



## Appeal Decisions

Inquiry Held on 10-13 November 2020

Site visit made on 8 December 2020

**by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 8 January 2021

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### **Appeal A Ref: APP/Q3115/W/20/3249052**

#### **4 Market Place, Wallingford, OX10 0EH**

- 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 AC Lester & Son Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P17/S3579/FUL, dated 18 October 2017, was refused by notice dated 18 September 2019.
  - The development proposed is the demolition of 20C additions to a listed building and alteration of the A1/A2 retail space to accommodate 8 no. new-build residential units and 9 no. car parking spaces, all accessed from the rear, off Wood Street.
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### **Appeal B Ref: APP/Q3115/Y/20/3249055**

#### **4 Market Place, Wallingford, OX10 0EH**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by AC Lester & Son Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P17/S3580/LB, dated 18 October 2017, was refused by notice dated 18 September 2019.
  - The works proposed are the demolition of 20C additions to a listed building and alteration of the A1/A2 retail space to accommodate 8 no. new-build residential units and 9 no. car parking spaces, all accessed from the rear, off Wood Street.
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#### **Decision – Appeal A**

1. The appeal is dismissed.

#### **Decision – Appeal B**

2. The appeal is dismissed.

#### **Procedural Matters**

3. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my reasoning.
4. The Corn Exchange, an adjoining landowner, were represented at the Inquiry under Rule 6 of the Inquiries Procedure Rules.

5. The original applications were for 9 dwellings, which were subsequently revised to 8 and refused by the Council on that basis. I have thus also dealt with the appeals for 8 units, using an agreed revised description of development.
6. Revised layout drawings were submitted as part of the appeal.<sup>1</sup> These demonstrate internal noise mitigation measures. The parties considered that there would be no prejudice in my taking them into account and given the minor changes in detail, and I agree.
7. A unilateral undertaking (UU) was submitted in draft form, discussed at the Inquiry and subsequently finalised. I come to this below.
8. The original applications were determined against policies contained within the South Oxfordshire Core Strategy (adopted in December 2012) and the saved policies of the South Oxfordshire Local Plan (adopted in January 2006). Following the close of the Inquiry, the South Oxfordshire Local Plan 2035 was adopted by the Council on 10 December 2020. It now forms part of the development plan for the district and replaces the above referenced plans. The parties were given a further opportunity to comment on any implications of the changes which I have taken into account.

### **Applications for costs**

9. Applications for costs were made by South Oxfordshire District Council and the Corn Exchange against AC Lester & Son Ltd. These applications are the subject of separate Decisions.

### **Main Issues**

10. The main issues are:
  - i) The effect of the development and works upon the special interest of No 4 Market Place and its setting, the Corn Exchange and its setting and whether it would preserve or enhance the character and appearance of the Conservation Area (Appeals A & B).
  - ii) The effect of the development upon the living conditions of future occupants from noise and disturbance and whether the development would jeopardise the future use of the Corn Exchange (Appeal A).

### **Development Plan**

11. As stated above, the development plan comprises the South Oxfordshire Local Plan 2035 (LP) which has replaced the South Oxfordshire Local Plan 2011 and Core Strategy.
12. The emerging Wallingford Neighbourhood Plan (eWNP) was published for consultation during the summer, however it has not yet been formally examined. The parties agreed that due to its emerging state, limited weight can be afforded to it for the purposes of these decisions.

### **Description of the Site and Surrounding Area**

13. No 4 is a large 2-storey building with attic and basement which is currently used as a bank, with a separate residential flat on the upper floor (No 4a). It was originally built as a townhouse and it dates from the early 18<sup>th</sup> Century. It

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<sup>1</sup> Ref: BS217/200 (Rev 5) and BS217/201 (Rev 6).

has a somewhat grand and symmetrical frontage which is rendered and painted with a slate roof. To the rear are historic rear projections with decorative pierced bargeboard detailing. It has also been extended with poor quality single storey and 2-storey extensions dating from the 1960's and 1980's. The flat is accessed from the rear, over the flat roof extension, via an external stairway.

14. The rear grounds are discernible as a historic burgage plot and these currently form a large area of hardstanding used as a staff car park. There is also a dilapidated 18/19<sup>th</sup> Century garden folly building within this area. Wood Street forms the rear boundary of the site and access to the car park is from this road. There is also a semi-detached 2-storey building associated with No 4, known as 'The Store' which fronts Wood Street. This building dates from the 19<sup>th</sup> Century and was a stable and storage building. It has a slate roof and semi-circular window openings but it has been altered with a rendered finish and later extensions and additions. No 4 is a Grade II listed building and 'The Folly' and 'The Store' are curtilage listed.
15. The appeal property occupies a prominent position on the eastern side of Wallingford Market Place, opposite the Town Hall. Wallingford is a pleasant market town with a number of services and facilities serving its local residents. Next to No 4 is the Corn Exchange, a volunteer run theatre and cinema known as the Corn Exchange which is owned by the Sinoden Players, a registered charity and performance group. This is a Grade II listed building which dates from 1856. It has a grand Italianate pedimented stone facade to Market Place. It has been extended to the rear, along the boundary with No 4, and includes a rear 2-storey building, attached to 'The Store.' Its Wood Street elevation is less altered than 'The Store' but shares the slate roof covering and window design.
16. Wood Street is a former service lane for properties fronting the Market Place. It also serves a number of residential dwellings along its length, including the listed 9-10, 11 and Suffolk House, opposite the appeal site dating from the late 18<sup>th</sup> and 19<sup>th</sup> Centuries. Wallingford town centre is a designated Conservation Area (CA). Located on a river crossing over the River Thames, it is a planned town of Saxon origin with an 11<sup>th</sup> Century motte and bailey castle. The medieval development of the town maintained its planned form but divided land into burgage plots which are discernible today including along Wood Street and at the appeal site and the Corn Exchange. Today there are a number of Georgian, Victorian and modern buildings in the CA, indicative of the prosperity and the development of the Town over the years.

## **Proposals**

17. Permission and consent are sought for the demolition of the 20<sup>th</sup> century rear additions to No 4 and the erection of a new rear wing extension to create 8 residential units along the southern boundary with the Corn Exchange. This would be part 3 storey in height with a crown roof, rendered and jettied facades, with full height dormer windows to the upper floor. This would extend along the southern boundary of the plot and would be attached to a new 2-storey brick building to Wood Street with a part pitched and part crown roof. Single storey flat roofed additions are also proposed to provide facilities for the existing Bank, along with a covered walkway and fire escape.

18. The proposals involve the demolition of 'The Store.' 'The Folly' would be repaired and restored as part of a wider area of car parking to serve the new units. Access to the new residential units would be via Wood Street.

## **Reasons**

### ***Heritage Assets***

#### *Law and Policy*

19. Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contain a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. By virtue of section 5 of the PLBCA, 'The Store' and 'The Folly' are treated as part of the building as curtilage listed structures. Furthermore, section 72 of the PLBCA requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
20. As set out above, the No 4 Market Place and the Corn Exchange are a Grade II listed buildings, located within the Wallingford CA. Policies ENV6, ENV7 and ENV8 of the LP and policies HA1 and HA2 of the eWNP together provide that development should conserve designated heritage assets and their settings.
21. Paragraph 193 of the National Planning Policy Framework (the Framework) gives great weight to the conservation of heritage assets. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits.
22. The parties were in broad agreement in respect of the significance of the assets. While the appellant's original heritage statement alleged no harm, the appellant's position at the Inquiry was that the appeal proposal would represent less than substantial harm to the significance of heritage assets, although there was dispute in terms of the level of harm within that categorisation. Planning Practice Guidance (PPG) states that within each category of harm, the extent of harm may vary and should be clearly articulated.<sup>2</sup>
23. Caselaw is clear that any harm must be accorded considerable weight in the overall planning balance.<sup>3</sup> The judgement in the case of *Shimbles*<sup>4</sup> makes clear that while there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. That is with regard to the level of less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.
24. Having set out this out, and having regard to the broad agreement between expert witnesses in terms of significance, and that there is less than substantial harm to heritage assets from the proposed development, I now examine the effects below.

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<sup>2</sup> Reference ID: 18a-018-20190723

<sup>3</sup> Barnwell Manor case [2014] EWCA Civ 137.

<sup>4</sup> *Shimbles v City of Bradford et al* [2018] EWHC 195

#### *4 Market Place*

25. While the principle of demolition of the poor-quality modern extensions is accepted, the proposed rear replacement extension would have a different architectural treatment to the historic part of the building. I have significant concerns with the design which I consider would not be consistent with, or sympathetic to the significance of the listed building.
26. Specifically, the 3-storey element of the proposals would form a noticeably large and bulky appendage to the rear of the listed building. Design elements, such as the crown roof, the jettying, the fenestration and the stepped design are unsuccessful in limiting the overall bulk of the proposals.
27. While I saw examples of such design treatments elsewhere in Wallingford, the application of these in this location would appear contrived and mismatched in this context. The extension would have an overall appearance of a distinctly bulky entity which is 'tacked on' with a poor relationship to the listed property. It would compete for attention to the historic parts of the listed building, in spite of its presence to the rear.
28. In addition, the single storey flat roofed elements of the scheme would also largely replicate the existing poor-quality arrangement which substantially reduces any purported benefits of the removal of the 1960s and 1980s additions.
29. Overall, I consider that the proposed extensions would cause harm and this would be to the higher end of the scale put to me at the Inquiry.

#### *The Store*

30. 'The Store' building has been altered, and indeed historically it formed part of a wider range of outbuildings, now demolished, thus its architectural significance is diminished. That said, it is not so mutilated as to render it architecturally insignificant and features such as the window and door openings, the roof and internal exposed beams remain in situ. It also has historic interest in terms of forming a subservient ancillary building to No 4. Moreover, while it is not symmetrical, today it reads as a pair with the rear attached building of the Corn Exchange and in the street scene along the pavement edge at Wood Street.
31. While it is unused at present and is in need of repair, its demolition would result in a total loss of its significance, causing harm.
32. In addition, the proposed design of the 2-storey replacement building would be visibly bulkier, particularly in combination with the rest of the scheme. The design does include arched headed windows and a brick finish and it would be the same height as the adjacent attached buildings but it would clearly read as a new build and would suffer the same 'tacked on' appearance to the adjacent attached building. Its design is not of a sufficient quality to compensate for the total loss of significance and thus any reduced significance of 'The Store' would not justify further harmful works in this location.
33. Overall, while the significance of The Store is more limited, in light of its total loss I consider that the harm would be middling-high in the less than substantial scale.

### *The Folly*

34. In light of its dilapidated condition, the repair of the Folly is desirable for its long-term conservation. Its setting in an area of car parking would remain largely unchanged. This curtilage listed building would therefore be conserved and enhanced.

### *The Corn Exchange*

35. The proposals would have a similar linear form to the modern extensions at the Corn Exchange and would mask some areas of modern blockwork which are currently visible from within the grounds of No 4. Part of the roofscape of the proposed extension would be visible over the rear lower element of the Corn Exchange, but that in itself would not cause harm to its setting.
36. There would, however, be harm to the setting of the Corn Exchange through the loss of 'The Store' and its effect on the attached ancillary building to the rear Corn Exchange as a pair. This reflects my conclusions above.
37. Taking this together, I find that the harm would be to the lower end of the scale.

### *The Conservation Area*

38. Wood Street has a mixed character and includes residential properties including properties of a grander nature than commonly found along a service lane, including Suffolk House and No 11 Wood Street. However, the western side of Wood Street is made up of ancillary buildings serving the properties along Market Place and St Mary's Street and the long burgage plots are a distinctive feature, particularly at and around the appeal site.
39. The site boundaries would be unchanged by the proposals, and the ugly modern walling which forms the entrance to the rear parking area at No 4 would be removed. Nevertheless, due to the bulk and width of development and its poor relationship with the frontage building of No 4, there would be a significant degree of enclosure to the plot. The clarity and legibility of the burgage plot would thus be diminished and the general hierarchy of the space would be weakened. Overall, the integrity of the burgage plot would be lost when viewed from Wood Street.
40. Moreover, this effect would be compounded by the loss of 'The Store' as a building of local interest and townscape merit as identified in the CA character appraisal.
41. The CA covers a large area, however burgage plots are a specific feature of this and contribute to significance. Accordingly, I find that the harm would be to the middling part of the scale.

### *Conclusions*

42. In combination, the harm from the proposed extension to No 4, the demolition of The Store, the effects on the CA and to a lesser degree, the Corn Exchange, the proposals would be firmly within the realms of 'less than substantial harm'. This would be to the middle-high end of the scale, as opposed to the more limited harm attested by the appellant. The lack of objection from Historic England and the Conservation Officer does not alter my conclusions in respect of the harm I have found.



43. As a result, the development would conflict with abovementioned policies of the LP and the draft policies of the eWNP. In accordance with the Framework and the statutory obligations imposed, I give great weight to that harm. I shall weigh this against the public benefits later in my decision.

### **Noise and Disturbance**

#### *Policy and Law*

44. Together, policies ENV11 and ENV12 of the LP seek to avoid adverse effects from sources of pollution, including noise, and require that development should be appropriate for its location and a realistic potential for appropriate mitigation of any effects. Emerging Policy CF1 of the eWNP seeks to safeguard community facilities, including the Corn Exchange, to protect the viability of Wallingford's economy.
45. Paragraph 180 of the Framework is clear that developments should mitigate and reduce to a minimum the potential adverse impacts arising from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.
46. Paragraph 182 also makes clear that decisions should integrate effectively with existing businesses and where the operation of an existing business could have a significant adverse effect on new development, the applicant (or 'agent of change') should provide suitable mitigation before the development is completed.
47. Planning Practice Guidance (PPG) sets out further detailed guidance, including relating to the agent of change principle. This includes taking into account current activities, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made.<sup>5</sup> The agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a statutory nuisance being found.
48. Finally, noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens. When assessing whether a statutory nuisance exists, local authorities will consider a number of relevant factors, including the noise level, its duration, how often it occurs, the time of day or night that it occurs and the 'character of the locality'. The factors influencing the 'character of the locality' may include long-established sources of noise in the vicinity – for example, church bells, industrial premises, music venues, public houses or airfields, and whether they are constant or intermittent.
49. Local authorities have a duty to take such steps as are reasonably practicable to investigate a statutory nuisance complaint. It is a matter for them whether they take further formal action to remedy a statutory nuisance.

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<sup>5</sup> Paragraph: 009 Reference ID: 30-009-20190722

50. Taking the above together, noise effects can be significant, causing harm to human health and wellbeing and can constitute a statutory nuisance which would necessitate enforcement action. It is therefore critical to assess the effects of noise and disturbance upon future occupants of the proposed development and the implications for the future use of the Corn Exchange.

### *The Corn Exchange*

51. The Corn Exchange is an established voluntary run entertainment venue and is an important community facility for Wallingford. Following extensive conversion and restoration, it opened in 1978 as a 175-seat theatre operated by the Sinodun Players under 'Corn Exchange Wallingford Limited.' It has been later extended and altered and has gained a number of awards over the years for its regeneration, promoting economic prosperity, and as an extensive voluntary organisation.<sup>6</sup>
52. It has a diverse offer which consists of productions by the Sinodun Players, including an annual pantomime, musicals and dramas. It is also used by other groups and professional shows, including ballet performances, a silver band, tribute bands, touring productions, stand up comedy and local school performances. The Corn Exchange is also used as a cinema for films as well as for live-streamed events from the National Theatre, Royal Ballet and pop concerts such as Take That. It also has a club room to the rear which is also used for practice sessions and for smaller performances, in addition to the rehearsal rooms, dressing rooms and workshop areas.
53. In-situ equipment comprises a PA system, typically used for live comedy and the spoken word. There is an in-house cinema sound system which uses wall mounted loudspeakers. There are also external systems which are brought in for live music or theatrical shows, this is often supplied by a local firm 'Crescendo.' In addition, there is unamplified noise from musical instruments, drum kits etc. There are orchestra pits within the main auditorium.
54. In planning terms, the use of the Corn Exchange is unrestricted. It has a separate licence for cinema, amplified music and live music 09:00-00:00hrs Sunday-Thursday and 09:00-01:00 Friday & Saturday. There are no restrictions or limits on noise levels.
55. There is no record of any complaints having ever been made in respect of the noise levels at the Corn Exchange. Above No 4 is a flat, No 4a, which has been occupied by the same person for at least 5 years. As demonstrated in a letter dated 9 October 2020<sup>7</sup> the occupants do find that noise levels from performances are audible to the roof terrace and that, in light of their personal circumstances, they accept the limited disturbance it causes.
56. The importance of the Corn Exchange to the local community in terms of its social and economic benefits is a matter of agreement between parties. It follows therefore that its use should not be prejudiced by the proposed development because of noise and disturbance.

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<sup>6</sup> Including a commendation by Save Britain's Heritage Awards (1977), the Diploma of Merit from Europa Nostra (1980 and 1988) and Queens Award for Voluntary Services.

<sup>7</sup> Appendix 7 to Mr Lewis Proof of Evidence



### *Effects*

57. Detailed noise assessments have taken place at the Corn Exchange and the appeal site and the cases presented by all of the parties has changed and evolved during the course of the appeal proceedings.
58. Of note are further tests which took place on the 28 May 2020 which tested the in-house cinema system and the Crescendo system within the auditorium and outside. This resulted in the submission of revised layout drawings and detailed mitigation proposals<sup>8</sup> (the mitigation strategy). As part of my site visit following the close of the Inquiry, the tests were recreated, and I heard the agreed levels on both systems in the auditorium as well as from within No 4.
59. Matters contested at the Inquiry related to the levels and frequency of appropriate source noise and there was significant debate on this issue between the acoustic expert witnesses. The Council and the R6 party considered that the higher Crescendo system levels represent typical operating conditions for the Corn Exchange whereas the appellant purported that these were occasional/exceptional operating conditions, with the lower in-house cinema system levels being representative.
60. However, broad agreement was reached in terms of the noise disturbance primarily arising from the lower frequency octave bands. In addition, it was agreed that internal design criteria for music noise levels in the proposed units to be achieved are 40 dB  $L_{zeq, 1min}$  in the 63Hz octave band and 30 dB  $L_{zeq, 1min}$  in the 125Hz octave band with a relaxation of 5 dB for non-habitable rooms.
61. Due to the juxtaposition of the Corn Exchange and the appeal proposals, noise effects on future occupants would be likely to be as a result of structure borne transmission through the flanking wall of the proposed development. Acoustic enhancements are proposed as part of the revised layout design and internal room layouts have sought to minimise habitable rooms along the flanking wall where possible.
62. The separation of the Corn Exchange from the new development would be the primary way of mitigating against the transmission of sound at low frequencies. However, I am not persuaded that the technical detail provided within the mitigation strategy, and as reflected in the plans, can realistically be achieved at the site. This would be the case even to the agreed design criteria based on the appellant's preferred typical noise at the lower in-house cinema levels.
63. Specifically, the technical noise evidence has a number of variables in play, but in setting out the approach in the mitigation strategy, there are serious question marks over a number of the assumptions made. For example, based on the calculations undertaken by the Council's expert witness, the use of the INSUL noise modelling package appears to not have used the correct flanking calculation, substituting an accepted modelled standard of 25 dB, with a lower 10 dB allowance. This would mean that the design criteria would not be met.
64. Moreover, evidence suggests that the Corn Exchange and the appeal property are likely to have shared foundations, indeed this factor is noted in the mitigation proposals document produced by the appellant with an extract from the 1975 sectional plan of the Corn Exchange. Should this be the case, the

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<sup>8</sup> Core Document 5.1: Sound Insulation Testing – revised Scheme v4.0 dated 15 September 2020

strategy itself notes that it is likely that a substantially revised scheme would need to be resubmitted.

65. Conditions are commonly and legitimately used to ensure that otherwise unacceptable development could be made acceptable, for example on receipt of further detailed technical information. The appellant considers that a negatively worded 'Grampian' type condition which would prohibit development until suitable noise mitigation had been secured would be appropriate. The appellant accepts the risk in that regard.
66. There is a balance to be struck in terms of information presented at application or appeal stage and further detail secured by condition. I also acknowledge that there are difficulties in producing further detailed assessments, such as trial pits, to fully establish this matter prior to consent being granted. In particular, there would be operational and security risks to the bank as the current occupier of the appeal property.
67. However, in light of the significant unknowns surrounding the success of noise mitigation at the appeal site, the conditions proposed would not, in my view, be sufficient to make the development acceptable and remedy the noise effects so that permission can be granted. I also note that PPG also states that such conditions should not be used where there are no prospects of the action taking place and it is not appropriate to modify development in a way that makes it substantially different from that set out in the application.<sup>9</sup>
68. Overall, based on the above, there would be a significant risk of harm to future occupants from noise due to uncertainties around the effects and mitigation which could not reasonably be conditioned.
69. In light of my findings on the above based on the agreed lower sound levels, it is not necessary for me to come to a detailed view relating to the (higher) disputed typical sound levels at the Corn Exchange, both for now and in the future, or the proposed Deed of Easement to be secured by unilateral undertaking.

#### *Fallback*

70. A fallback position exists in terms of the conversion of part of the existing floorspace under the Class G of the General Permitted Development Order for up to 2 flats. One such unit benefits for a lawful development certificate and listed building approval. The second unit was initially disputed, but the Council conceded at the Inquiry that while listed building consent would be required, there would be a realistic proposition that the second unit could be converted.
71. Conversion under Class G is not conditional on any noise mitigation being undertaken; however, the conversion would require Building Regulations approval. At the site visit noise was audible from the Corn Exchange within the rear extensions to the bank and any new units would undoubtedly be affected by noise from the Corn Exchange. While a level of noise mitigation is likely to be required under the separate regulatory regime, this would be a different solution to the proposed scheme as it would need to work within the confines of the existing structure.

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<sup>9</sup> Paragraph: 009 Reference ID: 21a-009-20140306 & Paragraph: 012 Reference ID: 21a-012-20140306

72. However, I am mindful that one of the potential units would be located away from the auditorium of the Corn Exchange and based on my reasoning above, it is not possible to conclude whether the mitigation which could be achieved would be better or worse for the lawful development of 2 units.
73. In addition, the appeal proposal would represent a greater number of residential units over the fallback, and therefore significantly more residents could be disturbed. I do not therefore consider the fallback position would justify the scheme before me in terms of noise.

### *Conclusions*

74. To sum up on this main issue, the operations at the Corn Exchange as an important community asset are unrestricted. Some noise and disturbance effects are already experienced in the locality, as evidenced at Flat 4a, although there is no history of any noise complaints.
75. I have considerable concern as to the effects on future occupants of the development from structure borne noise and there is significant doubt as to whether the effects can be realistically mitigated. This conclusion is reached even at the lower in-house cinema system sound levels. A planning condition to secure further exploratory works to inform a mitigation strategy would also not be appropriate at this stage.
76. Adopting a precautionary approach, I therefore consider that there is a significant risk of harm to future occupants from noise and disturbance and thus the development would not provide satisfactory living conditions. Accordingly, the development could also compromise the Corn Exchange as an established entertainment venue as there could be significant potential for future residents to complain in light of my findings. The lack of objection from Environmental Health and the fallback position at the site does not alter my position in this regard.
77. The development would therefore conflict with the LP Policies ENV11 and ENV12 as well as paragraphs 180 and 182 of the Framework. There would also be conflict with Policy CF1 of the eWNP.

### **Planning and Heritage Balance**

78. Paragraph 196 of the Framework requires that the less than substantial harm to heritage assets which I have identified should be weighed against the public benefits of the proposal.
79. The appellant has put forward a number of benefits in support of the scheme and I acknowledge that the development would provide heritage benefits in terms of the repair of the Folly and removal of the stubs of modern walling at the Wood Street entrance. As set out above, the proposals would replicate the existing poor-quality flat roofed extensions and I have found harm in the rest of the design which nullifies the purported benefits of the removal of the 1960s and 1980s extensions.
80. Other public benefits include the provision of housing on a brownfield site and contribution of needed smaller residential units. Wallingford is a sustainable settlement with a number of services and facilities which would be highly accessible to future occupants of the site given its central location.

Construction benefits would also be generated as part of the build of the proposals.

81. I do not consider the provision of parking in a location where car free housing could be justified is a benefit. While this might reduce pressure on parking locally, this has implications for climate change and conflicts with other benefits in terms of the accessibility of the site. The provision of parking is thus neutral. Similarly, while the provision of electric vehicle charging points could normally be a benefit, in these circumstances it is neutral given that parking provision isn't necessary at this site.
82. I have found harm to a number of designated heritage assets for the reasons given above. Cited benefits in terms of the visual enhancement of the site and designed and landscaped grounds and car parking area are not therefore benefits of the scheme. Similarly, in light of my position on noise and disturbance, including the fall-back position, acoustic protection of the Corn Exchange is also not a benefit.
83. Finally, the redevelopment of an under-utilised site in an area where land supply is constrained and the optimum viable use of a designated heritage cannot also be considered as benefits in light of the harm I have identified. In any case, there may be a different scheme which secures these benefits without such harm.
84. I appreciate my views on the above benefits and my findings on the overall planning and heritage balance contrasts with the views of the planning officer of the original scheme, and other relevant parties, including the Town Council. However, in light of the great weight I must give to the conservation of heritage assets and the harm in respect of noise, the benefits above would not outweigh that harm.

### **Conclusion**

85. For the reasons above, taking into account all other matters raised, I dismiss both of the appeals.

*C Searson*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Tom Cosgrove QC	Instructed by Tracy Smith of South Oxfordshire District Council
He called	
Elaine Milton BSc (Hons) MSc DipArchCons MRTPI IHBC	Director at Elaine Milton Heritage and Planning Limited
Steve Gosling BEng MIOA MAES	Director and Principal Consultant at 24Acoustics
Tracy Smith BA (Hons) BTP, MRTPI	Principal Appeals Officer South Oxfordshire District Council

### FOR THE APPELLANT:

Annabel Graham Paul of Counsel	Instructed by Henry Venners of Henry Venners Ltd
She called	
Dr Nicholas Doggett BA Ph.D Cert. Archaeol F SA MCIfA IHBC	Managing Director of Asset Heritage Consulting Ltd
Peter Rogers BSc(Hons) MSc CEng FIOA FRSA MIOL	Managing Director of Sustainable Acoustics Ltd
Henry Venners BSc (Hons) MA MRTPI	Director of Henry Venners Ltd, Partner of the John Phillips Planning Consultancy

### FOR THE RULE 6 PARTY:

Richard Moules of Counsel	Instructed by Tim Taylor
He called	
Gloria Wright Tobias Lewis MSc LLM CEnvH CSci FIOA MIEnvSci MIAQM	Chair, Sinodun Players Technical Director, WSP
Tim Taylor	Partner, Foot Anstey LLP

### INTERESTED PERSONS:

Tom Clarke	National Planning Adviser, Theatres Trust
Cllr Sue Roberts	Ward District Councillor for Wallingford
Lydia Atkins	Local Resident
Barbara Kershaw	Local Resident and volunteer at the Corn Exchange

## **INQUIRY DOCUMENTS**

- INQ1: Dr Doggett Counter Rebuttal table on heritage (including annexe)
- INQ2: Written Transcript by Lynda Atkins
- INQ3: Written Transcript by Cllr Sue Roberts
- INQ4: Written Transcript by Barbara Kershaw
- INQ5: Table of events held at the Corn Exchange 2016-2020
- INQ6: Draft Conditions
- INQ7: Opening on behalf of the Council
- INQ8: Opening on behalf of the Corn Exchange
- INQ9: Opening on behalf of the Appellant
- INQ10: Latest version of Unilateral Undertaking and Deed of Easement
- INQ11: Written Transcript by Mr Clarke (Theatres Trust)
- INQ12: Appeal Decision APP/C5690/W/19/3241119 184 New Cross Road, London
- INQ13: Appeal Decision APP/X4725/W/19/3230311 20 King Street, Wakefield
- INQ14: Appeal Decision APP/P4605/W/18/3217413 18/20 Albion Court, Frederick Street, Birmingham
- INQ15: Appeal Decision APP/H1033/W/20/3247013 6 Eagle Parade, Buxton
- INQ16: Written Transcript by Cllr Sue Roberts (updated)
- ING17: Projectionist comments
- INQ18: Toby Lewis IOA Paper
- INQ19: Toby Lewis CIEH AoC Presentation slides
- INQ20: Updated Swept Path Analysis drawing: 8170303/6202
- INQ21: 18-0025-0 M03 Acoustics & Deed of Easement v1.0 Issue 30-10-20
- INQ22: Draft Planning Obligation and Deed of Easement as amended/annotated by the Corn Exchange
- INQ23: Ministry of Sound Deed of Easement Dated 20<sup>th</sup> December 2013
- INQ24: Summary of Corn Exchange Live Music – Appellant
- INQ25: Table of events held at the Corn Exchange 2016-2020 – Annotated by Mr Lewis (Corn Exchange)
- INQ26: Count of Corn Exchange Events to sound levels in SOCG – Mr Gosling (Council).
- INQ27: Signed copy of Unilateral Undertaking dated 20<sup>th</sup> November 2020
- INQ28: Agreed Conditions dated 20<sup>th</sup> November 2020
- INQ29: Existing/Proposed Plan with Corn Exchange Superimposed Ref: BS217-Sk 161120
- INQ30: HV Coloured side by side plan (20<sup>th</sup> November 2020)
- INQ31: Corn Exchange Overlay Plans: Corn exchange TS Nov 2020, Corn exchange TS Nov 2020 (a) and Corn exchange TS Nov 2020 (b)
- INQ32: Closing Submissions for the Corn Exchange (R6) 21 November 2020
- INQ33: Closing Submissions on behalf of the Council 26 November 2020
- INQ34: Closing Submissions on behalf of the Appellant 27 November 2020