

Oxford City Local Plan Main Modifications Consultation March 2020 CPRE Oxfordshire Response - Design and The Historic Environment

In light of the seriousness of the concerns raised below, we ask the Inspector to facilitate a discussion and/or online a meeting with the council's Conservation and archaeological officers to seek a resolution of the issues.

Introduction

CPRE Oxfordshire is deeply concerned that for a City of self-recognised international importance for its heritage the Draft Local Plan falls so far short of what it could and should provide for. It is extraordinary that despite its commitment under the Core Strategy to the development of a Heritage Plan - still incomplete 10 years on - and the beginnings of a monitoring framework for the historic environment, there is not a single background paper for the plan process that relates to the state of Oxford's historic environment or its badly stalled progress of developing a Heritage Plan for the City¹.

The draft Plan is only partially compliant with national policy and falls far short of the standards set by Oxford's own Core Strategy. In falling short of these two key overarching policy frameworks at national and local level it therefore remains UNSOUND despite the modifications made; and the modifications proposed are themselves rendered UNSOUND in failing to address these issues.

In our original submissions (2017, 2018) CPRE Oxfordshire made several substantial recommendations on how the heritage policies in the plan could be improved to make it more compliant, most of which have been passed over. This makes it especially frustrating that there has been no opportunity to discuss heritage matters or explain these suggestions more fully in the Public Examination - as we had imagined would have been allowed for a City of Oxford's heritage importance.

In the hearings for the Core Strategy 2026, which still provides the framework for the City, much progress was made to making provision for conserving and enhancing one of the greatest historic Cities in Europe fit for its international status. This draft Plan actually retreats from that commitment failing to refer to or carry forward key provisions. In several respects the policy provisions area far less specific to Oxford than used to be the case, going little beyond paraphrasing NPPF (with inevitable problems of loss of balance). As it stands the heritage provisions could apply anywhere - even the distinctive policy on views and high buildings fails to acknowledge or recognise that this is not a mere visual issue but should invoke the 'special regard' and 'great weight' that must be applied to

¹ see https://www.oxford.gov.uk/downloads/20264/local_plan

national heritage designations - in this case an ensemble recognised of international importance.

NPPF 2019 requires the following:

185. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;*
- b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;*
- c) the desirability of new development making a positive contribution to local character and distinctiveness; and*
- d) opportunities to draw on the contribution made by the historic environment to the character of a place.*

The City's Core Strategy states (paragraph) 'A heritage plan will be drawn up as a basis for decision-making and initiatives that will help ensure that development in Oxford sustains and enhances the archaeological, architectural and landscape resource in a manner compatible with its status as a historic city of international renown.'

Section 9 of the Core Strategy setting out the means of delivering and monitoring policies set out the means of delivering Core Strategy Policy 18 on urban design and heritage as the following (with target dates for completion/adoption) - items specific to facilitating NPPF paragraph 185 being highlighted in bold (CS page 136):

- *Development Management DPD (City Council)*
- *Site Allocations DPD (City Council)*
- *Area Action Plans (City Council)*
- ***Conservation Area Appraisals (City Council)***
- ***Proposed Oxford Heritage Plan (City Council)***
- ***Urban archaeology strategy 2010***
- ***Historic Landscape Characterisation 2010***
- ***Published list of locally valued buildings 2010***
- ***Public Realm strategy complete by 2010***
- ***Guidance on skyline, setting and views of Oxford by 2011***
- ***Conservation area appraisals by 2013***
- ***Overall heritage monitoring strategy by 2015***
- ***West End Conservation Management Plan by 2010***
- *Determination of planning applications*
- *Building for Life assessment*
- *Design and Access Statements*

The monitoring measures set out in the Core Strategy include:

Timely development of a Heritage Plan for Oxford City

Completion of work with others leading to adoption (by 2015) including milestones as set out in the Implementation Section (9.1)

The failure even to mention Oxford's Heritage Plan, let alone the City's commitment to completing and adopting it (still only partially achieved) and the absence of any review of what progress has been made or the implications for establishing an effective monitoring

regime as proposed, all contribute to making this draft Plan UNSOUND and the Main Modifications also UNSOUND in failing to address the many shortcomings where it does not fulfil the requirements of NPPF 2019 or the City's own Core Strategy. The total lack of ANY heritage background documents used to inform the Plan (https://www.oxford.gov.uk/downloads/20264/local_plan) further calls into question the validity of the process in the light of PPG 2019 Historic Environment (paragraph 004 Ref ID 18a-004-20190723)

As it stands, including the main modifications proposed, the policies for the historic environment in the Draft Local Plan are too limited, focussed almost entirely on NPPF paragraph 185 provision a) and (albeit rather ambiguously) provision c). Even with provision a) there is no explicit policy to prevent heritage assets becoming 'at risk' nor any provision to address those already on the register (Church of St Thomas the Martyr, St Thomas Street; GWR Swing Bridge - which is being addressed). Ironically this makes a nonsense of heritage at risk being an adequate basis for monitoring the plan - though these are very far from effective indicators for fulfilment of NPPF paragraph 185 or the Core Strategy.

Specific Issues

A POLICY DH1 and APPENDIX 6.1

The main modification under Policy DH5 to limit that policy to assets that are either nationally/statutorily designated or on a local list (in accordance with PPG 2019) highlights the fundamental inadequacy of the overall heritage policies proposed in relation to the full value of the wider historic environment as set out in NPPF paragraph 185.

Whereas one would expect assets of local interest to outnumber nationally important ones, the situation in Oxford is very substantially the reverse of this, with only about **70** assets on its Local Asset Register² compared with around **1,250** under national designations (over 1,200 listed buildings, of which almost 300 are grade I or II*; 11 scheduled monuments, 15 registered parks and gardens and 18 conservation areas).

While the proposed modification is consistent with the PPG definition of heritage assets, other than the very limited and ambiguous coverage under DH1 (see below) there is no countervailing policy to cover the general requirement of NPPF to have regard to the general contribution that the historic character of areas and features make to the distinctiveness of the locality, its sense of place and quality of life and.

With **LESS THAN 6%** of all recognised heritage assets being **locally** listed, this leaves vast numbers of assets and features that contribute positively to the historic character and interest of Oxford unrecognised. While this is to some extent offset by the extensive coverage of Conservation Areas across the City, only a few of these have adopted appraisals that help to identify unlisted historic features and characteristics that contribute to their appearance character and significance. Outside the Conservation Areas (where the vast majority of locally registered assets are located anyway) there is virtually nothing to safeguard assets of local interest except the policy for High Quality Design DH1 and its associated Appendix 6.1.

Policy DH1 is NOT presented as primarily or solely a policy to conserve and enhance the historic environment -

² https://www.oxford.gov.uk/info/20196/oxford_heritage_asset_register/874/oxford_heritage_asset_register_-_overview

- the policy itself does not mention this aspect of good design (referring only to the issues covered in Appendix 6.1)
- the supporting text on site, character context and site setting (paragraphs 6.1-6.2) only refers to it in reference to understanding the “*history and development of the site and surrounding area*,” NOT its **historic** character, and then only to shape design and provide inspiration NOT to conserve or enhance buildings and features that contribute to the historic significance, character or appearance of the locality.
- The supporting text on ‘built form’ (paragraphs 6.8) likewise refers to “*a rich legacy of buildings from iconic architectural set pieces to smaller domestic, medieval houses in the historic core and locally distinctive buildings within the many villages that now form part of the city.*” But this is only in the context of providing “*a wealth of inspiration in terms of building form and character and great opportunity for creative, high quality complementary character*” NOT to conserve or enhance the historic character of the area or to conserve assets and features (e.g. street furniture, walls etc) of local historic interest that contribute positively to the historic character and significance of the area.
- The reference to Design Review (paragraphs 6.12 to 6.13) makes no mention of ensuring that conserving and enhancing historic character is a specific objective or consideration to be covered by the process.
- Appendix 6.1 which is more specific about what characteristics should be assessed makes NO reference either to the need for professional historic character and assessment studies (cf NPPF paragraph 189) NOR is there any reference to the resources that the City Council itself has made available through its Heritage Plan (cf NPPF paragraphs 187 to 188). The section on *Responding to site character and context* refers to features of archaeological or historic interest but this could be read as meaning only assets recognised in national or local lists under other Policies DH3, NOT all those local features that contribute to historic character.

To address these issues a new overarching policy is required at the beginning of the Design and heritage section reflecting NPPF 2019 para 185 and Core Strategy Policy 18, together with amendments to **Appendix 6.1** as follows:

6. Enhancing Oxford’s heritage and creating high quality new development

*Oxford is a world-renowned historic city with a rich and diverse **Historic Environment**. It is highly recognisable by its iconic skyline ~~and~~ its architecture **and green spaces**. The Council recognises the international and national importance of Oxford and the deeply interrelated nature of that significance in respect of both nationally and locally registered heritage assets of different kinds and innumerable other buildings, features, street furniture, semi-natural habitats, trees, designed landscapes, water bodies and other characteristics including their historical, functional and spatial interrelationships that together make up Oxford’s exceptional historic environment.*

POLICY DH X

In implementing Core Strategy Policy 18 and seeking to fulfil national policy towards the historic environment, the Council will adopt an integrated approach to all aspects of the historic environment, seeking to conserve and enhance the characteristics encapsulated in designated and non-designated assets and other

historic features and attributes that contribute to the overall historic character, interest, distinctiveness of Oxford in a manner that

- o sustains their significance in suitable uses consistent with their conservation*
- o brings wider social, cultural, economic and environmental benefits (including health and well-being, cultural sustenance, benefits for the natural environment and climate and economic sustainability*
- o ensures that new development makes a positive contribution to local character and distinctiveness; and*
- o respects and celebrates the contribution made by the historic environment to the character of a place.*

In order to achieve this the Council reaffirms its commitment to

- o completing and adopting its emerging Heritage Plan [within a further 5 years];*
- o maintaining and making available its Historic Environment Record, Heritage Appraisals and Characterisations and other documents contributing to the publicly available resource base provided under the Heritage Plan*
- o ensuring that all development proposals affecting the significance of elements that contribute to Oxford's historic environment are accompanied by and assessed against an appropriately formulated heritage assessment that covers the interrelationship of features, assets and attributes that contribute to the overall historic character and significance of the locality, whether designated or not.³*

REASON: To ensure that in line with NPPF paragraphs 184, 185, 187 and 188 there is a commitment to proactively supporting the positive contribution that the WHOLE historic environment makes to society and that the means to ensure this are in place and properly used.

APPENDIX 6.1 [TO BE INSERTED BEFORE 'Natural Features and Resources']

The Historic Environment

- How has the historical development of the site influenced its present character and usage? Is that an historically, socially or culturally significant degree of continuity that should be respected or a detriment that offers opportunities for enhancement?*
- How have the physical and natural features of the site such as aspect, conformity with old boundaries, use of raw materials, points of access and egress, functional uses of surrounding buildings or structures influenced the character and appearance of the locality? How might these factors influence the scale, orientation, positioning and detailed design and materials of the development proposed?*
- How could the existing historic character of the surrounding features assets or attributes be incorporated early into the design concept of the proposal? How could you ensure a joined-up design concept that respects historic character while also using spaces and proportions well to ensure that historic character is enhanced, not harmed.*
- How can loss of original historic fabric or features and attributes of the site be minimised and the opportunity to restore or otherwise enhance their contribution to the character of the locality best be incorporated?*
- What is the likelihood of significant archaeological remains existing below ground? How might these survive, and in particular are there likely to be special preservation*

³ Such assessments will be required to conform with established national standards

conditions that enhance the value of such remains – or the risk of their being damaged indirectly (e.g. through dewatering)?

• How far is there scope to avoid or minimise disturbance of significant subsoil archaeology through adjustments of layout or choice of foundation design?

REASON: To ensure that Policy DH1 takes account properly of the WHOLE historic environment including historic character not just natural or visual characteristics in line with NPPF paragraph 185

Ensuring quality

• Has a contextual analysis been used to inform design, detailing and materials choices?

• Has the historic character and value of the locality been identified through a proper heritage assessment to ensure that it has been adequately researched using appropriate resources and methods?

• How do materials chosen reinforce the overall design concept and respect the local context?

REASON: To ensure that Policy DH1 takes account properly of the WHOLE historic environment including historic character not just natural or visual characteristics in line with NPPF paragraphs 185 and the need for proper understanding of all aspects of the historic environment (cf NPPF Paragraph 187-8).

B POLICY DH2 - Views & Building Heights

This policy is UNSOUND because it is not consistent with national policy and as a result has the potential (as demonstrated in the Castle Mill flats case to be ineffective. In order to make the policy compliant and effective we suggest the following amendments:

- 1. 'The City Council will seek to retain significant views both within Oxford and from outside, in particular to and from the historic skyline as a key consideration in preserving the settings of multiple key listed buildings, scheduled monuments and registered parks and gardens; and in conserving and/or enhancing the character of the City's Conservation Areas, especially that covering the City centre which includes an architectural ensemble of international importance.'*

REASON: There is a fundamental problem that although this policy is concerned with conserving and enhancing the setting of multiple designated heritage assets of the highest grade, and the character and appearance of conservations areas (especially the centre of the city) that is rightly regarded by the City Council as a masterpiece of European architecture, it makes no mention of **heritage settings**.

This matters because 'views' have no statutory status and no special weight is attached to them; by contrast, the setting and character or appearance of designated heritage assets, which is actually what this policy relates to, do have special statutory status to which 'special regard' must be paid and to which 'great weight' must be given, especially where, as in this case many assets of the highest importance are concerned.

Furthermore, unlike views and other policies where a simple balance against development need applies, where designated heritage assets are concerned a 'clear and convincing' justification is required for any harm, whatever the grade of assets.

This has been a long-standing problem in Oxford, including the notorious Castle Mill flats case where only the views policy was cited as the main material considerations, with no reference at all to the conservation area, listed buildings and scheduled monuments policies

that carry great weight or the statutory duty to have special regard to the conservation of listed buildings and their settings and the character and appearance of Conservation Areas.

The subsequent Goodstadt Review made a number of observations and recommendations, including noting the need to sort out the relationship between the 'great weight' issues of heritage settings, character and appearance, and the views of, from and across Oxford's historic skyline:

162It is however considered that the assessment against the provisions of the 1990 Act should be an explicit consideration of any future view cone analysis. It is recommended that this could be clarified as part of the Heritage Strategy being developed by the Council (refer Section I).

163. In addition it is considered that the approach to the View Cones policy was not restricted to a fixed viewing point but to views from within it as well. It therefore considered that HE3 and HE7 in effect address the same matters as should have been addressed through Policy HE10, even if this was not explicitly stated²¹. This issue however raises the need to clarify the inter-relationships of policies and the provisions of the 1990 Act.

215. In terms of planning policies the Review has already identified the need to strengthen the policy approach to protecting the setting of the City and its design policy. There is also a difference between the way policies are interpreted and the expectations of the wider community in Oxford. There is also a need to consider the implications of the 1990 Act (refer paragraph 161-164) and a clearer and more explicit approach to determining departures from the plan. Wider concern has been raised about the commitment to the existing heritage policies and the need to bring forward the Heritage Strategy. There is much in hand but it is important that it is integrated into the assessment process and not treated just as a specialist area.

216. In terms of the Core Strategy the development pressures created by the need for additional student accommodation exhibited by the RDW application are not likely to lessen. They were fully explored at the Core Strategy examination. They are not readily resolved through individual applications on an incremental basis. The available land for new development inevitably will get tighter, with an associated increased pressure for increasing density and scales of development. The balance between the provision of much needed accommodation, the protection of the Greenbelt and the safeguarding of its heritage, a cornerstone of Oxford's international image, now needs to be reviewed and resolved through a refreshed longer term view and its conclusions reflected in the development plan policies for Oxford.

Recommendations....

...e. The implications of the RDW decision on existing planning policies needs to be reviewed (refer para. 215-216);

After the Goodstadt review was published, the retrospective Environmental Impact Assessment of the Castle Mill flats case found that the development caused serious harm to a number of highly graded listed buildings, Conservation Areas and scheduled monuments, clearly reinforcing the need to resolve the policy discrepancy.

Since then further work has been done on beginning to make the views policy more flexible and less narrow, but it still represents only one aspect of the much wider modern concept of 'setting' - the defined view cones representing only one quite narrow aspect of this. There has still been NO attempt to address the much more fundamental issue highlighted by the Goodstadt Review in terms of the need to resolve the policy relationship of non-statutory 'views' and 'building heights' to the statutory 'great weight' issues of setting, character and appearance of designated heritage assets.

2. *Planning permission will not be granted for any building or structure that would harm the special significance of Oxford's historic skyline.*

Planning permission will be granted for developments of appropriate height or massing, as demonstrated by the following criteria, all of which should be met:

a) design choices regarding height, massing and materials have a clear design rationale and the impacts will enhance rather than harm the setting of designated heritage assets that contribute to Oxford's historic skyline and its setting within the landscape; and

b) any design choice to design buildings to a height that would impact on the character and appearance of Conservation Areas that contribute to Oxford's historic skyline should be fully explained in relation to relevant Conservation Area Appraisals and regard should be had to the guidance on design of higher buildings set out in the High Buildings Study TAN ~~should be followed~~. In particular, the positive and negative impacts in terms of the four visual tests of obstruction, impact on the skyline, competition and change of character should be explained; and

c) it should be demonstrated how proposals have been designed to have a positive impact on the setting, character and appearance of designated heritage assets, and through its massing, orientation and materials, how the development would relate to the street and townscape character

d) the potential impact on important views including both into the historic skyline and outwards across the historic skyline towards Oxford's green setting must be explained and fully illustrated.

e) the effect on the purpose of the Green Belt to protect the setting of the historic City must be assessed and fully explained.

REASON: These suggested additional rewordings further address the issue of not being compliant with NPPF policies for the historic environment by relating the specific views issues to the key heritage provisions which are covered in more detail in subsequent policies. These are required to bring the policy into line with the heritage and Green Belt provisions of NPPF 2019 and the heritage PPG update July 2019, and latest Historic England Guidance which now brings views and setting issues into one document. The main modification proposed tends if anything to weaken the policy and does nothing to address the fundamental reason why the policy as it stands is UNSOUND.

3. *The area within a 1,200 metre radius of Carfax tower (the Historic Core Area) contains all the buildings that comprise the core of Oxford's historic skyline, so new developments that exceed 18.2 m (60 ft) in height or ordnance datum (height above sea level) 79.3 m (260 ft) (whichever is the lower) are likely to intrude into the skyline and thereby impact on the setting of numerous designated heritage assets of the highest significance and the character and appearance of the Central and adjacent Conservation Areas. Development above this height should be limited in bulk and must be of the highest design quality in order to enhance rather than harm the significance of those major heritage assets.*

REASON: As above: these alterations would bring the policy in line with NPPF and statutory obligations and give greater clarity as to what issues matter.

4. *Applications for proposed development that exceeds that height will be required to provide extensive information so that the full impacts of any proposals can be understood and assessed, including:*

- i) a Visual Impact Assessment, which includes the use of photos and verified views produced and used in a technically appropriate way; **which include views both towards and from the City Centre**; are appropriate in size and resolution to match the perspective and detail as far as possible to that seen in the field; representing the landscape and proposed development as accurately as possible, including
- ii) use of 3D modelling so that the impact of the development from different locations can be understood, including any view cone views **and elevated views out from the City centre** that are affected; and
- iii) **an analysis of the positive and negative impacts on the settings, character and appearance of designated heritage assets in accordance with current Historic England guidance**
- iv) an explanation of what the impacts will be in terms of the four visual tests of obstruction, impact on the skyline, competition and change of character **and on other relevant factors that contribute to setting of heritage assets that are affected**; and
- v) reference to how the guidance in the High Buildings Study Technical Advice Note **and Historic England setting guidance** have been followed.

REASON: As above: these alterations add clarity and would bring the policy in line with NPPF and statutory obligations.

5. Any proposals within the Historic Core Area or View Cones that may impact on roofscape and the foreground part of views (including proposals where they are below the Carfax datum point, for example plant) should be designed carefully, and should meet all the following criteria:
 - they are based on a clear understanding of characteristic positive aspects of roofscape **and its contribution to the significance of historic assets in the vicinity**; and
 - they contribute positively to the roofscape, **to enhance the setting of heritage assets, including** any significant long views the development may be part of and also the experience at street level;

REASON: As above: the following alterations would add clarity and bring the policy in line with NPPF and statutory obligations

6. Planning permission will not be granted for development proposed within a View Cone or the setting of a View Cone **or other important view of or from the historic core of the City** if it would harm the special significance of the view.
The View Cones and the Historic Core Area (1,200m radius of Carfax tower) are defined on the Proposals Map.

REASON: As above: these alterations would add clarity and bring the policy in line with NPPF and statutory obligations and the recognition in the text that the View Cones do not cover all significant views of or from the historic core/skyline.

C POLICY DH 3

NOTE: the proposed main modifications are shown in blue; additional changes in wording to the Policy proposed by CPRE Oxfordshire are shown in red:

Overall, this policy is insufficiently specific in relation to key policy issues and or Oxford's specific needs.

1. *Planning permission or listed building consent will be granted for development that conserves, enhances and draws inspiration from Oxford's unique historic environment (above and below ground), responding positively to the significance, character and distinctiveness of the heritage asset and locality.*

REASON: 'Respects' is ambiguous and weak and does NOT adequately reflect the strong emphasis on conservation set out in NPPF 2019 paras 184-5 and elsewhere, or the Statutory requirement to have special regard to preserving listed buildings and conservation areas.

2. *For all applications ~~planning decisions~~ for planning permission or listed building consent affecting the significance of designated heritage assets great weight will be given to the conservation of those assets including their settings. ~~and to the setting of the asset where it contributes to that significance or appreciation of that significance). This includes the close interrelationships between assets that characterise much of Oxford's heritage.~~*

REASON:

The first phrase as amended is clumsy and needs clarity

The use of the plural needs to be carried through - both grammatically and as a key issue for Oxford. Central Oxford in particular has amongst the highest densities of often overlapping and nested designations (including Registered Parks and Gardens) anywhere in Britain. It is relevant to make it clear what they are (especially as somewhat different considerations apply).

We OBJECT to the proposed main modification concerning setting as drafted for the following Reasons:

- Dealing with heritage assets as if they can be addressed singly rather than complex interrelationships is NOT consistent either with NPPF paragraph 185 or several other references to settings implying multiple assets contributing to overall significance. The plural 'heritage assets' should be carried through both grammatically and because planning decisions very commonly entail consideration of more than one asset in Oxford (over much of the historic core of central Oxford almost any development of even modest size is highly likely to affect the physical fabric or setting of multiple high grade heritage assets).
- The final phrase about 'significance' is redundant as drafted because it is BOTH implicit in the first sentence (i.e. the need for conservation of assets and/or their settings arises where their significance is affected) AND because it is explicit in the NPPF definition of 'setting' which means it cannot be considered except on the basis of how the surroundings of an asset do or do not contribute to its significance.
- The final phrase about setting being 'appropriate' where it contributes to significance is similarly unnecessary because of the definition, and in any case it is also 'appropriate' to consider where an asset's setting no longer contributes to its significance (and hence is not a constraint).

The modification proposed fails to draw out a key characteristic of Oxford's designated assets, especially within the City Centre but also elsewhere, which is their close interrelationships, which in national terms is unusually strong. We therefore strongly recommend replacing it with an explicit reference to this as a key consideration.

3. We propose that the following be inserted after the passage above:

The following particular considerations will apply:

i. Scheduled Monuments

- *Where a development proposal affects a scheduled monument or its setting, planning permission will be granted if it avoids harm to the fabric or setting of the monument while seeking to maintain it within a sustainable long-term management regime that conserves and/or enhances or better reveals its significance.*
- *All development proposals affecting scheduled monuments should be appropriate in terms of scale and location, use of materials and respect for their settings including relevant subsoil archaeological remains.*

ii. Listed Buildings:

- *Planning permission will be granted for the re-use of redundant or unused listed buildings for new purposes that minimises harm and is compatible with their character, architectural integrity and setting.*
- *All development proposals affecting listed buildings and their settings should be appropriate in terms of design, scale, massing and location and use of materials, textures and colours that respect the character and significance of the listed buildings affected.*

iii. Conservation Areas

- *The City Council will use its planning powers to preserve and enhance the special character, appearance and setting of each conservation area.*
- *Planning permission will be granted for development that preserves or enhances the special character or appearance of the conservation areas or their settings, including their architectural character and historic interest of buildings and structures; use of materials, and their finishes in terms of colour and texture; the contribution of trees and green and open spaces; historic street patterns and spaces between buildings; and views in and out of the area.*
- *Planning permission will only be granted for proposals involving the substantial demolition of a building or structure or other feature that contributes to the special interest of a conservation area in exceptional circumstances.*

iv. Registered Parks and Gardens

- *Planning permission will not normally be granted for development that will adversely affect the visual, historical or horticultural character of a Registered historic park or garden or its setting, noting in particular the very close relationships of Oxford's parks and gardens with other designated heritage assets and urban character.*
- *Planning permission will be granted for development that assists with the protection, management and restoration of important parks and gardens while avoiding the loss of key features and retains the essential historic design character of the site.*
- *The introduction of new design features will be permitted where they make a positive enhancement to the ongoing evolution of the historic character of the park or garden.*
- *Management plans, where appropriate, will be secured by a planning condition or planning obligation.*

REASON: The current local plan policies that were saved from previous Local Plans are specific about the key issues that matter in relation to Oxford's designated heritage. As drafted the policy could apply anywhere in Britain and adds almost nothing to what the NPPF already states. The suggested text above is needed to retain the key features of existing policy while also enhancing their positive conservation aspects in accordance with NPPF 2019.

4. *A planning application for development which would or may affect the significance of any designated heritage asset (including, where appropriate, **their settings**) should be accompanied by a heritage assessment that includes a description of the asset(s) **affected** and **their** significance and an assessment of the impact of the development proposed on the **assets'** significance. As part of this process full regard should be given to the detailed character assessments and other relevant information set out in **designation citations, the City Council's Historic Environment Record, any relevant Conservation Area appraisal and management plan, and historic characterisations, resource assessments and other documents forming part of the City Council's Heritage Plan.***

REASON: As above regarding plurals and clarity; as drafted the policy does not properly fulfil NPPF 2019 para 187: explicit reference should be made to the City Council's Historic Environment Record and the Heritage Plan because it is part of the City's strategy in accordance with NPPF 2018 para 185 and contains numerous useful studies on different aspects of the City's historic character, views, archaeological resources and potential etc etc.

5. *The submitted heritage assessment must include information sufficient to demonstrate:*
 - a) *an understanding of the **architectural, archaeological, historic or artistic** significance of the heritage **asset(s) affected** and the **uses that are appropriate to their conservation**; and*
 - b) *due recognition of **the contribution of the significance of assets** to the quality of life of current and future generations and the wider social, cultural, economic and environmental benefits they may bring; and*
 - c) *that the development of the proposal and its design process have been informed by an understanding of the significance of the heritage asset and that harm to its significance has been avoided or minimised; and*
 - d) *that, in cases where development would result in harm to the significance of **one or more heritage assets**, including **their settings**, the extent of harm has been properly and accurately assessed and understood;*
 - e) *that in respect of any harm arising from the proposal, a clear statement is given as to why the specific elements resulting in harm are considered justifiable; and*
 - f) *that measures are incorporated into the proposal, **as far as reasonably practicable** that **avoid**, reduce or compensate for the harm; and*
 - g) *in what (if any) ways the proposals are considered to enhance any heritage assets and/or their settings, and which specific elements achieve this.*

REASONS: This policy is helpfully proactive to ensure decisions are well-informed but needs to be linked more tightly to key issues on which information should be provided. The specific reasons for the suggested changes are as follows:

a) and b): These need to be separated as two distinct points (as they are in NPPF 2019 para 185).

a) As drafted the policy makes no reference to the kinds of significance for which assets are designated, only the other contributions that are not part of the reasons for designation.

b) This is intended to reflect NPPF 2019 para 185, but unlike the draft Plan, the NPPF makes it clear that it is important to recognise the contribution that *conserving significance* makes to wider society, not just that the asset makes a contribution because it happens to be used as an office, or a house or a pub or whatever.

d) Plurals are better to make it clear that multiple assets may be affected.

e) Heritage assessments need to be explicit about the specific reasons why elements that cause harm are needed and cannot be designed out - this point needs to be added

f) as drafted the policy is weak: 'appropriate' and 'mitigate' are ambiguous terms that mean different things to different people: the requirement needs to be clearer that a high level of effort should be made to avoid and reduce or compensate for harm. 'Reference to 'avoid' is essential because it is quite common for design changes to be possible that removes or minimises harm without compromising the scheme.

g) This extra point is necessary to balance the positive with the negative and tie in with NPPF policy and statutory requirements in the case of Conservation Areas that the enhancement of assets should be sought: assessment need to be explicit if such enhancement is to be weighed in the balance.

6. *Where the settings of one or more assets are affected by a proposed development, the heritage assessment should include a description of what aspects of their surroundings, historical relationships and visual or other sensory characteristics contribute to their significance and how important those contributions are, as well as presenting an assessment of the impact of the proposed development on the setting(s) and thereby on the assets' significance. Assessments should follow the most recent edition of Historic England's Guidance Note 3, The Setting of Heritage Assets*

REASONS: As drafted the policy is too non-specific to help any more than is already indicated by NPPF and NPPG: the suggested rewording is more explicit and better reflects current best practice as advised by Historic England.

7. ~~*Where a proposed development will lead to substantial harm to or loss of the significance of a designated heritage asset, planning permission or listed building consent will only be granted if:*~~

~~*i) the harm is necessary to achieve substantial public benefits that outweigh the harm or loss; and or all of the following apply*~~

~~*ii) the nature of the asset prevents all reasonable uses of the sites; and*~~

~~*iii) no viable use of the asset itself can be found in the medium term (through appropriate marketing) that will enable its conservation; and*~~

~~*iv) conservation by grant funding or similar is not possible; and*~~

~~*v) the harm or loss is outweighed by the benefit of bringing the site back into use;*~~

~~*vi) a plan for recording and advancing understanding of the significance of any heritage assets to be lost, including making this evidence publicly available, is agreed with the City Council.*~~

~~Where a development proposal will lead to less than substantial harm to a designated heritage asset, this harm must be weighed against the public benefits of the proposal. The **Clear and extensive** justification for this harm should be set out in full in the heritage assessment.~~

~~When considering the impact of a proposed development on the significance of designated heritage assets, great weight will be given to conservation of such assets and their settings (the more important the assets affected, the greater the weight to be applied). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Any harm to, or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), will require clear and convincing justification. In determining proposals for development affecting designated heritage assets the Council will apply the balancing tests set out in national policy.~~

REASONS 1: Deletion: This attempted paraphrase of NPPF is fraught with problems and should be replaced as suggested. The specific problems are as follows:

The text - especially points ii) to v) - reproduces verbatim the tests set out in NPPF para 195, but does NOT balance this with several other key provisions of NPPF, notably para 193:and the opening of para 194:

'193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Because it comes under the opening paragraph, point vi) refers to recording only being required in instances of substantial harm and there is no reference to this for less than substantial harm: NPPF para 199 makes no such distinction.

Overall, this passage thus quotes bits of national policy almost verbatim - but in a manner that is so selective and partial that it significantly changes the balance inherent in the NPPF by omitting some key considerations in how tests are applied. The result is UNSOUND.

REASON 2: Insertion: This suggested replacement wording quotes the general principles in NPPF paras 193-4 cited above, referring to the more detailed tests rather than trying (unsuccessfully) to paraphrase them. This makes much more sense within the context of the other changes proposed which elaborate on the key issues broadly outlined here.

~~8. The Policies Map shows the location of Conservation areas **are**-(listed in Appendix 6.2); Scheduled monuments (listed in Appendix x.x) and Registered Parks and Gardens (listed in Appendix x.x). Details of listed buildings and their locations may be found through Historic England's Heritage Gateway website.~~

~~[THE POLICIES MAP - needs to show the boundaries of scheduled monuments and registered parks, which include significant areas of the City. Additional Appendices are needed to list the 11 Scheduled monuments and 15 Registered Parks and Gardens].~~

REASON: As drafted the wording substantially fails to refer accurately to the heritage designations that ARE shown on the policies map

It is recognised that it may be impossible to show all listed buildings on the map and similarly it would be impracticable to list them all in an appendix (and it would be misleading to include for example only Grade I buildings as if others did not matter); but it would be helpful to indicate where this information can be found.

Unlike the current policies map, the proposed Policies Map (https://www.oxford.gov.uk/downloads/file/5147/local_plan_2016-2036_policies_map) does not show scheduled monuments and registered parks and gardens at all (unlike national and local wildlife area designations). This in itself is UNSOUND. The area covered by scheduled monuments (in the case of Port Meadow one of the largest in England) and registered parks and gardens should be shown. It is grossly misleading to show all national and local wildlife designations but only Conservation Areas and Views policy and so-called 'Historic Core'

OVERALL: As currently drafted Policy DH3 adds almost nothing to the NPPF and in some respects detracts quite significantly from it. The overall thrust is much weaker than the explanatory text which makes much clearer the richness of Oxford's architectural, archaeological and designed landscape heritage and the need for its effective management on a fully informed basis. The suggested changes both bring the policy more in line with NPPF and expand on its provisions in a positive way more specific to Oxford's needs - and better reflecting the explanatory text.

D Policy DH 4

The Main Modification proposed is welcome but does not fully bring the policy into line with the latest clarification regarding the status of archaeological recording. In recent years there has been controversy over the meaning of the last sentence of NPPF paragraph 199 that *'the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.'* Although on the face of it clear enough, this has been the subject of much controversy and legal challenges in another major historic city, and in at least one major infrastructure scheme. This has now been clarified in the latest update of the PPG for the historic environment (<https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>), which reaffirms this in more explicit language as follows:

Part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. So where the complete or partial loss of a heritage asset is justified (noting that the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted), the aim then is to:

- *capture and record the evidence of the asset's significance which is to be lost*
- *interpret its contribution to the understanding of our past; and*
- *make that publicly available (National Planning Policy Framework paragraph 199)*

To reflect this we propose that a sentence should be added to the last paragraph of the policy as follows:

9. *Where harm to an archaeological asset has been convincingly justified and is unavoidable, mitigation should be agreed with Oxford City Council and should be proportionate to the significance of the asset and impact. The aim of mitigation should be where possible to preserve archaeological remains in situ, to promote public enjoyment of heritage and to record and advance knowledge. Appropriate provision should be made for investigation, recording, analysis, publication, archive deposition and community involvement. **The ability to record evidence of our past will not be a factor in deciding whether such loss should be permitted.***

E Monitoring Framework: Policies

The proposed monitoring framework in respect of design and heritage issues is entirely inadequate:

- It makes no reference to and is not consistent with that set out in the Core Strategy
- It makes no reference to monitor progress on the need to complete and adopt outstanding elements of the Heritage Plan (already 5 years late)
- It makes no reference to the development of specific monitoring regime as one of the core features of the Heritage Plan
- It makes no reference to those monitoring regimes that have already been established - which in the case of archaeology is extremely effective, has been agreed with the key stakeholders represented in the Oxford City and county Archaeological Forum, is regularly reported on every year (now over the last 6 years), and which the City Council should be extremely proud of as a model of its kind deserving to be replicated by the rest of the county and nationally.

https://www.oxford.gov.uk/downloads/download/483/archaeological_annual_monitoring_statement

As such - and in the light of the Main Modifications making no attempt to reconcile the proposed monitoring with the Core Strategy and Heritage Plan - or the actual procedures in place the provisions for monitoring are UNSOUND and likely to be largely ineffective.

Furthermore, unlike the now well-established archaeological monitoring regime, almost all the indicators proposed concern monitoring decision-making processes not outcomes, and as such will fail to monitor the real effectiveness of the Policies.