Matters

60. In the event that planning permission were to be granted and implemented the UU would secure an index linked payment of £1,130,920 for the purpose of providing affordable housing in the Council's administrative area and an index linked payment of £56,546 towards the Council's costs in connection with the administration and management of the UU (the Administration Costs).
61. The Council has submitted a 'S106 Planning Obligation Justification' statement⁸ (the S106 Statement), which addresses the application of statutory requirements to the planning obligations within the UU and also sets out the relevant planning policy support / justification. I have also been supplied with a full copy of its adopted Affordable Housing and Planning Obligations SPD⁹.
62. While the appellant has raised doubt about whether the Administration Costs are justified, given the additional expense associated with delivering affordable housing off-site, having reviewed all of the evidence, including the S106

⁸ Inquiry Document 21

⁹ Inquiry Document 22

Statement, the associated local planning policy and the additional note prepared by the Council on this matter¹⁰, I believe that this specific payment is justified and clearly supported by up to date policy.

63. I have also considered the UU at large in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the Policies set out in the S106 Statement. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
64. The appellant has also been critical of the way the Council went about determining the appeal planning application, including the application of Framework paras 134 and 135 and the weight given to the identified 'public benefits. However, whether or not there were any shortcomings in that regard at the time has no bearing on my decision.
65. My attention has also been drawn to another decision of the Council in respect to a planning application at the St Catherine's College, which I have taken into account bearing in mind there are clearly some parallels between that scheme and the current appeal scheme¹¹. However, I have given it very limited weight bearing in mind that several material considerations appear to differ, including that that site is located within the Green Belt, and that that scheme is being determined by the local planning authority rather than the Secretary of State or by an Inspector on his behalf. Moreover, planning applications must be determined on their own merits and I am mindful that I may not be aware of all of the matters that were material to the consideration of that other case.
66. I have also taken into account the matters raised by interested parties, including those made orally at the Inquiry. However, for the reasons outlined above, they have not led me to any different overall conclusions.

Conclusion

67. The appeal scheme, subject to appropriate controls, would not have a significant effect on the living conditions of neighbouring occupiers. The absence of such harm, however, carries no weight in favour of the appeal. I have found that the collective weight of the benefits of the appeal development, although significant, do not outbalance the identified less than substantial harm to the significance of designated heritage assets. Therefore, notwithstanding that the relevant heritage policies of the development plan are out-of-date, as the balancing exercise under a restrictive policy is not favourable to the proposal in the terms of Framework para 14, the proposal does not represent sustainable development. Consequently, I have not found it necessary to do the balancing exercise under para 135 of the Framework.
68. Therefore, while in some respects the proposal would contribute positively to sustainable development objectives as set out in the Framework, bearing in mind the harm that would be caused as a consequence of the proposed development to the significance of heritage assets, along with the associated

¹⁰ Inquiry Document 25

¹¹ Inquiry Document 17

conflict with Core Strategy Policy CS18, Local Plan Policies CP.6, CP.8, CP.9, CP.11, HE.3 and HE.7 and S&HP Policy SP27, the appeal should be dismissed.

G D Jones

INSPECTOR

APPEARANCES

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Peter Edwards

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DOCUMENTS submitted at/following the Inquiry

- 1 Ms Freud's script on behalf of the Friends of Holywell Cemetery
- 2 The Inspector's Report to Oxford City Council on the Examination into Sites and Housing Local Plan, dated 2 January 2013
- 3 Extract of the Sites and Housing Plan 2011-2026, February 2013 – page 83
- 4 Draft potential planning conditions (not agreed by the main parties)
- 5 Draft Unilateral Undertaking
- 6 Extracts from 'A Guide to our Built Environment Experts' Design Council and CABE, pages 1-8 and 20, 85 & 93
- 7 Conserving and Enhancing the Historic Environment, 10 April 2014, of the Planning Practice Guidance, DCLG
- 8 Information from the Berman Guedes Stretton website regarding Alan Berman
- 9 Annotated copy of extraction from Mr Soper's Proof of Evidence – Figure 29, page 30
- 10 Unsigned, undated version of the Unilateral Undertaking
- 11 What Does a Townscape Do? by Peter Stewart
- 12 Appeal Decision Ref; APP/K5600/W/14/3000943, dated 12 April 2015
- 13 Heritage Assessment in respect to proposed development at 1 Elm Park Road, London SW3, Peter Stewart Constancy, August 2014
- 14 Extract definition of 'Tendentious'
- 15 Letters from The Twentieth Century Society to the Council, dated 26 August 2015 and 9 May 2017
- 16 Letter from the Director of Estates & Facilities Management, Oxford Brookes University, dated 12 September 2017
- 17 Documents relating to planning application Ref. 17/00758/FUL for proposed student accommodation at St Catherine's College, Oxford: (a) Officers' Report to the Council's West Area Planning Committee meeting of 12 September 2017; Minutes of that Committee meeting; & Extract of First Floor Plan (Dwg No 220)
- 18 Planning obligation by way of unilateral undertaking under section 106 of the Town and Country Planning Act 1990, signed and dated 25 September 2017
- 19 Set of drawings showing the site boundary, proposed building location and green belt boundary with regard to planning application Ref. 17/00758/FUL (Inquiry Document 17 above)
- 20 Email from Mike Naworynsky, Home Bursar of Penbroke College, to Mark Blandford-Baker of 24 March 2017 at 12.17
- 21 Updated S106 Planning Obligation Justification statement, including reference to the Administration Charge, and with appended extract from Sites and Housing Plan 2011-2026 Appendix 4)
- 22 Affordable Housing and Planning Obligations SPD, September 2017
- 23 Dr Carter's comments on the proposed conditions

24 Suggested conditions jointly agreed by the Council and the appellant

25 'Further Notes on the 5% Admin Fee' and appended judgments:

- R (oao Khodari) v Royal Borough of Kensington and Chelsea & Cedarpark Holdings Inc [2017] EWCA Civ 333, dated 11 May 2017
- Oxfordshire CC v Secretary of State for Communities and Local Government [2015] EWHC 186 (Admin), dated 3 February 2015