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# Appeal Decision

Inquiry held 5-8, 12-13, 15, and 21-22 March 2024

Site visits made on 6, 12 and 25 March 2024

**by Tom Bristow BA MSc MRTPI AssocRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> May 2024**

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## **Appeal Ref: APP/Y3615/W/23/3330618**

### **Land south and east of Guildford Cathedral, Alesford Road**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by the Cathedral Church of the Holy Spirit and Vivid Housing Ltd. against the decision of Guildford Borough Council.
  - The application ref. 21/P/02333, dated 28 October 2021, was refused by notice dated 3 April 2023.
  - The development proposed is the demolition of existing Cathedral Close dwellings and erection of 124 no. residential units (including affordable housing) with associated engineering works, access, landscaping, parking and ancillary works.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

2. Friends of Stag Hill ('FOSH') were a 'rule 6' party to the inquiry. FOSH, along with Guildford Borough Council ('GBC') and the appellants are the 'main parties'. I have taken account of points made by others, 'third parties'. My decision, however, focuses on the principal important controversial issues.
3. The development proposed follows a previous scheme in 2015.<sup>1</sup> That was also for development of land within the same ownership as grade II\* listed Guildford Cathedral.<sup>2</sup> The previous scheme, for 134 homes, was recommended for approval by officers but refused permission at committee. It was for 'enabling development,' now referenced at paragraph 214 of the National Planning Policy Framework (20 December 2023, the 'NPPF').
4. Previously the Cathedral administration foresaw that the Cathedral would likely close in the absence of the funding that the previous scheme would have generated. The Cathedral has, however, remained open. The current proposal is not for enabling development, but instead to aid the financial stability or viability of the Cathedral.
5. The proposal is accompanied by an agreement of 4 April 2024 under section 106 of the Town and Country Planning Act 1990 as amended (the 'S106' and '1990 Act'). In GBC's view the S106 serves to overcome their fourth and fifth reasons for refusal reasons related respectively to environmental mitigation

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<sup>1</sup> Application ref. 15/P/02284.

<sup>2</sup> The Cathedral Church of the Holy Spirit, list entry no. 1337783.

associated with the Thames Basin Heaths Special Protection Area, and to various obligations deemed necessary to make the development acceptable.

### **Statutory context**

6. Various statutory duties apply to my determination of this appeal, notably section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA Act'). Section 66(1) requires that special regard is had to the desirability of preserving listed buildings, their settings, or any features of special architectural or historic interest they possess. Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended requires that proposals are determined in accordance with the development plan unless material considerations indicate otherwise.
7. Here the development plan includes policies of the Guildford Local Plan: Strategy and Sites 2015-2034 (adopted 25 April 2019, the 'LPSS') and of the Guildford Borough Local Plan: Development Management Policies (adopted 22 March 2023, the 'DMP'). In addition to the NPPF I have had regard to all other relevant material considerations including the Guildford Town Centre Views Supplementary Planning Document (adopted October 2019, the 'Views SPD') the Guildford Landscape Character Assessment (published January 2007, the 'LCA'), the Planning Practice Guidance ('PPG') and the National Design Guide (updated 30 January 2021, the 'NDG').
8. At the time of the previous application GBC were able to demonstrate a forward supply of deliverable housing sites amounting only to about 2.1 years' worth. The appellants do not dispute that GBC are presently able to demonstrate a forward supply of deliverable sites amounting to 6.29 years, comfortably in excess of five years with reference to NPPF paragraph 77. Whilst the benefits of the scheme in respect of housing provision are material, by consequence NPPF paragraph 11.d) is not engaged.
9. There is also no indication that the policies which are most important for determining the proposal should otherwise be deemed out-of-date. The majority of the appeal site is now also allocated for residential development via LPSS policy A15. LPSS policy S1, criterion (1), makes provision for 'at least' 10,678 homes to 2034 (as opposed to representing a cap in that respect). I note that, at examination, the LPSS identified the potential to deliver 14,602 homes over the plan period.
10. Given the statutory basis for decision-taking it is not for an appeal under section 78 of the 1990 Act to amount to some form of re-examination of a development plan, or to re-evaluate the findings of the examining Inspector. However, as above, other material considerations are relevant.

### **Policy context**

11. Aligned with the overarching approach in the NPPF, LPSS policy S1, criterion (1) sets out to 'secure development that improves the economic, social and environmental conditions in the area'. The development plan must be read as a whole; different policies related to the foregoing planning objectives inevitably pull in different directions.

12. LPSS policy D3, criterion (1) sets out how the historic environment will be conserved and enhanced in a manner appropriate to its significance, consistent with section 66(1) of the LBCA Act and NPPF paragraph 195. LPSS policy D3, criterion (2) establishes that the impact of development proposals on the significance of heritage assets and their settings will be considered in accordance with 'case law, legislation and the NPPF'. DMP policy D18, criterion 3) sets out essentially the same position as in LPSS policy D3 in respect of designated heritage assets. DMP policy D23, criterion 3) sets out that the effects of development on non-designated heritage assets will also be considered in line with national policy and guidance.
13. I note DMP policy D18, criterion 1)e) sets out that there should be 'a justification for the proposals that explains why any resultant harm is considered to be necessary or desirable'. Similarly echoing the judgement in *Barnwell*,<sup>3</sup> NPPF paragraph 206 sets out how any harm to a designated heritage asset, not just that which is 'substantial', will require 'clear and convincing justification.'
14. LPSS policy A15 allocates 3.28ha of Cathedral land 'for approximately 100 homes (C3)'. The extent of that allocation, blue-edged comprising an eastern and western parcel, is mapped at LPSS page 170. Policy A15 sets 6 'requirements' for the allocation and 9 'key considerations'. Requirement (3) is that development is 'sensitive to the setting of the Grade II\* listed building (Guildford Cathedral).' Requirement (2) is that development retains 'strategically important views of the Cathedral and its setting across the town'. Key considerations include again the setting of the Cathedral, views, design, and the surrounding urban context. Reference is made at key consideration (4) to the effects of the scheme on the 'green mound and silhouette of the Cathedral'.
15. More broadly LPSS policy D1, criterion (1) is that 'all new developments will be required to achieve high quality design that responds to distinctive local character (including landscape character) of the area in which it is set.' LPSS policy D1, criterion (4) further sets out that 'all new development will be designed to reflect the distinct local character of the area and will respond and reinforce locally distinct patterns of development, including landscape setting.' DMP policy D4 is similar to LPSS policy D1.
16. Both LPSS policy D1 and DMP policy D4 align with NPPF paragraph 135 and various principles articulated in the NDG. NPPF paragraph 135 sets out, amongst other things, how planning should ensure that developments will 'a) function well and add to the overall quality of the area, b) are visually attractive as a result of good architecture, layout and appropriate and effectively landscaping, and c) are sympathetic to local character and history, including the surrounding built environment and landscape setting'.
17. The site is outside of Guildford town centre. However, on a plain reading, LPSS policy S3 does not appear restricted in its application to only development proposed 'within' the town centre; criterion (5)c) referring to 'important views into and out of the town centre from the surrounding landscape'. Even if I am wrong in that, DMP policy D4, criterion 3)b) refers

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<sup>3</sup> CD.15.2.

broadly to how development should respond positively to 'significant views (to and from)'. The Views SPD, referred to in the supporting text to DMP policy D4, identifies 15 viewpoints that 'help to reveal how Guildford developed and the importance of its relationship with the countryside beyond.'<sup>4</sup>

## **Main issue**

18. Whilst addressed in individual inquiry sessions, heritage, design, and landscape implications of the proposal are thoroughly intertwined. They all centre on the site and the scheme's relationship to the overlapping setting of heritage assets (the Cathedral in particular). That interconnection is reflected in GBC's decision notice, in LPSS policy A15 as above, and in Tanya Kirk's proof which contends that the landscape value of the site is 'elevated above the commonplace or average landscape, by virtue of its contribution to the setting of the Cathedral.'<sup>5</sup> The main issue is therefore the effect of the proposal to the special interest and significance of heritage assets, with reference to design and landscape context.

## **Reasons**

### *The site and its surroundings*

19. Guildford Cathedral, designed by Sir Edward Maufe, sits imposingly at the summit of Stag Hill. The intention to build the Cathedral there was marked by the installation of a cross formed of HMS Ganges timbers. The Ganges Cross, erected in 1933 when funding for construction was not secure in the aftermath of the Great Depression, is close by to the east of the Cathedral.
20. Stag Hill is itself a dramatic feature in otherwise less lively topography; Dr Barker-Mills' proof quotes from the relevant Pevsner Guide which describes how few towns in the south of England are as 'topographically blunt' as Guildford.<sup>6</sup> Historically Guildford grew up closer to the River Wey around more gently undulating terrain, principally in linear manner along and around the High Street. Much of the High Street is appreciably medieval.
21. Guildford Castle, a scheduled monument,<sup>7</sup> is to the south of the High Street close to the Wey. Reflecting a rare succession of change, the list entry describes how it originated as a motte-and-bailey before being remodelled as a shell keep and eventually a tower keep castle (now grade I listed).<sup>8</sup> The Castle, as with many Norman fortifications, likely traces its origins far further back still. The list entry notes how the Castle's significance is enhanced by well-attested royal associations, in particular to Henry III.
22. Unsurprisingly, being situated for defensibility and as a conscious display of authority, the surroundings in which the Castle is experienced are extensive. Views SPD viewpoint 11 'Castle Motte' is a vista north-westwards encompassing much of Guildford, from the roofscape of the historic centre across successive layers of development around and beyond the railway station. From viewpoint 11 the Cathedral, surrounded by a natural band, mound or 'collar' of land, is a focal point. Insofar as relevant to this appeal,

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<sup>4</sup> Paragraph 1.1.4.

<sup>5</sup> CD.9.7., paragraph 3.2.12 (noting also CD.9.6, paragraph 5.10).

<sup>6</sup> CD.9.6, paragraph 3.1.

<sup>7</sup> List entry no. 1012340.

<sup>8</sup> List entry no. 1377881 (separate listings exist for the shell keep, gateway and walls and castle arch).

the significance of the Castle is reflected in its fabric, evolution, associations and surrounding context.

23. Southwards of the Castle the Wey broadens as it runs through a gentle valley in the North Downs. Either side of the Wey thereabouts is the boundary of the Surrey Hills Area of Outstanding Natural Beauty established in 1958 ('SHAONB').<sup>9</sup> The Views SPD explains how 'Guildford grew at a relatively slow pace for most of its history with the Town still roughly resembling the same extent as it did in medieval times by the 18<sup>th</sup> century.' Rapid urbanisation occurred, however, from around the mid-nineteenth century onwards in conjunction with greater connectivity associated with the railway and growing societal affluence.
24. The landform and SHAONB have served to check the southwards expansion of Guildford. Instead, the Town has successively grown to a far greater extent in a broad arc northward around, and beyond, Stag Hill. Onslow Village to the south of Stag Hill reflects the early twentieth century suburban expansion of Guildford, as opposed to extensive post Second World War development further northwards. Land around Stag Hill has accommodated much development associated with the University of Surrey ('UoS'). That occurred from the mid-to-late twentieth century onwards. As reflected by LPSS allocation A15, a successful appeal in 2018 at Guildford Station,<sup>10</sup> other developments referenced by FOSH,<sup>11</sup> Ian Fenn,<sup>12</sup> and in the appellants' Landscape and Visual Appraisal ('LVA'),<sup>13</sup> Guildford continues to evolve.
25. Amidst that wider context, the Cathedral is set along an east-west axis. Whilst that arrangement is typical of resurrection symbolism in ecclesiastical architecture, it also in this instance reflects the form of Stag Hill. Stag Hill is wider east to west than north to south, a ripple of the North Downs. Vehicular access to the Cathedral is to the west spurring initially off, and rising from, Cathedral Roundabout by the A3. The western approach, incorporating that access and an oval circulation route, is referred to in the evidence before me as 'processional'; the Cathedral having been conceived of as to be experienced by drivers and passengers.<sup>14</sup> The drama of the western approach was used in *The Omen* (1976).
26. To the north and north-east of the processional approach, tucked by the boundary of Cathedral and UoS land, are several ancillary Cathedral buildings. They include offices, a refectory, shop and education centre. There is a long history of planning permissions related to those buildings.<sup>15</sup> Beyond those buildings is an extensive area given over principally to parking provision to the north of the Cathedral. The nearest UoS building to the north, a non-descript accommodation block, is partially visible from that parking provision. However that block, set in the steeply declining landform, is not a readily appreciable feature. It is partially visible in conjunction with the Cathedral

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<sup>9</sup> Now also, terminologically, a National Landscape.

<sup>10</sup> CD.15.1

<sup>11</sup> CD.11.9, paragraph 7.15.

<sup>12</sup> CD.12.6, paragraph 3.3.6.

<sup>13</sup> CD.3.140 to CD.3.149.

<sup>14</sup> Even more so as the surroundings altered by virtue of the post-war priority given to vehicles and plans of Geoffrey Jellicoe.

<sup>15</sup> Latterly permission ref. 23/P/00928 for an extension to the education centre.

only from a handful of vantage points, principally to the north of the Cathedral, and screened to some extent by boundary trees.

27. The Cathedral was also designed to be accessed on foot. By the crossing tower, the crosspiece of the Cathedral's loose cruciform plan, there is a pedestrian route to the south formed of steps and sloping stretches of path in varying states of repair. That route leads downwards to Ridgemount, which heads away to the east in the direction of the town centre, and to Alresford Road, which heads to the west to turn into Benbrick Road. The southern approach, excluded from LPSS allocation A15, is referred to in the evidence before me as the 'pilgrimage' route. That reflects its orientation towards the 'Pilgrims' Way', thought to be in part along ancient North Downs trackways hereabouts.<sup>16</sup> The Cathedral is visible from within the North Downs and SHAONB, notably at Views SPD viewpoint 06, the 'Hog's Back'.
28. There are two properties or 'lodges' within Cathedral-owned land either side of the pilgrimage route close to Ridgemount and Alresford Road. The lodges, (neo) Georgian in proportions and architectural detailing, were also designed by Maufe. Their significance derives principally from their historic interest, architecture, and conscious framing of the pilgrimage approach. It is fair to describe them as non-designated heritage assets.
29. The Ganges Cross is immediately by what the Cathedral list entry describes as the buttressed 'half-octagonal' easternmost element of the Lady Chapel. Beyond the Ganges Cross is a semi-circular path leading from parking provision to the north, rounding the Lady Chapel and the Sacristy and Chapter House either side of it. The Ganges Cross, much of that semi-circular path, and a modest irregular area of land to the east of it is consecrated ground. Consecrated ground is both formally landscaped, notably the Children's Garden, and wooded (it appears principally self-seeded).
30. Beyond consecrated ground there is a larger irregular parcel of land within Cathedral ownership. That is referred to in the evidence before me as the 'eastern meadow'. The eastern meadow is essentially untended. It is punctuated by occasional trees and surrounded, to varying degrees, by hedgerows and vegetation. The eastern meadow declines towards the east and south-east (gently initially, more markedly subsequently). Beyond Cathedral land to the east there is further UoS land. UoS land there is largely open initially as it slopes away from the site, albeit that there are buildings heading towards Perimeter Road (near the railway line).
31. To the south-east of the Cathedral are 7 understated mid-to-late twentieth century properties off Cathedral Close. Those remain associated with the Cathedral and its staff, albeit that one is presently uninhabited on account of its structural condition.<sup>17</sup> All are suffering from subsidence as a result of their construction being insufficient to account for the sloping clay of Stag Hill. Also to the south-east is more recent residential development at Scholars' Walk.
32. Of 159 National Landscape Character Areas defined by Natural England the site falls within the Thames Basin Lowlands National Character Area (114,

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<sup>16</sup> CD12.3, paragraph 2.2.5.

<sup>17</sup> I understand that one of those 7 houses has been occupied as 4 units.



NE571), the North Downs National Character Area being to the south (119, NE431). That broad landscape characterisation is, however, of limited use. That is reflected in the LCA, where the site is described as within the 'Guildford Townscape Area'.

33. At a finer grain level the majority of the site is within LCA townscape character area 10A 'University of Surrey (incorporating Guildford Cathedral and Stag Hill)'.<sup>18</sup> That correlates with landscape receptor 'L2' in the LVA.<sup>19</sup> Cathedral Close and Scholars' Walk are instead within LCA townscape character area 9H 'Guildford Park and Cathedral Close', LVA landscape receptor L3. The eastern meadow is within character area 10A. The 'eastern slopes' are also referred to in the evidence before me, within character area 9H. Whilst that landscape characterisation boundary is clear, the distinction between the eastern meadow and eastern slopes is somewhat blurred (given the ordinary meaning of those words and changeable topography).
34. Public access through, and use of, the site is by virtue of Cathedral permission. That permission appears to be longstanding, and there is no indication that it would be revoked regardless of the outcome of this appeal. A large part of the site is also designated open space under DMP policy ID4, criterion 8). There is a pedestrian connection to UoS land to the north. It is possible to walk between UoS land to the north and Ridgemount via the semi-circular path by the Ganges Cross, and thereafter either via a steep set of steps leading to Cathedral Close or via the pilgrimage route.
35. Many local residents attest to Cathedral land being well used as a public space. I saw several individuals making use of its grounds, whether walking through it or for recreation, during my site visits (at various times of day). By virtue of its nature and the absence of dedicated paths through it, the eastern meadow is somewhat secluded. Nonetheless it is publicly accessible, and features 'well-used tracks [that] circulate across the space'.<sup>20</sup> I agree with Tanya Kirk that its semi-natural and rugged state is 'distinct and rare' in comparison with more formally landscaped, maintained and overlooked land which prevails in LCA character area 10A (and the surroundings to the Cathedral more broadly).<sup>21</sup>
36. Shortly beyond Cathedral Close, footpath 6 heads eastwards from Ridgemount along Scholars' Walk. By no. 9 Scholars' Walk, footpath 6 joins footpath 7b, footpath 7b returning to UoS land to the east of the Cathedral. Thereafter footpath 6 heads to the rear of properties fronting Guildford Park Avenue, in short order becoming unconsolidated as it heads towards Yorkie's Bridge. Yorkies' Bridge is identified via LPSS policy A9 as 'Land for Sustainable Movement Corridor Town Centre Phase 2...'
37. Alresford Road and Ridgemount are part of the first Sustainable Movement Corridor designated at Guildford. At the time the plans representing the scheme were drawn up, the intention was to create a new path looping around the south-east of the site that would connect to UoS land to the east (and thereafter to Yorkie's bridge). I heard at the inquiry, however, that

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<sup>18</sup> LCA, figure 4.1.

<sup>19</sup> CD.3.141., figure 4.20.

<sup>20</sup> CD.9.7, paragraph 3.1.5.

<sup>21</sup> Ibid.

arrangements in that regard have not been finalised, and as such there is currently only the potential for such a connection to come forward in time.

### *Special interest and significance of the Cathedral*

#### Origins and architecture

38. In 1534 Guildford became an Anglican suffragan bishopric to Winchester. Responding to a growing population, in 1927 Guildford was established as a new Diocese, initially founded upon the Church of Holy Trinity off the High Street. Around that time a search for a site for a new cathedral was undertaken. Not without some difficulty and divergent views,<sup>22</sup> Stag Hill was identified as the chosen location at the first Diocesan conference in May 1928.
39. Some land at Stag Hill, owned by the Earls of Onslow, was gifted to the Church for the construction of a Cathedral. I am not of the view, however, that the gift of land was the determining factor in the selection of Stag Hill. Dr Barker-Mills' proof reproduces records related to the site search, which reference the intention to secure 'a spacious setting for the Cathedral' and 'some very commanding spot where the Cathedral might be a conspicuous object standing apart by itself and not crowded about by other buildings...'.<sup>23</sup>
40. I acknowledge contemporaneous site selection records give some thought to the practical needs of the Cathedral in terms of associated buildings. Nonetheless they clearly indicate how Stag Hill was consciously selected for its prominence in the landscape and relative separation from other buildings.<sup>24</sup> As noted above both the distinctiveness and form of Stag Hill would have readily lent itself to the construction of a Cathedral. The Cathedral was designed by Maufe, based on his winning entry to a 1932 competition. Reinforcing my reasoning immediately above, and unlike other competition entries, his design situated the Cathedral at the summit of Stag Hill. The prominence of the Cathedral, its monumental tower in particular topped with a golden angel figure, cannot easily be overstated.
41. Guildford Cathedral was only the third Anglican cathedral built in England since the seventeenth century. It was also, arguably, the last to be built. The 'modernist' Cathedral of St. Michael at Coventry, designed by Sir Basil Spence to sit beside the bomb-damaged remains of its medieval predecessor, was built between 1951 and 1962.<sup>25</sup>
42. It was only in 1936 that the foundation stone for Guildford Cathedral was laid, the list entry continuing to explain that the 'eastern section' to the crossing tower was completed in 1939. However construction was interrupted by the Second World War, during which much Cathedral land was given over to allotments. Construction resumed in 1948. As with funding previously, it appears that second phase of construction commenced with limited funds. Construction finance was thereafter buoyed up by virtue of the 'buy a brick' campaign launched in 1952. Over 200,000 people symbolically bought a brick

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<sup>22</sup> CD.6.31.

<sup>23</sup> CD.9.6., ostensibly from Charles Osenton in 1926 but reported on in 1928 by Captain Tuckwell.

<sup>24</sup> Endorsed by Lord Ashcombe's comments at the first Diocesan conference (CD.9.6, paragraph 3.15).

<sup>25</sup> List entry no. 1342941.



to be used in the construction of the Cathedral, each for 2s 6d.<sup>26</sup> The Cathedral is therefore often referred to as the people's cathedral.

43. The nave was inaugurated in 1955, and the Cathedral consecrated in 1961. However the Cathedral was then incomplete. The tower was dedicated in 1963. The Chapter House and western garths were finished in 1964 to 1965. Maufe produced later plans for elements of the site, including in 1954, 1957 and 1964 (which, in particular, focus around the western approach).
44. Maufe's 1932 competition report explained how 'the idea has been to produce a design, definitely of our own time, yet in the line of the great English cathedrals, to build a new tradition, to rely on proportion, mass, volume and line rather than on elaborate ornamentation.' The commemorative bust of Maufe within the Cathedral refers to him simply as an architect. That belies the exceptional level of his involvement in all aspects of the physical form and context of the Cathedral (down to the design of doors, lamps and carpet).
45. Architecturally the Cathedral might be described as restrained gothic, or in the words of Jacky Taylor who produced a report on behalf of English Heritage in 2007 as reflecting 'quiet dignity'.<sup>27</sup> That is notwithstanding some latter alterations, including a stained glass panel and also sculptural work by Eric Gill. Its presence and prominence derives principally from its scale and imposing form. Those characteristics reflect clearly both devotion and pride in the establishment of the Guildford Diocese.
46. Monumentality of scale is also true internally. High vaulted aisles are supported on piers without capitals, with unadorned transverse arches spanning the nave between them. Internally the Cathedral design is simple or pared back, with walls principally finished in white plaster with Douling limestone accents and dressings. There is some indication that Maufe drew influence from understated European ecclesiastical architecture in that regard. Much historic significance is, I acknowledge, embodied in the interior of the Cathedral and its fabric.
47. As in respect of its design sitting somewhere towards modernism, structurally the Cathedral reflects something of a transitional style. Externally walls are faced with locally-produced bricks laid in monk-bond pattern. Windows are dressed in stone, some mullioned reflecting something of an arts and crafts aesthetic, others featuring understated gothic tracery. The structure is, however, principally of reinforced concrete. The combination results in a building that is both materially traditional and modern.

#### Cathedral land

48. The history to the Cathedral's land is intricate and continues to have implications in governing how the endowment envisaged to be generated from the sale of different parts of the appeal site may legitimately be used. Figure 16 of Jason Clemons' proof is a reproduction of the plan appended to a 1929 deed of land transfer. That shows approximately 19 acres of land shaded pink representing the Earl of Onslow's intended gift of land for the construction of the Cathedral at that juncture. To the west, the 'pink land' extends to the

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<sup>26</sup> CD.12.3, paragraph 2.3.14.

<sup>27</sup> CD.6.31.

former route of the Chase (which was truncated via the creation of Cathedral Roundabout). To the south, the pink land extends to the present boundary of Cathedral land by Alresford Road and Ridgemount.

49. In 1929 Stag Hill appears to have been agricultural, its former use as a royal hunting park having long since passed into history. In that context, as shown on the 1929 plan, to the south-east of the pink land there are a collection of buildings annotated as 'Guildford Park Farm'. To the east of the pink land there is also rectangular hatched area annotated as 'not to be built upon'.
50. A significant part of the inquiry was given over to understanding the location of the hatched area and its bearing on present circumstances, including with reference to the appellants' Heritage Impact Assessment (September 2021, the 'HIA').<sup>28</sup> By virtue of a similarly annotated hatched area also featuring in Maufe's plan for the Cathedral of 1957, the HIA sets out how it was Maufe's intention for that land to 'remain undeveloped, particularly as this is the only area on the plan so marked'.<sup>29</sup> That appears a matter-of-fact reading.
51. The HIA, however, explains that the 1957 hatched area is 'directly to the east of the Cathedral (namely that now occupied by the Memorial Garden and the dense belt of trees immediately to the east of this)'. That is incorrect.
52. As clarified at the inquiry, and although the 1957 plan shows a smaller hatched area reduced in extent to the south compared to the 1929 plan, the eastern boundary of the pink land is not aligned with the easternmost elevation of the Cathedral. Instead it aligns with the eastern limits of consecrated ground. The hatched area, whether in the 1929 plan or 1957 plan therefore covers much of the eastern meadow where 12 houses are proposed.<sup>30</sup>
53. The appellants effectively now invite me to take a different view to the HIA in respect of the purpose of the annotated hatched land, in essence that it has little meaning. To evaluate that new position it is necessary to look at the Cathedral's historic land assembly.
54. The 1929 hatched area was not included in Maufe's 1932 competition plan and, in the event, the Cathedral acquired land piecemeal (as opposed to wholesale via the 1929 deed). The various stages of Cathedral land assembly is shown in figure 2 of Dr Barker-Mills' proof. Only via acquiring land via conveyances of 1942 and 1943,<sup>31</sup> did the Cathedral's holdings extend significantly beyond the western and southern approaches.
55. In the plans appended to both those conveyances land owned by the Earls of Onslow is coloured blue. The 1942 conveyance, dated 7 December, transferred to the Cathedral for £7,000 land coloured green. The 1943 conveyance, dated 24 May, transferred to the Cathedral for £3,750 land coloured red.

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<sup>28</sup> CD.3.168 prepared by Dr Nicholas Doggett on behalf of Asset Heritage Consulting.

<sup>29</sup> Ibid., paragraph 2.34.

<sup>30</sup> Including as shown on plans CD.3.113, CD.3.31, CD.3.32 and CD3.34.

<sup>31</sup> CD.16.2 and CD.16.15.

56. The 1942 plan includes the annotated hatched area as in the 1929 plan. At that juncture the hatched area is, however, owned by the Earls of Onslow. The appellants contend that the annotation 'land not to be built on' was, in actuality, an instruction to the Earls rather than applying to the Cathedral, becoming in time a residual annotation with no substantive meaning.
57. There is some logic in that position given that much of the Earls' land nearby was given over to housebuilding in the early twentieth century. The hatched area is absent on the 1943 conveyance plan and I understand the restriction 'not to be built on' was removed in 1981 in any event.<sup>32</sup> However, whomever that annotation was directed towards, it was evidently consciously instructing that development should not occur.
58. Figure 11 to Dr Barker-Mills' proof reproduces Maufe's 1957 plan. It may be that Maufe used the same base map for his 1957 site plan as that which was used in the 1942 deed, albeit the hatched area is slightly smaller (paragraph 52 above). Later plans for the site produced by Maufe include designs for some Cathedral buildings by the western approach, albeit those buildings were not built. The appellants suggest, however, and in contrast to the HIA, that the 'not to be built upon' annotation on the 1957 site plan instead applies to land shown as stippled (around the Cathedral and its approaches).
59. That seems, however, a skewed interpretation. As reflected in paragraph 44 of this decision Maufe was a man of details. To use or annotate a plan with an instruction in a specific location intending it to apply elsewhere appears distinctly unlikely. The location of the hatched area and the annotation there remains largely consistent in plans of 1929, 1942 and 1957. None of Maufe's plans show buildings there as opposed to elsewhere. Little meaning can be drawn from the absence of the annotated hatched area on Maufe's 1932 competition plan given that plan is tightly cropped to the east.
60. As FOSH fairly observe the foregoing indicates, at its highest, 'that Maufe did not think about the plans for the rest of the site.' That is consistent with one way in which Jacky Taylor's report may be read.<sup>33</sup> I would nevertheless go further. Inherent in my reasoning above is that some thought was given in 1929 and again in 1942 to preventing development at a large part of the eastern meadow (which carried a legacy into Maufe's site plan of 1957). That is, in my view indicative of conscious intent. That intent would, importantly, be entirely consistent with the approach taken to the site search criteria applied in selecting a location for a new Cathedral in 1926 to 1928. Moreover Maufe is said to have 'fulminated' against the sale of land by the Cathedral to the UoS in 1964, reinforcing the foregoing.<sup>34</sup>
61. On balance it is my view that much of the area immediately around the Cathedral, including a significant proportion of the eastern meadow, was consciously left open and 'natural'. I therefore favour Amanda Reynold's characterisation of the site as an important wilderness as opposed to its characterisation by James Lacey in cross-examination as simply 'scrubby,

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<sup>32</sup> ID.1.22., paragraph 41.1.

<sup>33</sup> CD.6.31 which notes that at that juncture 'no specific evidence has been found to indicate particular treatment of the surrounding site'.

<sup>34</sup> Reproduced in Dr Barker-Mills' proof at paragraph 7.18 and footnote 47.

poor, semi-improved grassland'.<sup>35</sup> In my view its character is far from incidental to significance, or possessing only of a 'very minor contribution' in that regard.<sup>36</sup>

62. Whilst I have arrived at my own view in respect of the importance of the immediate surroundings to the Cathedral, it is nevertheless aligned with Historic England's position in 2015: 'an absence of architectural features beyond the southern and western approaches should not be interpreted as an absence of intent if, as we think, Maufe consciously intended the Cathedral to sit atop a denuded landscape to emphasise its prominence.'<sup>37</sup> My view is also consistent with the Inspector who determined the 2018 appeal at Guildford Station. He explained how the Cathedral's immediate surroundings contribute to its commanding presence in the town by virtue of a 'sense of lofty dominance, separated from the urban fabric of the town below, defined by the skirting of pasture and the maturing tree cover in proximity to the building...'
63. Moreover the appellants' current position in respect of the hatched area runs contrary to the advice produced on behalf of the Cathedral by Foddy Consult which informed the examination of the LPSS and allocation A15.<sup>38</sup> Paragraph 5.3 of that document reads that 'it is felt that the very highest point of the hill, to the east of the Cathedral beyond the Memorial Garden should remain devoid of housing. It is accepted by the Cathedral that some separation of development from the building itself is important to avoid harm in terms of the appreciation of the Cathedral itself standing atop a verdant hill'.
64. The 'green collar', or 'green mound' as referred to in LPSS policy A15, around the Cathedral, and in particular the contribution of the eastern meadow in that respect, has also become part of wider landscape and visual character over time. It reflects the characteristic importance of woodland and of strong visual links between the town and country as noted in the Views SPD. The green collar is visible in a multitude of SPD viewpoints.<sup>39</sup> Accepting that there is a 'kinetic experience' at viewpoints as opposed to a fixed location entirely reflecting the experience there, Views SPD viewpoint 15 is nonetheless from the eastern meadow at Stag Hill looking outwards across Guildford.

## Memorial

65. Within the southern elevation of the Cathedral, next to the central crossing by the library, is set a ledger stone inscribed: 'The land on Stag Hill about this cathedral was the gift of the Rt. Hon. Richard Bedford Viscount Bennett of Calgary and Mickleham Prime Minister of Canada 1930-1935 to commemorate the association between Canada & the Diocese of Guildford in two World Wars 1914-1918 and 1939-1945'. The appellants' position is essentially that the commemorative significance of the site is confined to that stone, and that there is no substantive evidence that Lord Bennett's donation was intended to secure land free of development as a memorial. Having reviewed the documentary evidence in respect of Lord Bennett's donation produced by the

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<sup>35</sup> ID.1.22.

<sup>36</sup> CD.12.3, paragraph 4.4.53.

<sup>37</sup> CD.6.38, paragraph 4.9.

<sup>38</sup> CD.6.38.

<sup>39</sup> Viewpoints 03, 'Stoke Park, looking south-west', 04 'Pewley Hill', 06 'Hog's Back' 08 'Sydenham Road/ Bright Hill, looking north', 11 'Castle Motte, looking north-west'.

appellants of 4 January 2024 (the 'Bennett correspondence'),<sup>40</sup> in response to points made by FOSH and Angela Richardson MP referred to at the case management conference,<sup>41</sup> I disagree.

66. Turning to the Bennett correspondence, John Victor MacMillan, then Bishop of Guildford, first wrote to Lord Bennett on 6 October 1942.<sup>42</sup> He asked whether Lord Bennett would be 'interested in helping' the Cathedral purchase 'some land' from Lord Onslow. That is not a solicitation for general financial assistance, it was with a specific purpose in mind. The Bishop specified that the amount needed was £7,000, and that there was the possibility of 'getting a little bit more [land] which would be ideal for the Provost's house and other buildings in the future' for a further £3,000.
67. The Bishop explained the rationale behind that proposition as twofold. Firstly 'so that there will not be in days to come too near an encroachment of other houses.' Maintaining some openness around the Cathedral in respect of housing unconnected with the Cathedral was evidently intentional at that juncture, reinforcing my earlier reasoning. Secondly, he continues, that 'it did occur to me that the land or some part of it might perhaps take the form of a gift made in the name of Canada. It would be a wonderful thing if this new Cathedral which was rising in war time had especial association with Canada and all that we owe to her at this moment.'
68. Lord Bennett wrote to the Bishop on 21 January 1943 indicating his willingness to contribute on an annual basis towards land acquisition.<sup>43</sup> The Bishop's return correspondence of 2 February 1943 reiterated that he had 'a vision of part of that hill being acquired by Canadian gifts and remaining as a permanent memorial of Canada's many associations with us during these war years.'<sup>44</sup> Following some discussion with the Bishop and Provost, Lord Bennett wrote again to the Bishop on 23 March 1943 increasing his proposed gift to £10,000 amounting to the anticipated total cost of the land referenced above.
69. That contribution is recorded, albeit as an anonymous gift, in a contemporaneous Cathedral document entitled 'Guildford new cathedral fund. Contributions to site fund.'<sup>45</sup> By that time the cost of purchasing the totality of the green and red land had, however, increased to £11,032, 6s 6d.
70. As above the conveyance of 7 December 1942 is for the 'green land' for £7,000 and that of 24 May 1943 for the 'red land' for £3,750 (which likely rose in price from £3,000 referred to at paragraph 66 of this decision). As recorded in the Cathedral's site fund record referenced above at that juncture total donations amounted £12,543, 3s 10d. It therefore appears that the green land was bought by the Cathedral 'at risk' before Lord Bennett's donation, and that Lord Bennett's donation did not wholly fund land acquisitions in 1942 and 1943. Nevertheless his donation, within the terms it was solicited and given, represented the overwhelming majority of that funding. That is significant.

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<sup>40</sup> CD.16.1 to CD.16.37, summarised in ID.1.15.

<sup>41</sup> CD.14.3.

<sup>42</sup> CD.16.1.

<sup>43</sup> CD.16.3.

<sup>44</sup> CD.16.4.

<sup>45</sup> CD16.18.

71. Various reasons might have existed for Lord Bennett seeking to remain anonymous; that he wished to avoid any suggestion the donation was for personal recognition or so as to avoid other requests for donations to other causes seeming plausible. However the anonymity of his donation does not invalidate the agreement or contract entered into between him and the Bishop as to its purpose. That flows throughout the Bennett correspondence. There is some force in FOSH's point that 'when a person solicits and receives donations for a specific purpose, he remains bound by that purpose...'.<sup>46</sup>
72. In any event Lord Bennett's donation did not long remain secret after his death in 1947 (as reflected in the representation of the War Memorial's Trust). The ledger stone was unveiled by the Canadian High Commissioner on 22 July 1949, and reported upon by the Surrey Advertiser shortly thereafter. The development proposed would not, directly, affect the fabric of the Cathedral including the ledger stone. However its inscription clearly refers to the 'land on Stag Hill' as commemorative.
73. Whilst commemoration and remembrance are personal experiences, those observances are nevertheless typically associated not only with religion but solemnity, tranquillity and privacy. Inherent in my reasoning above, those are characteristics possessed, in particular, by the eastern meadow. Much of the eastern parcel of allocation A15 has been 'natural', secluded and tranquil compared to its surroundings for many decades (if not indefinitely).
74. The ordinary definition of a memorial is 'something by which the memory of a person, thing, or event is preserved, as a monument, a custom, or an observance'. Some have evidently, and understandably, valued the space about the Cathedral for that purpose since the early post-war years. There is a close connection between Guildford, west Surrey and East Hampshire with Canadian servicepeople.<sup>47</sup> The eastern meadow has, by consequence, taken on characteristics associated with remembrance. Again, therefore, the evidence points to a greater importance of the eastern meadow than attributed to it by the appellants.
75. The Bennett correspondence is not referenced in John Bailey's report of October 2015 in support of the previous application (reproduced at appendix 9 to the HIA).<sup>48</sup> There is also no indication that, in reaching decisions to allow applications for development of Cathedral land to proceed that the Cathedral Fabric Commission for England or Cathedral Fabric Advisory Committee specific to Guildford Cathedral were fully appraised of it (their function in any event being, in part, to support the Cathedral's mission).
76. The Bennett correspondence is not referenced in Foddy Consult's work in relation to the examination of the LPSS. It appears Nick Thomas, a former GBC officer who reached a positive view on the scheme's design during the Council's determination of application ref. 21/P/02333, did not have that information available to him.<sup>49</sup> His view was also caveated with: 'if considered necessary to mitigate heritage harm associated with the Cathedral setting, an

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<sup>46</sup> CD.11.9, paragraph 6.9.1.

<sup>47</sup> CD.12.13.

<sup>48</sup> CD.3.168 and 3.169.

<sup>49</sup> CD.7.32.



alternative approach would be to retain the meadow space entirely undeveloped as a semi-natural space with limited access'.<sup>50</sup>

77. However my review of the Bennett correspondence does not take me as far as suggesting that all of the land at Stag Hill should be considered effectively as a memorial.<sup>51</sup> The Bishop's correspondence of 2 February 1943 refers, for example, to 'part of that hill', and the total cost of the Cathedral's construction stood somewhere around £900,000.
78. In summary, insofar as relevant to this appeal, the special interest and significance of the Cathedral derives from a complex interplay of its history, origins, associations, design and relationship with both its immediate and wider surroundings. Those features variously attest to broader ecclesiastical, social, economic and architectural phenomena. The open and natural character of land around the Cathedral, principally at the eastern meadow, possesses some significance in itself through embodying aspects of those features, along with contributing to the surrounding context in which the Cathedral is presently contextualised, experienced and understood.

#### *The development proposed*

79. The development of 124 homes would be confined to the eastern and western parcels of LPSS allocation A15 (respectively 0.88ha and 2.40ha). Within the western parcel there would be 18 houses, representing a density of around 20.45 dwellings per hectare ('dph'). Within the eastern parcel there would be 12 dwellings at the eastern meadow and 94 flats at the eastern slopes, collectively a density of some 44.17dph.
80. Including 13 dwellings related to the Cathedral, GBC and the appellants agree that a total of 57 homes would be 'affordable' as defined in the glossary to the NPPF. That amounts to approximately 46% of 124, in excess of the minimum 40% expectation set via LPSS policy H2, criterion (2). The proposal also entails the provision of study, meeting and music spaces associated with the Cathedral's work (also intended to be community resources). The proposal would involve the provision of accesses, extensive landscaping and maintenance, engineering works and contributions towards various forms of infrastructure provision via the S106.

#### *The effects of the development proposed*

81. GBC's second reason for refusal in their decision notice, prefaced as relating to the 'design approach' of the scheme, is highly detailed. In particular it lists 12 alleged shortcomings in respect of design, drawing from Amanda Reynold's February 2023 critique of the scheme which followed Nick Thomas' review referenced above (the 'AR critique').<sup>52</sup> The AR critique, amplified in Amanda Reynold's proof,<sup>53</sup> was discussed extensively at the inquiry.
82. Development of approximately 100 homes at the site in line with LPSS policy A15 would inevitably entail change. The current proposal has been formulated

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<sup>50</sup> CD.7.32, paragraph 4.2.

<sup>51</sup> Moreover, NPPF paragraph 204 does not in any event prevent a balanced view being reached even were that to be the case.

<sup>52</sup> CD.7.65.

<sup>53</sup> CD.9.5.

over a long period, follows the previous scheme, and has also been revised successively in the light of discussion with GBC, including to take account of certain points raised via Design Review Panel ('DRP').<sup>54</sup>

83. In this instance the retention and augmentation of trees and vegetation near Alresford Road, contrary to the DRP recommendation to consider greater reduction, would be beneficial in terms of the scheme's affinity with the landscape history of the site and prevailing characteristics of the area (where properties tend to be well set back from roads often with established hedges demarcating front boundaries). Whilst the scheme would entail the loss of 69 trees, 7 tree groups and 2 stretches of hedgerow, it would also entail the planting of 385 new trees and bring much of the site under improved landscape management in line with LPPS policy A15, requirement (4).
84. There is, as Paul Finch reflects upon in high-level terms via his proof,<sup>55</sup> much to commend in respect of the intrinsic design of the scheme. As above the site area has consciously been expanded to 5.5ha from the allocation of 3.28ha to provide a more holistic approach to landscaping. The form, arrangement and density of dwellings proposed in the western parcel by Alresford Road is broadly consistent with the prevailing nature of the built environment towards the south. All told, development proposed there would have little effect on the experience of the Cathedral or lodges, either as proposed or as suggested to be altered via the AR critique.<sup>56</sup>
85. The articulation of buildings proposed at the eastern slopes is consciously arrived at in order to provide some relief to a sense of massing. The proposal would be, to some extent, reflective of the lively architectural jumble elsewhere around Guildford resulting from successive eras of development. From many LVA viewpoints there would be little interference with the overall form of the Cathedral. In line with LPSS policy A15 requirement (1) the scheme has evidently been designed to improve permeability through the site. Similarly, with reference LPSS policy A15 requirement (6), the scheme seeks to minimise the loss of open space and to establish designed and integrated public spaces with the development proposed.
86. Brick facing, drawing reference from that at the Cathedral and many nearby properties, is proposed (the details of which could be controlled via condition). Aside from being arranged in a suburban layout, and typically of 2 or 2.5 storeys, Amanda Reynolds acknowledges that there is no 'broad coherence' to the aesthetic of nearby properties.<sup>57</sup> As a further example of attention to detail, the balcony railings proposed are designed to reflect the lancet windows at the Cathedral. The scheme also aims towards high levels of environmental performance (noting that buildings which 'function well' and are 'sustainable' are referenced in NPPF paragraphs 131 and 135.a)).
87. I acknowledge that there is no compelling justification for replicating lower-density forms of development in response to current circumstances; NPPF paragraph 135.e) speaks of 'optimising the potential of the site to accommodate and sustain an appropriate amount and mix of development...'

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<sup>54</sup> CD.1.2.

<sup>55</sup> CD.12.9.

<sup>56</sup> Including from LVA viewpoint 8.

<sup>57</sup> CD.9.5, paragraph 3.2.8.

However, the southern slopes face towards Ridgemount and Onslow Village where a moderate to low density suburban form of development prevails, as does a traditional typology of houses at Scholars' Walk. The density proposed at the eastern parcel, some 44.71dph would be markedly different to those surroundings where density is around 23.39 to 31.31dph.<sup>58</sup>

88. The consequence of seeking to accommodate 124 homes on site is that not only the density at the eastern slopes, but also the form and mass of the 94 flats would have little affinity with the prevailing characteristics of the area. That dissonance of scale and bulk would be most apparent from LVA viewpoint 1 (comparing winter images 9.4 and 9.5).<sup>59</sup> Moreover, it appears that the scheme is consciously divergent from prevailing forms of development to the south of the Cathedral, proposing at eastern meadow development 'more akin to the University's courtyard blocks...'.<sup>60</sup> As set out above, UoS buildings little affect the southern context to the Cathedral.
89. As borne out by the appellants' evidence there is, moreover, little that is inherently distinctive in terms of the proposal's response to the site's topography or landscape context. Ian Fenn's proof explains how the buildings express a 'common architectural language', with 'bespoke designs for apartments and houses, which set dwellings into the hillside...'.<sup>61</sup> Similarly Paul Finch's description of the scheme might apply to many schemes in the abstract 'in this case a series of modest housing 'clusters' express themselves in the familiar language and materials of residential architecture, with pitched as well as flat roofs, balconies and familiar entrances and fenestration patterns.'<sup>62</sup> Neither flat roofs nor balconies are commonplace nearby.
90. As Graeme Keen KC aptly summarises 'there is proper scope for reasonable difference of approach in terms of document preparation and professional opinion.'<sup>63</sup> However, and following on from the foregoing reasoning, the creation of 12 dwellings at the eastern meadow would be clearly detrimental to the landscape setting of the Cathedral and to historic integrity.
91. In landscape terms it is common ground between the appellants and GBC that landscape sensitivity at landscape receptor L2 may fairly be described as 'high' (taking account of both value and susceptibility). It is also common ground between those parties that, in that respect, the scheme would result in a 'moderate to major' adverse landscape effect.<sup>64</sup> That magnitude of effect cannot readily be reconciled with a sensitive response to the landscape in line with LPSS policy D1, criteria (1) and (4) or NPPF paragraph 135.c).
92. Although tree planting would help the proposal assimilate with the existing nature of land around the Cathedral in time, and although the majority of townscape effects are agreed between GBC and the appellants to be 'minor/negligible',<sup>65</sup> it is common ground that the proposal would result in a 'major

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<sup>58</sup> CD.12.6, paragraph 9.5.

<sup>59</sup> CD.3.143.

<sup>60</sup> CD.12.6, paragraph 3.4.1.

<sup>61</sup> CD.12.6, paragraph 6.2.2.2.

<sup>62</sup> CD.12.9, paragraph 6.1.13.

<sup>63</sup> ID.1.22, paragraph 172.

<sup>64</sup> CD.3.142.

<sup>65</sup> CD.12.14, paragraph 4.26.

adverse' visual effect in respect of visual receptor V11.<sup>66</sup> That is reflected, in particular, in LVA representative viewpoint 25 looking across town from the eastern meadow, which is approximately the same as SPD viewpoint 15.<sup>67</sup> Again that is challenging to reconcile with DMP policy D4, criterion 3(b) and LPSS policy A15 key consideration (2).

93. Returning to significance in addition to landscape and visual effects, the 12 dwellings proposed at the eastern meadow would significantly reduce the extent of that presently open area. Whilst I accept the scheme would bring the remainder of that area under landscape management, and aid natural surveillance, the corollary is that the eastern meadow would lose many of the qualities that are intrinsic to it and to the significance of the Cathedral (wilderness, tranquillity, solemnity and privacy). Notwithstanding that the AR critique emerged relatively late in GBC's assessment of application ref. 21/P/02333, the importance of the eastern meadow was previously identified variously via the HIA, Foddy Consult, English Heritage and via the DRP.
94. Furthermore, following a period of mid-twentieth century expansion, the extent of the Cathedral's landholdings have since contracted significantly. Land to the north was sold to the UoS in 1964. Land to the south, now Scholars' Walk was sold in the 1990s. This proposal, particularly at the eastern meadow, would continue the erosion of the Cathedral's formerly natural surroundings. In my view that places some greater importance on protecting that significance which remains.
95. LPSS allocation A15, and the development proposed, would nonetheless avoid encroaching on the pilgrimage route framed by the lodges. Planting either side of that route, consistent with Maufe's 1932 plan but which has failed to take, would be reinstated. Moreover the lodges are designed to face residential development to the south and, invariably, experienced in conjunction with other nearby development. Although the surroundings in which the lodges would be experienced would change, that would not be to such an extent to adversely affect their significance. No conflict would therefore arise in that respect with the provisions of DMP policy D23 or of NPPF paragraph 209.
96. That is likewise my view in respect of the effect of the scheme to the setting and significance of the Castle. The expansive settings of both the Castle and Cathedral might accurately be described as co-extensive rather than the significance in those settings being intertwined. The Castle and Cathedral are of different eras. They and their settings embody very different symbolism, simplistically ecclesiastical history and authority respectively.
97. As noted above, by 1929 the use of Stag Hill as royal hunting grounds had long ceased. The construction of the Cathedral itself would have further eroded the associative connection in that respect. The Castle and Cathedral are, moreover, some 1.4km apart. They are separated by much of the built form of Guildford. The intervening ground between them represents a complex amalgam of different eras of development which will continue to change. Whilst the scheme would reduce the green collar immediately around

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<sup>66</sup> Noting the divergence between Jamie Cusack and Tanya Kirk as to when that effect would occur post development (immediately or as landscaping matures).

<sup>67</sup> Statement of Common Ground between GBC and the appellants, paragraph 5.32.

the Cathedral, combined with tree planting proposed, the implications of the proposal to the setting and significance of the Castle would nonetheless be so limited as to be fairly described as neutral.

98. Drawing together my reasoning, the proposal would result in a clear adverse effect to the setting and significance of the Cathedral with reference to design and landscape context. The proposal would conflict with the expectations of the LBCA Act and the provisions of LPSS policy A15 requirements (2) and (3), LPSS policy D1 criteria (1) and (4), LPSS policy D3 criteria (1), LPSS policy S3 criteria (5)c) and DMP policy D4 criteria 3)a), b) and f).

### *Consideration*

99. It is for the decision-taker, having identified that harm would result to consider the magnitude of that harm. In that context some 'natural' land around the Cathedral would remain undeveloped, and the tree planting proposed would soften the visual effect of the scheme in time. LPSS policy A15 inherently envisages some change to the setting of the Cathedral. As reflected throughout this decision, the setting of the Cathedral is extensive and the proposal would affect only part of it.
100. The magnitude of heritage harm to the Cathedral may therefore fairly be characterised as 'less than substantial' with reference to NPPF paragraphs 205 and 208. Nonetheless on account of my reasoning above, particularly as regards the existing value of the eastern meadow along with its origins and associations elucidated through the Bennett correspondence, I agree with Dr Barker-Mills that the magnitude of harm would be towards the middle of the spectrum within that categorisation.
101. Less than substantial harm does not, however, equate to a less than important planning consideration. NPPF paragraph 208 sets out that, in such circumstances, the extent of such harm should be 'weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. I now turn to that balancing exercise.

### **The planning balance**

102. The judgement in *Bramshill*,<sup>68</sup> which refers to *Palmer*,<sup>69</sup> reflects that there is no prescribed way in which heritage harms and benefits may be weighed against one another. Jason Clemons undertakes an 'internal' heritage balance where adverse and positive implications to significance are set against each other. He considers that the scheme would result in a 'very minor' level of heritage harm and a 'considerable quantum of heritage benefits' resulting in overall 'minor positive' effect to the significance of the Cathedral.<sup>70</sup>
103. That approach, however, sits awkwardly with the statement of common ground between GBC and the appellants ('SoCG'). The SoCG explains that it is agreed that less than substantial harm to the Cathedral would result.<sup>71</sup> James Lacey's proof also sets out how less than substantial harm would result, albeit

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<sup>68</sup> CD.15.3.

<sup>69</sup> CD.15.6.

<sup>70</sup> CD.12.3, pages 52 and 53.

<sup>71</sup> Paragraph 5.6.

that a 'minor level of heritage benefit' should be accorded 'limited weight'.<sup>72</sup> That appears to be an 'external' heritage balance where any harm is established initially, before turning to any public benefits.

104. It cannot be that there is both a 'minor positive' effect of the scheme to the significance of the Cathedral and also less than substantial harm. I have reasoned, consistent with the position in the SoCG that less than substantial harm would result. An 'external' balance therefore is most apt, an approach has the added advantage of addressing any public or other benefits of the scheme once (in the light of the complexity of evidence before me referenced above). Moreover the principal benefit of the scheme advanced by the appellants is that it will enable the creation of an endowment to contribute towards Cathedral maintenance. That may be characterised both as a heritage benefit in itself, and a public benefit by virtue of what it seeks to achieve (to assist maintaining an irreplaceable resource).

#### *The endowment*

105. Andrew Pianca sets out in his proof current Cathedral funding arrangements and processes.<sup>73</sup> There is no state funding for Cathedrals, which are independent charities governed by the Cathedral Chapter board of trustees. For many years Guildford Cathedral has been running a deficit. Financial reserves have declined. Guildford Cathedral benefits from little by way of existing legacies or endowments. Certain endowments that exist must be devoted to certain purposes, for example to Cathedral music. That is in contrast to some older cathedrals, which benefit from greater legacies, endowments, property ownership or footfall.
106. In respect of the fabric of the Cathedral there is only an endowment of £245,000 which yields around £7,000 annually. Whilst there is also an expendable endowment of £572,000, that may only be directed to 'the improvement or development of any property other than the Cathedral and ancillary buildings'. Clearly existing endowments are insufficient to make a meaningful contribution to ongoing maintenance. The latest Quinquennial Survey of September 2022,<sup>74</sup> identified that works of varying urgency amounting to some £3,570,000 will be required in time.<sup>75</sup> Certain defects are detailed by the Cathedral's Architect, John Bailey,<sup>76</sup> who helpfully pointed out various features during my site visit of 25 March 2024.
107. I heard at the inquiry how the Cathedral has entered into an agreement with Vivid Housing Ltd. to sell to them the appeal site at an already-agreed amount in the eventuality the appeal were to be allowed. That amount would be invested by the Cathedral to generate a return or endowment to be used for maintenance works. The 'green land' conveyed to the Cathedral in 1942 is held in charitable trust under the jurisdiction of the Charity Commission. That is anticipated to generate about 82.26% of the capital receipt from the foregoing sale.<sup>77</sup> The 'red land' conveyed to the Cathedral in 1943 was, at the time the appeal was made, instead under the jurisdiction of the Church

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<sup>72</sup> CD.12.12, table beneath paragraph 9.5.

<sup>73</sup> CD.12.15.

<sup>74</sup> CD.17.6.

<sup>75</sup> CD.12.15, tabulated at 3.3.

<sup>76</sup> CD.12.15, appendix 3.

<sup>77</sup> Some 76.4% of the appeal site area (ID.1.21).



Commissioners. The sale of the red land is anticipated to generate about 17.74% of the capital receipt from the sale.<sup>78</sup>

108. In short, the red land is subject to less stringent restrictions than the green land. It is therefore common ground between GBC and the appellants that the endowment associated with the green land may be treated as providing for building maintenance but the endowment associated with the red land may not (on a cautious approach).<sup>79</sup> Setting aside any proportionate split from the green and red land, the invested proceeds of the sale of the appeal site is anticipated to generate an annual return of around £270,000 (on a conservative estimate). Over five years the total endowment may therefore generate something in the order of £1,350,000 to fund maintenance. That is undoubtedly a clear benefit in the light of existing financial constraints; as John Bailey puts it, there is a 'high risk' that the material state of the Cathedral will decline if necessary works are not carried out.
109. However, numerically £1,350,000 represents only around a third of the Quinquennial Survey's estimated works. GBC indicate that, if the red land proceeds are discounted from that, the contribution would fall to some 23% of those works.<sup>80</sup> Therefore, irrespective of the outcome of the scheme, the Cathedral will continue to be predominantly reliant on other sources of funding for upkeep. Other sources of funding have periodically become available, for example the Cathedral secured Heritage Lottery funding in 2016 of £6,000,000 to fund asbestos removal. Other grants will, in all likelihood be available in time, albeit I accept their being secured is uncertain.
110. I acknowledge, as Graeme Keen KC puts it compellingly on behalf of the appellants, that the scheme is the 'one thing' that the Cathedral can practically do to improve its financial stability. However the Cathedral has attempted that one thing before. Land was sold to the UoS in 1964. Land was also sold for the construction of Scholars' Walk in the 1990s. There is no evidence before me as to what became of any funding generated in that manner.
111. I acknowledge that the proposal is not for enabling development. However there is nothing in the way of a (financial) viability appraisal or residual valuation before me related to the development proposed. The onus is principally on an applicant to substantiate their case.<sup>81</sup> That, to my mind, is a significant evidential shortcoming as the creation of an endowment is tied to an agreement to sell the appeal site to the developer at a given price, the details of which cannot be interrogated.<sup>82</sup> As Kelly Jethwa notes the appellants have not advanced the argument that a smaller scheme 'would be unviable or otherwise undeliverable'.<sup>83</sup>

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<sup>78</sup> Some 23.6% of the appeal site (ID.1.21).

<sup>79</sup> Notwithstanding I understand that on 7 March 2024 the Cathedral became fully subject to the Cathedrals Measure 2021 and thereby under the supervision of the Charity Commission.

<sup>80</sup> CD.9.4, paragraph 7.4.12.

<sup>81</sup> Section 62(3) 1990 Act

<sup>82</sup> Noting that the PPG explains how such work should, if presented, be transparent, apply standardised inputs and that the price paid for land cannot be a justification for failing to accord with relevant policies in the plan (Reference ID: 10-010-20180724 and 10-011-20180724).

<sup>83</sup> CD.9.4., paragraph 5.1.10.

### *Other benefits*

112. The appellants seek to 'complete' aspects of Maufe's vision for the Cathedral and its surroundings.<sup>84</sup> A garden would be created to the south of the crossing tower, planting reinstated or added along the southern and western approaches, and the grounds of the Cathedral more broadly would be landscaped and maintained. Those measures would to some extent make a positive contribution to the Cathedral in line with NPPF paragraph 212 (as would the creation of a community orchard echoing wartime allotments).
113. However in qualitative terms those measures would be far less impactful than the harm that would result. I have also explained how greater management of the site would, particularly at the eastern meadow, erode qualities that contribute to significance. Completing elements of an original vision is itself anachronistic. No one would argue that it would be either historically accurate or beneficial to now seek to complete Wren's original plan for London.
114. The proposal would be clearly beneficial in terms of enabling housing and affordable housing (alongside associated economic benefits). Much of the appeal site is allocated and some, around Cathedral Close, is previously developed land. Delivery of development at and around Guildford is not without its challenges on account of various constraints including the SHAONB and Green Belt. Gemma Saffhill's evidence and contributions at the inquiry refer to acute needs for affordable housing.<sup>85</sup>
115. However housing delivery at allocation A15 is neither necessary in pursuit of a demonstrable five year housing land supply, nor to achieve housing delivery exceeding the figure of 10,678 set via LPSS policy S1, criterion (1). Similarly the LPSS was not premised on meeting full affordable housing needs, estimated at the time of its preparation to be around 517 households per annum relative to the LPSS intention to deliver a total of 562 dwellings, both market and affordable, annually. As the Inspector who examined the LPSS explained, for the plan to have sought to meet full affordable housing needs would have resulted in it becoming divorced from its demographic starting point.<sup>86</sup> Housing affordability remains a persistent and complex issue.
116. The proposal would enable the creation of 13 Cathedral dwellings in place of 7 presently and various facilities that would support the Cathedral, its mission, and the social good of the Anglican Church more broadly. That represents a clear social benefit to the scheme weighing in favour of the appeal, particularly as the Cathedral has struggled to attract workers previously (which cannot have been helped either by prevailing property prices or the deteriorating state of Cathedral Close properties).
117. The S106 agreement contains various obligations towards infrastructure funding. It appears the appellants invite me to ascribe weight in favour of the scheme to those contributions in enabling 'wider improvements to local infrastructure through financial contributions.'<sup>87</sup> At their very limits those contributions would fund measures beneficial to the community as opposed to

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<sup>84</sup> CD.12.4., paragraphs 3.5 and 3.7.

<sup>85</sup> CD.12.11., reiterated in ID.1.22, paragraphs 15 to 21.

<sup>86</sup> CD6.41, paragraph 35.

<sup>87</sup> CD.12.4, paragraph 3.19.

only those occupants of the proposed dwellings (for example transport improvements). However, fundamentally, obligations should only be used in order to render unacceptable development acceptable. As in NPPF paragraph 57 they should also only be sought where they are directly related to the development and fairly and reasonably related in scale and kind. In essence, therefore, the obligations proposed are squarely to address the implications of the development proposed.

118. The scheme would beneficially improve permeability through the site, provide an alternative route to travelling along Ridgemount and Alresford Road within the site, and manage drainage and surface water runoff. Dwellings would be designed to achieve high levels of environmental performance. Electric vehicle charging points would be provided as would a communal car club. Biodiversity net gain ('BNG') of 3.09% is also proposed. Nevertheless, in several of those respects the broad expectation is now that any proposal would meet certain requirements; notably in respect of surface water runoff relative to LPSS policy P5 criterion (5), electric vehicle charging points pursuant to the Building Regulations 2010 as amended, and 10% BNG has been statutorily in applications for major development made since 12 February 2024.

#### *Alternatives*

119. I have consciously been circumspect in attributing weight to the foregoing benefits. Word scales reflecting weighting are inevitably imprecise. Moreover balancing different factors in a decision is not reduceable to an equation; words may exist in different equations, let alone representing different units. In this case, however, there is a particular issue as to what extent alternative approaches might be taken at the site under the remit set via LPSS policy A15. In my view it is fair, reasonable, and necessary to address that issue as it has a bearing on the weight attributable to any benefits.
120. Whilst the circumstances in the case to which the judgement in *Langley Park* related are inevitably context specific,<sup>88</sup> there are some principles of relevance. A scheme may fall somewhere within a range of clearly acceptable to clearly unacceptable. The judgement in *Langley Park* explains 'where any particular application falls within this spectrum; whether there is a need to consider the possibility of avoiding or reducing the planning harm that would be caused by a particular proposal; and if so, how far evidence in support of that possibility, or lack of it, should have been worked up in detail by the objector or the applicant for permission; are all matters of planning judgement.'<sup>89</sup> The further through that spectrum towards clearly unacceptable, 'the more likely it is that it will be relevant, and may in some cases be necessary to consider whether that objection could be overcome by an alternative proposal.'<sup>90</sup>
121. The existence of potentially 'less harmful' approaches is irrelevant to establishing the magnitude of harm in the first instance (*East Quayside*).<sup>91</sup> The *East Quayside* judgment nevertheless explains that 'this, of course, is not to say that the absence of an alternative design that would cause less harm

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<sup>88</sup> CD.15.14.

<sup>89</sup> Ibid., paragraph 53.

<sup>90</sup> CD. 15.4, paragraph 45., drawing upon *Trusthouse Forte Hotels Ltd v Secretary of State for the Environment* (1986) 53 P. & C.R. 239., which dealt with alternative sites.

<sup>91</sup> CD.15.4.

than the development proposed is irrelevant to the decision on the application for planning permission, and an immaterial consideration... it can be relevant, and may be important, in the balance finally struck between harm and benefit.'

122. I note that DMP policy D18(4) requires justification that any 'resultant harm is considered to be necessary or desirable', and that NPPF paragraph 206 similarly speaks of 'clear and convincing' justification. The PPG also refers to potential for 'alternative development options, for example more sensitive designs or different orientations, that will both conserve the heritage assets and deliver public benefits in a more sustainable and appropriate way'.<sup>92</sup> The appellants accept that 'it *may* be possible, in some cases, for an alternative scheme to be a material consideration, relevant in the balance struck between harm and benefit'.<sup>93</sup> Therefore there appears to be no error of commission in my considering potential alternative approaches here.
123. I acknowledge that the AR critique does not offer the level of detail advanced via the appellants' scheme. However it is plainly more than 'an almost meaningless exercise'.<sup>94</sup> In particular in respect of site constraints and opportunities it indicates the potential for design, landscape and heritage effects of the scheme to be reduced. It appears uncontentious, and also aligned with my reasoning throughout this decision, that the 12 dwellings proposed at the eastern meadow would be particularly detrimental.
124. Even if little meaning can be attributed to the AR critique, given that allocation A15 sets out parameters in respect of which a judgement is necessary in decision-taking, and section 66(1) of the LBCA Act applies 'in considering whether to grant permission' it is sensible to ask what might be achievable here in any event. With that in mind, our understanding of the location of the 'pink land' shown on the 1929 plan, and the annotated hatched area shown on that plan and in plans of 1942 and 1957 has changed since the HIA of September 2021 and Foddy Consult's evidence which informed the examination of the LPSS. Our understanding of significance has also changed as a result of the Bennett documentation.
125. What appears to have occurred in the evolution of the proposal is, however, an inadvertent 'anchoring' of numbers. The previous scheme was for 134 dwellings, the current proposal is for 124. Whilst that is a reduction from the anchor of 134, it is nevertheless numerically more than 'approximately 100' as in LPSS A15. Moreover it appears that the 'approximately 100' figure referred to in LPSS policy A15 is logically 'gross', namely in combination with the 7 existing properties at Cathedral Close as opposed to 'net', or in addition to them. As above the examination of the LPSS was informed by the report of Foddy Consult, which referred to the then emerging allocation of a site of 3.46ha at a density of 28 dwellings per hectare. That calculation accounts for the redevelopment of Cathedral Close.
126. Furthermore the LPSS was also informed by a 2016 Land Availability Assessment, which refers to the potential number of homes at the site being

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<sup>92</sup> Reference ID: 18a-008-20190723.

<sup>93</sup> ID.1.22, paragraph 147.

<sup>94</sup> ID.1.22, paragraph 156.

'93(net), 100(gross)'.<sup>95</sup> The Inspector who examined the LPSS was evidently not persuaded that the site allocation should exceed more than approximately 100 dwellings. He, moreover, reasoned that harm would not necessarily arise by virtue of the allocation; 'with sensitive design and appropriate scale it would be possible to achieve the development of 100 homes on site A15 without harming the setting of Guildford Cathedral.'<sup>96</sup> That suggests, albeit perhaps an offhand phrase, that there is a potential approach that may entail lesser harm.

127. The anchoring of the scheme to a number of dwellings becomes most clear in a letter on behalf of the Cathedral of 24 February 2023 setting out the context to the proposal, which explains how 'The Cathedral Chapter has considered the argument of financial gain versus potential 'harm' very carefully and is confident that the land receipt generated from Vivid (and therefore the proposed planning application of 124 dwellings), is the minimum that is required to generate the required annual endowment.'<sup>97</sup> That continues to have echoes in the design evidence before me, Ian Fenn's proof setting out how the design brief included the objective to 'deliver sufficient homes to deliver the financial objectives of the Cathedral.'<sup>98</sup>

128. In that context, in the absence of suitable justification for the level of development proposed financially or otherwise, I cannot rationally conclude that similar benefits could not be achieved in a less harmful way. That absence of justification serves to qualify the weight attributable to the benefits of the proposal such that I also cannot conclude that they provide the necessary clear and convincing justification for the scheme.

## **Conclusion**

129. For the reasons given above the proposal would not only conflict with relevant provisions of the development plan set out in paragraph 98 of this decision, but also LPSS policy D3, criterion (2), DMP policy D18, criteria 1)d) and e) and thereby LPSS policy S1, criterion (1). Although there are various moderating factors, and in certain respects the proposal would comply with relevant policy provisions, the proposal nevertheless conflicts with the development plan as a whole. Even if the scheme were acceptable in all other respects, no other material considerations in favour of the scheme justify allowing the appeal. I therefore conclude that the appeal should be dismissed.

*Tom Bristow*

INSPECTOR

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<sup>95</sup> CD.11.7.

<sup>96</sup> CD.6.41, paragraph 196.

<sup>97</sup> CD.5.16.

<sup>98</sup> CD.12.6, box under paragraph 3.1.7.

## **SCHEDULE OF APPEARANCES**

### FOR THE APPELLANTS:

Graeme Keen KC	Landmark Chambers
Ian Fenn	JTP
Paul Finch	Emap
Jamie Cusack	Macgregor Smith
Jason Clemons	Vitruvius Heritage
Andrew Pianca	Guildford Cathedral Treasurer
James Lacey	Vail Williams
Andrew Muthusami	RSK
James Bevis	i-Transport
Gemma Saffhill	tor&co
John Bailey	Cathedral Architect
The Venerable Stuart Beake	Interim Dean of Guildford Cathedral

### FOR GUILDFORD BOROUGH COUNCIL ('GBC'):

Tom Cosgrove KC	Cornerstone Barristers
Jack Barber	Cornerstone Barristers
Kelly Jethwa	GBC
Amanda Reynolds	AR Urbanism
Dr Nigel Patrick Barker-Mills	Barker-Mills Conservation
Tanya Kirk	Hankinson Duckett Associates
Laura Howard	GBC

### FOR FRIENDS OF STAG HILL ('FOSH')

Dr Christopher Cotton	FOSH, local resident
Christopher Cooney	FOSH, local resident
Peter Watts	FOSH, local resident

### THIRD/ INTERESTED PARTIES:

Esther Parry	Local resident
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