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OXFORD CITY COUNCIL

Oxford Local Plan 2045
Submission Draft
COMMENT FORM

Part A

You only need to fill Part A in once

128

Your name: Mr M Hanson Heine c/o John Phillips Planning Consultancy

Organisation (if applicable):

Address: [redacted]

Email: [redacted]

Date: 12th March 2026

Data protection:
Please note that your response will be made available for inspection by the public in paper form at the Council's offices, or other locations as appropriate for the purpose of facilitating public access.

Your personal details will be properly safeguarded and processed in accordance with the requirements of the General Data Protection Regulation (GDPR) 2018. Your information will be used for The Oxford Local Plan 2045 Proposed Submission Consultation only, and we will only store your data until the Oxford Local Plan 2045 is accepted. Information you give in this form could be shared with the Independent Examiner at the examination stage of the Local Plan process.

We cannot accept anonymous comments.

☒ If you are happy for us to state your name and the first line of your address and postcode when publishing your response(s), please tick this box.

☐ If you would rather all personal details except your name and a non-specific address (e.g. Oxford) to be obscured, please tick this box.

	Yes	No
Do you wish to speak at the examination hearings? (Please note that the Inspector will decide who to invite to speak)	○	◉
Do you wish to be notified when:		
the Council submit the Oxford Local Plan 2045 to the Government?	◉	○
the Inspector's Report is published?	◉	○
the Oxford Local Plan 2045 is adopted by the Council?	◉	○

GENERAL ADVICE

For advice on making a comment, please see the accompanying notes page. It is also available at www.oxford.gov.uk/oxford-local-plan-2045

When completing the form,

- You only need to complete Part A once
- Use Part B to make your specific comments. You may complete Part B multiple times to comment on different parts of the Oxford Local Plan 2045.
- Cover concisely all the information and evidence you feel supports or justifies your view, as this will normally be your only opportunity to tell us about it.
- Be as precise as possible.

HOW TO SUBMIT YOUR COMMENTS

Please submit completed forms by email or post to:

planningpolicy@oxford.gov.uk

Planning Policy Team
Oxford City Council
Town Hall
St Aldate's
Oxford
OX1 1BX

If you have any questions please feel free to get in touch with the Planning Policy Team
T: 01865 252847
planningpolicy@oxford.gov.uk
www.oxford.gov.uk/localplan2040

Please ensure your comments reach us by **4.00pm on Friday 13th March 2026.**
Thank you for participating.

DETAILS OF YOUR COMMENT

Part B

Please use a new Part B for each point you are commenting on. Attach all completed forms to Part A.

Please read the accompanying notes before completing Part B. The notes explain what we mean by soundness and legal compliance. These are questions that we are expected to ask consultees.

Q1. Which part of the document do you wish to comment on? (please give the relevant paragraph or policy number)

Paragraph		Policies Map	Yes
Policy Number	H6, E5, C1	Sustainability Appraisal	n/a

Q2. Do you consider that the document:

(a) is legally compliant?	◉ Yes	○ No
(b) is sound?	○ Yes	◉ No
	○	○

Q3. Do you consider that the document is **unsound** because it is <u>not</u>: (tick as appropriate)

(a) positively prepared?	☑	(c) effective?	☑
(b) justified?	☑	(d) consistent with national policy?	☑

Q4. Please tell us below why you consider the document to be unsound or not legally compliant. If you do believe the document is sound or legally compliant, or complies you may use the box to explain why.

Please refer to JPPC Statement dated 12th March 2026

Please use an extra sheet if completing a paper copy.

Q5. What change(s) do you consider necessary to make the document sound or legally compliant? Please explain why this change will achieve soundness or legal compliance. It would be helpful if you could suggest revised wording for the policy or text in question.

Please refer to JPPC Statement dated 12th March 2026

Please use an extra sheet if completing a paper copy.

This is the end of the comment form

JPPC
CHARTERED TOWN PLANNERS

JPPC ref: HV/SS/8866

Planning Policy Team,
Oxford City Council,
Town Hall, St Aldate's,
Oxford OX1 1BX

Sent electronically

12 March 2026

Dear Sir/Madam

OXFORD LOCAL PLAN 2045 – REGULATION 19 CONSULTATION

HEADINGTON SHARK HOUSE AT 2 NEW HIGH STREET, HEADINGTON

1. Thank you for the opportunity to comment upon the Reg. 19 submission – this submission follows on from the comments made in March 2025 on behalf of the owner of the above site. No2 New High Street ("Headington Shark House"; March 2025 correspondence attached as **Appendix 1**) in which we suggested the allocation of this site for development and to suggest an amendment to the boundaries of the Headington District Centre.

2. In respect of the Draft Local Plan and the policies within it, we wish to make the following comments:

   Policy H6 – development involving the loss of dwellings

3. We accept that there is a strong presumption against the loss of housing stock in the Draft Plan. However, we believe that the current drafting of Policy H6 fails to provide any flexibility for highly site-specific circumstances which may make a property less well-suited to retention as a private dwellinghouse or on the other hand a truly exceptional scenario where the loss of a self-contained dwelling may result in overriding planning benefits. The list of exemptions to the general presumption against loss of dwellings within Policy H6 ((a) to (c)) would benefit from the inclusion of an additional criterion ((d)) to reflect such circumstances.

4. Shark House represents an example of where such a policy approach could be applied successfully - it has been our client's desire for a number of years to use it to provide short-stay lettable accommodation for visitors to Oxford. Appeals against the refusal of planning permission and a Planning Enforcement Notice were dismissed by the Planning Inspectorate on 11th December 2024. – **Appendix 2**.

Contact:
[redacted]

5. The Appeal against the Planning Enforcement Notice under Ground (a) and the appeal against the refusal of planning permission both failed seemingly only because of the conflict with Policy H5 of the Local Plan 2018-2036[1]. i.e. not because of amenity, transport or other relevant policies or impacts. Only due to the location just (a few metres) on the wrong side of the district centre boundary line.

6. The Inspector felt that they could not be in a position to support the development despite the absence of any direct harms despite reference to the wider planning benefits of the proposed development. Thus an otherwise locally useful development opportunity has been passed by solely due to a failure to accord with Policies H5 and V5 of the current Oxford Local Plan.

Change 1

7. As we made clear in our submission of March 2025, whilst we acknowledge the Council's objective is to increase its overall housing supply and that it would not wish to see this undermined by individual planning decisions, the property in question (Shark House) ought to be considered individually by virtue of the fact that it is the subject of many special visits (to see the fibreglass shark whose tail protrudes from the roof of the property). The fact that the property is a tourist attraction in its own right – it is a local landmark, appearing on the third page of Headington's Neighbourhood Plan and with signage from London Road which has been paid for by the City Council– makes it less attractive to typical residential occupiers who may prefer not to have tourists prying through the front windows or standing outside taking photographs.

8. On the other hand, visitors to the City may well enjoy the cachet associated with a short-stay in the Shark House. Whilst the building is not statutorily listed, it is a non-designated heritage asset appearing on the City Council's register of Heritage Assets. The owner of the property relies upon income from guests to ensure the building's continued upkeep. It draws in visitors to the local area, who spend their money in local cafes and shops.

9. The Shark House, in our view, is an example of a property which would benefit from a policy exemption or a positive policy criterion– only to be relied upon in very exceptional cases – where the loss of residential accommodation to alternative uses (the alternative use preferred in this case is quasi-residential) ought to be acceptable if a compelling case can be made for it.

10. Without such a criterion it is likely to be more expensive to run properties like this – this increases the risk that they will degrade or the special interest of the property will be removed- this particular property is much more expensive to maintain than a normal property.

11. We seek a change to policy.

Change 2

<u>Policy E5 – Location of hotel and short stay accommodation</u>

[1] Policy H5 of the Oxford Local Plan 2016 – 2036 performs the same function as Policy H6 of the Draft 2045 Local Plan

12. The policy as drafted seeks to limit the location of hotel and short stay accommodation to:

a) The City Centre;
b) District Centres;
c) Sites allocated for that purpose;
d) Sites on Oxford's main arterial roads where there is frequent and direct public transport.

13. In our view, and having regard to the particular circumstances of our client's site, it would be appropriate to amend criterion (b) to "District Centres **or (appropriate) locations within up to 100 metres of the boundary of a District Centre".**

14. Amenity policies are capable of protecting neighbours. Policies should not be so rigid as to prevent good development from occurring.

15. Among the background papers and evidence which has informed the Council's Draft Local Plan is the 2023 Hotel and Short Stay Accommodation Study (Bridget Baker Consulting Ltd). In 2019, Oxford was the ninth most visited town/city by staying international visitors. The City has a good range of hotel and serviced accommodation, however there is evidence to show that there will be need for further short-stay accommodation, particularly in district centres such as Headington and Cowley – this is not surprising in Headington, given its proximity to the hospitals and Brookes University and it is one of the first points of entry into the City for those travelling by bus from Central London or the London Airports. However, the largely residential nature of the setting of the Headington District Centre (and the size of sites within the District Centre) would make it very difficult to provide new hotels here, or even to expand existing hotels and guesthouses.

16. There is an obvious need for variety in offer to ensure that all visitors are catered for and whilst it is important that the Council can regulate short-stay accommodation to avoid overconcentration, sites such as this can still play a role in helping to meet demand for short stay accommodation in and adjacent to District Centres. We would encourage the Inspector to provide a more nuanced and flexible policy the appropriateness of a policy that could ensure that this demand is met.

17. We also note that the Council is doing well in meeting its housing needs and that 'loss' of low numbers of individual properties would not harmfully impact housing supply but will assist in securing jobs for local residents.

18. NPPF paragraph 86 identifies that policies should not be rigid and should be flexible to account for change. The present policy is insufficiently flexible.

19. The NPPF also identifies that for 'town centre uses' local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. That applies very well to the change that we propose above.

20. We consider that the plan is unsound because it does not provide sufficient 'range' to meet needs (NPPF paragraph 90d). This accommodation is much needed and much used- hence why the OCC development control team look at a number of short-let sites and carry out investigations. There is clear and evident pent-up demand. By focussing on big sites the Local Plan omits to consider the more responsive type of business we suggest should be able to operate with the change we seek.

21. Paragraph 90e of the NPPF supports the proposal.

22. There are no allocations for new hotels that we are aware of. The policy framework is not sufficiently addressing needs as expressed by visitors seeking individual experiences as opposed to larger corporate style hotels.

Change 3

Policy C1 / Policies Map

23. As we noted in our correspondence of March 2025, we believe that the boundary of the Headington District Centre ought to be altered to include no's 2, 2a, 4a – 4f New High Street. We have included an excerpt from the Policies Map including a red dotted line to explain the area we believe ought to be included within the designated District Centre.

24. As well as Shark House – and the proximity of its neighbour to the north (no 2a) to the beer garden of the Royal Standard PH – the identified terrace on the western side of New High Street also includes a hairdresser and barber's shop. One needs to walk past Shark House to access these.

25. Given the commercial offer they present the de facto commercial area does extend further south than what has been mapped. This offers support to the first policy change we offer by better remarking on the character of this area and accurately reflecting the on the ground situation.



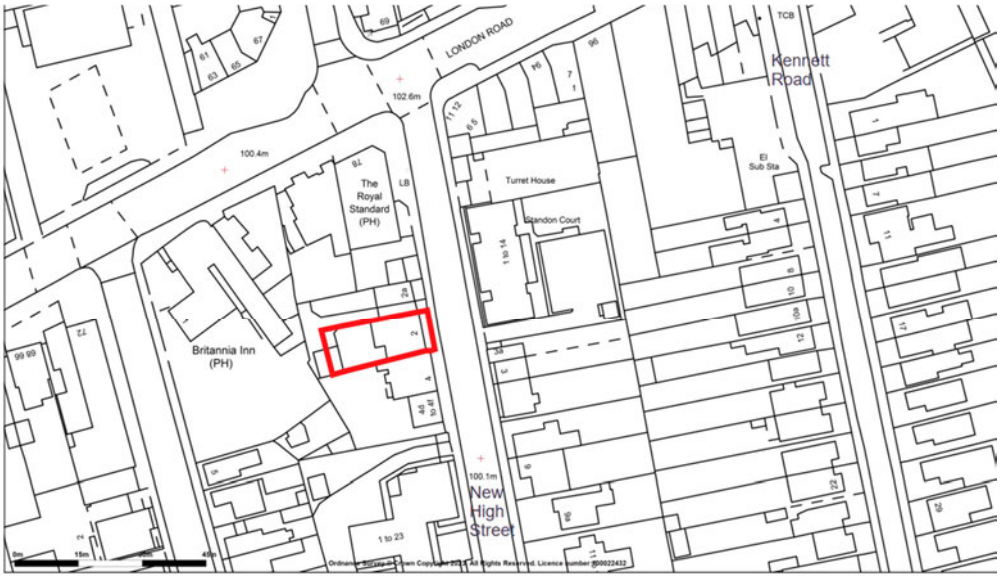
Change 4

26. Finally the fourth change we seek is that the Headington Shark House should be allocated for visitor accommodation. Given the clear absence of real harm from the use of the premises for visitor accommodation (noting appeal decision findings) providing an allocation for the site would allow the site to realise its potential and benefit to the local area and economy but would not harm the

wording of the present policy because that allows for allocated sites to come forward.

27. There is no minimum site size for allocation. The singular nature of this site means that it cannot be made into a bigger site. It would be an asset to Oxford for this site to be able to be used as proposed.

28. We desire that the site at Headington Shark House 2 New High Street (as mapped below) be allocated for short-stay accommodation.



29. Using the styling of the Local Plan framework it would look like this:

Site area	0.025ha
Ward	Headington
Landowner	M Hanson Heine
Current Use(s)	dwelling
Flood zone	Flood Zone 1
Notable heritage assets	The site itself is a non-designated heritage asset- Headington NP
Notable ecological features	None
Urban Greening Factor score	None- neutral

Policy HSS1: 2 New High Street
Planning permission will be granted for use of the premises for short-letting **Open space, nature, flood risk** a) Development proposals should retain existing green areas **Urban design and heritage** b) The site will ensure the continuation of the Shark protruding from the roof of the building **Movement & access** c) No vehicular parking will be provided for guests d) Prioritization of active travel will be sought **Management** e) A scheme shall be provided to ensure suitable management controls are put in place, in relation to visitor numbers and signage f) A scheme for the sustainability improvement of the site's heating system shall be provided

30. We do not believe that any other factors are required to be expressed in the policy given its smaller scale and absence of new building work but would be pleased to engage with the LPA on this matter.

Yours faithfully

Simon Sharp LLB (Hons) MSc MRTPI

[redacted]

Appendices

1. comments of 14th March 2025
2. appeal decision dated 11th December 2024

Appendix 1

JPPC
CHARTERED TOWN PLANNERS

JPPC ref: HV/SS/8866

Oxford City Council

Planning Policy Team
(sent by email)

14th March 2025

Dear Sirs

Oxford Local Plan 2042-
Response to "Call for Sites" Consultation and Representation with Regard to Future Planning Policy Designation of Headington District Centre

Headington Shark House at 2 New High Street, Headington

1. This representation is being written as a letter as it is does not neatly fall into the information boxes on the Council's proforma.

2. This letter is written for two purposes. Firstly to suggest the allocation of a site for development, and secondly if the site put forward were not to be allocated as requested to seek an amendment to the definition of the Headington District Centre.

3. This site was promoted previously when Oxford City Council undertook a Call for Sites in the autumn of 2023 to feed into the assessment work to be undertaken as part of the Oxford Local Plan 2040. Following the formal withdrawal of that Plan in January 2025, the City Council has asked for landowners and developers to promote sites for a potential range of future uses.

4. Whilst all sites previously submitted are said to be part of the Housing and Economic Land Availability Assessment process, it is worth updating Officers with regard to the site's planning status following the dismissal of planning appeals (one of which was an enforcement appeal) in respect of the use of Shark House as short-stay letting accommodation.

5. The Appeals were dismissed, however only on the basis of the conflict between the use and the portion of Policy V5 which seeks to resist the loss of housing stock. No amenity harm was found. The particular benefits of allocating this site as short-term letting accommodation outweighs what is considered to be a negligible conflict with the overall aims of this part of the Policy, as this Statement explains.

Call for sites/Suggestion for a site allocation

6. Policy E5 of the draft for comment OLP 2040 – now withdrawn - stated that planning permission for short stay accommodation will only be allowed when certain criteria are met. One of those is that the site is allocated for development. We assume that the draft policy will be carried over into the Submission Draft Local Plan when this is published towards the end of 2025.

7. We consider that the site at 2 New High Street can be sensibly allocated for short-stay accommodation.

8. The address for the property does not give away that this is a property of particular interest. Indeed many people will know this house as the Headington Shark House, for it is the somewhat ordinary terraced house which has a full-sized (7m long) fibre-glass model of a shark atop.



Figure 1- the Shark House

9. Indeed the property is of some particular planning interest. The sculpture was conceived by the late Bill Heine (local BBC radio presenter) and sculptor John Buckley, created in secret, and erected without planning permission to the shock of many on 9th August 1986, starting what ended up being a six-year long battle to keep it in place.

10. While the initial reaction to the shark was heavily polarized, the sculpture quickly gained a strong national and international following, with people coming from all over the country to speak in its defence at various public forums. The owner's battle with Oxford City Council progressively escalated through the planning process following an enforcement notice being issued and, rarely for such a small development, went all the way up to the national government, where the then Secretary of State for the Environment Michael Heseltine finally made a personal visit and ruled that it should be allowed to stay.

11. In defence of the shark staying, Heseltine's planning inspector, Peter Macdonald, made an official ruling that has gained prominent status among town planners for its defence of public art: "*In this case it is not in dispute that the shark is not in*

harmony with its surroundings, but then it is not intended to be in harmony with them.... The council is understandably concerned about precedent here. The first concern is simple: proliferation with sharks (and heaven knows what else) crashing through roofs all over the city. This fear is exaggerated. In the five years since the shark was erected, no other examples have occurred… any system of control must make some small place for the dynamic, the unexpected, the downright quirky. I therefore recommend that the Headington Shark be allowed to remain."

12. The property has its own Wikipedia page. It has been the subject of countless mentions in media articles and whole reports and a book 'The Hunting of the Shark' by Bill Heine, who was responsible for its installation. We encourage further reading about the work of art.

13. It shows up on google maps as a 'popular photo op(portunity)':

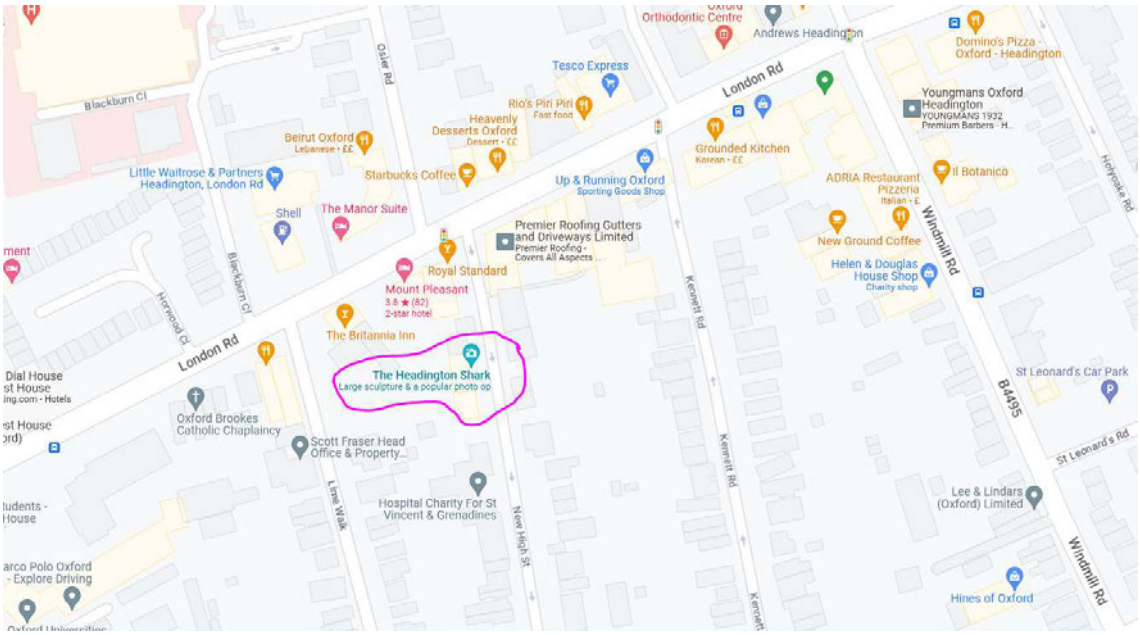


Figure 2- excerpt of google maps for Headington

14. And also is revealed as a generally significant place on widescale maps:

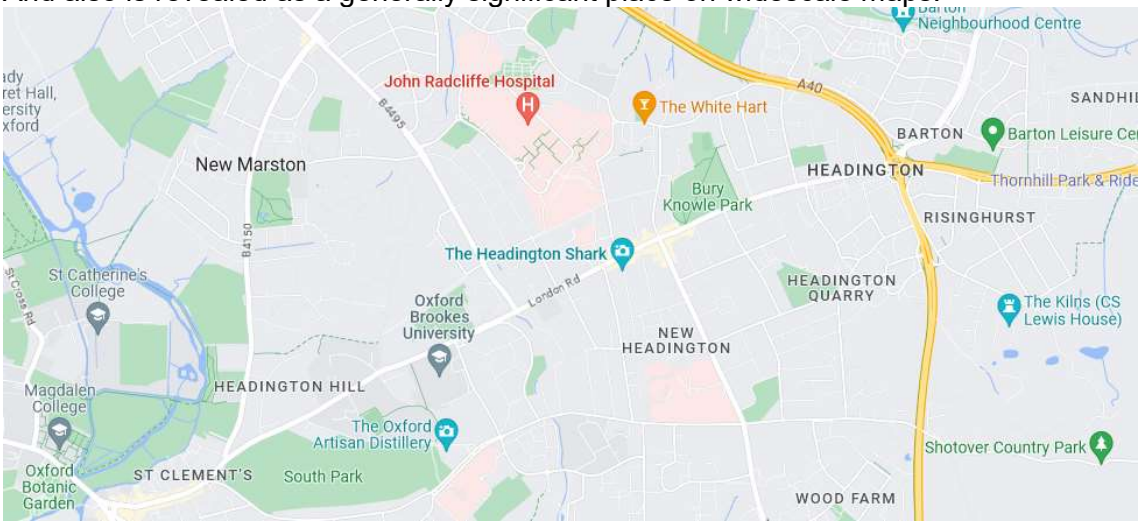


Figure 3- wide scale google maps mapping

15. The Shark has remained since that decision and was renovated in 2021 at the personal expense of the owner. This is far from a normal cost associated with maintaining a home.

16. Adding to the peculiarity of the planning history of the property in March 2022, Oxford City Council, having received a nomination from a member of the public (or an interest group) considered whether the property should be added to the local list of buildings of 'local heritage interest'. Although a check on the council's website does not seem to record the property on the local list, we believe the Council confirmed the property would be added. The Council has also installed an audio point advising about the shark at the end of New High Street:



Figure 4- OCC 'shark' audio point on New High Street

17. As such this formerly innocuous house must be considered somewhat individually. People are keen to stay at the property such is its renown, and intrigue. It makes a great place to stay and is a particular point of interest in an area of the city that perhaps has less attraction than the historic city centre.

18. The present Policy V5 of the OLP2036 states that planning permission will only be granted for the development of new sites for holiday and other short stay accommodation in certain locations including on Oxford's main arterial roads where there is frequent and direct public transport to the city centre and in the District centres. It also states that such development should not lead to the net loss of residential dwelling.

19. The site is one property away from the Headington District Centre as currently mapped OLP2036, and just a few moments away from the London Road to the north and all the facilities in Headington centre, including the regular bus services – local and regional - which stop metres away.

20. New High Street, Headington is not in the list of arterial roads, but is not a wholly residential road. It does not have the character of a residential road at its northern end. The site backs on to the car park of the Britannia Inn and three doors to the north is the Royal Standard, which has a small beer garden on the New High Street frontage There are a barber and a hairdressing salon on the western side of the street. One must pass the Shark House to get to them.

21. New High Street experiences more thoroughfare than most of the narrower roads which branch southwards from London Road, in part because of visitors who wish to see the Shark but it is also a shortcut for pedestrians and cyclists to the hospitals (via All Saints Road and Lime Walk), reflected in the fact that New High Street is one-way for vehicles as far as the junction with Bateman Street, with a marked cycle path taking up much of the carriageway.

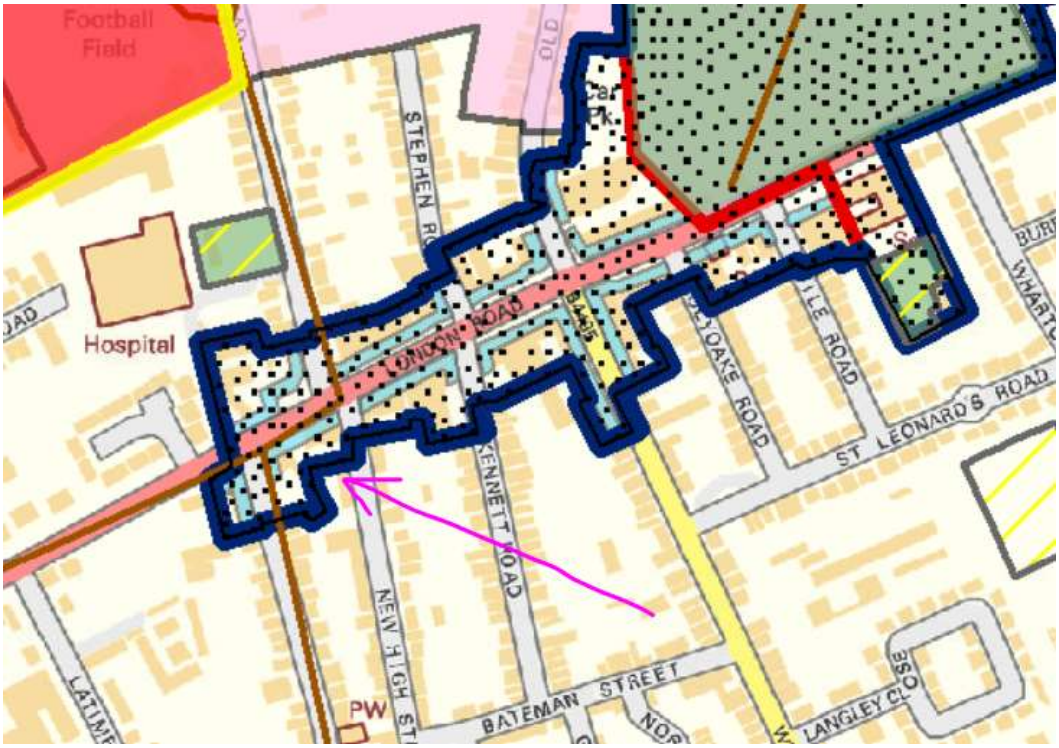


Figure 5- excerpt from OLP proposals map- dark blue line = Headington Centre- site at end of pink arrow

22. The property has, since the very insertion of the shark into the roof, been the subject of significant visitation. Very many people visit the area specifically to see the installation. What is the installation of the audio point for, if not to draw people a further 50 metres or so down New High Street to actually see the Shark House?

23. The owner advises that a lot of people seek to enter the property when visiting the area. Many of those approaching the front door, thinking that the property must be of some artistic nature as a whole, and attempt to gain entry. People peer intently through the windows. Different people like different things but having people peering into your house to see if there is a shark's head inside it would not, in the writer's view, make for an appropriately private home. The house is close to the road and it is easy to see how the extra scrutiny would affect the private enjoyment of the house as a family home.

24. The existence of the shark creates significant vehicle and pedestrian visitation, it draws people down from London Road. This is not a quiet residential area. The very existence of the shark has changed the character of the area. It would seem that the Council wants to keep the shark in position; it must logically acknowledge that the property is special as a result.

25. We contend that retention of the shark means that the privacy and amenity of the home are not normal. Many people are discomfited by a single stranger knocking at their door. At this house that is almost a very frequent occurrence, with people

wanting access to the home. That is not an easy thing to live with, and we contend points to a very special circumstance that should allow the use applied for to be allowed to carry on.

26. It is also the case that the Council is not best placed to know what works well as a tourist attraction, tourists and operators are in our view. This site does act as an attraction, not least due to the Council's own encouragement of visitation by street signage.

27. It might be a small site but the city is made up of both small things and large things. There is no reason why in principle a small site cannot be allocated. For some people the city has always been divided into town and gown. This is very much a town attraction and will help to disperse people across the city more widely. As above, this site has particular interest for visitors. Of course, it could help to provide accommodation for people wanting to visit say CS Lewis' house, Headington Hill or visit people at the JR or Oxford Brookes.

28. The Council acknowledges that there are many visitors to Oxford and in general wishes to encourage the visitor economy. Most of that interest relates to the University of Oxford in the central area. There are many fewer nationally notable features of interest in the Headington area attracting people from a wide area or nationally as does this very high-profile home. Due to social media, photographs outside the house are a must have for many people. A search of Instagram brings up numerous short videos which people have made, featuring the Shark House.

29. There is considerable interest in the property, it is quite understandable that people might want to stay in such a quirky property when coming to Oxford. We are not aware of anything quite like it. There is nothing else quite like it on the Oxford Heritage Asset Register. It is among the best known individual residential properties in Oxford City. Allocating the site is most likely to result in retention of the Shark as a feature and asset to the area.

30. Quite plainly therefore the development contributes to the supply of a different form of short stay accommodation than hotels, providing economic and social benefits to the area from the associated spending of its occupiers- the site has had some short-stay use already and this should be allowed to remain in our view. Even if such benefits may be small given the scale of the scheme, the general fit with the Council wanting the Shark House to stay as a feature of interest is a factor. It would be impossible to say that there is a *certain* economic or accommodation need for this property to be a property available for short letting, but that would somewhat miss the singular element of interest for *this* property. In our view it is a perfect house for letting to visitors.

31. We contend that *use* of the house does not impact neighbours to any greater degree than the existence of the shark poking out of its roof does, or other goings on nearby such as the Britannia Inn car park.

32. The Council's development management team agrees, and concluded the same when dealing with a recent application. Notwithstanding that planning permission (23_01859) was refused recently (due to the existing policy situation) in our view the scale and nature of the proposed use is compatible with neighbouring uses and with the surrounding area, and is not likely to give rise to unacceptable impacts and effects from noise, nuisance, traffic, or on-street parking. Neighbours to the site are already impacted by visitation to the street by cultural visitors/photo opportunity takers, and people visiting the hairdressers' shops and other facilities. The Planning Inspector agreed.

33. It is clear that the locational element of V5 as is nor E5 as proposed is not undermined by development in this accessible location just metres from the existing Headington Centre. The site can effectively be considered a district centre location given its closeness and the site more or less touching the district centre.

34. In determining the recent planning appeal (OCC Ref: 23/01859/FUL / PINS Ref: APP/G3110/W/23/3335902), the Inspector made it clear that whilst the site was located outside of the Headington District Centre, there was no evidence of harm to the living conditions of neighbouring residents or highway safety from the proposed use. The present conflict with criterion (a) of Policy V5 of the Local Plan could easily be addressed, either by a modest extension to the boundary of the Headington District Centre, or by allocating this site for a specific use as short-term let accommodation. The Planning Appeal (and the associated Planning Enforcement Appeal under Ground (a) of s.174(2) of the Town and Country Planning Act) were dismissed on the basis that the proposed development would result in the loss of a dwellinghouse, and this was the only reason that the Appeals were dismissed.

35. Even if the proposal would lead to the loss of a single dwellinghouse this is not significant in the sense of the City as a whole – it is negligible and ought to be weighed alongside the particular economic benefits we have drawn attention to. But the proposal (to allocate for short stay accommodation) has something positive to offer the city. Additionally this is a singular circumstance and a likely beneficial one. It is not to be repeated elsewhere- the Oxford Heritage Asset register assisting to show there is nothing quite like it, or even if there is they could be counted on one hand.

36. The development plan encourages vitality in the city's central areas such as Headington. This proposal will add another dimension to the Headington centre offer, where there are few overnight tourist places. The distinctive character of the place would be retained and enhanced by allowing visitors to stay on site. The local plan cannot envisage what every proposal will be over the course of the plan's life.

37. In our view this is a welcome proposal supported by the overall sense of the short stay accommodation policy, which acknowledges that Oxford is a desirable place to visit. It will not impact the shopping frontage areas (as required by V4), other than in a positive way, by encouraging visitor spend.

38. Existing policy V5 encourages new attractions that add diversity in Oxford and this site is easily accessible for the level of visitation expected. The Plan acknowledges that allowing longer visitor stays is a good thing, and that there is potential for growth in <u>all varieties</u> of short-stay accommodation. It does not seek to preclude this type of accommodation (short term let of a single small property), E5's angle is to avoid loss of dwellings, not preclude short stays.

39. Retention of the Shark must be seen as diminishing the qualities of the house as a private home, but the Council wants it retained, and that is why it included the shark house on the OHAR. There would be a loss of a house but it is a single house of inimitable circumstance As we have explained in this Statement, the peculiarities of this property are a disincentive to long-term occupancy as family housing in a way that simply does not apply to those wishing only for a shorter stay (where the guests are there for the same reason that more or less every

passer-by is there – the cachet associated with staying in the famous Shark House).

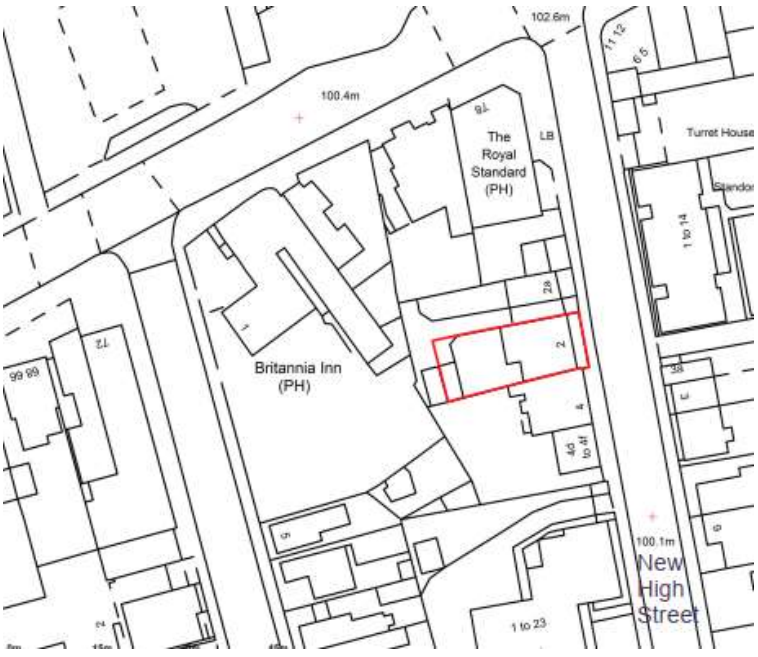
40. In a city which is building 10,000 homes and having some 20,000[i] homes built on its Green Belt fringe in the current plan period to provide housing for the City, this is a bearable loss.

41. Other policies of the OLP are broadly neutral in the planning balance.

42. An image of the Shark features on the cover of the Headington Neighbourhood Plan, showing its particular local resonance. The HNP has three overarching objectives which guide policy making throughout the Neighbourhood Plan process. These are: *Improving the quality of life for residents, workers and students; establishing and promoting an identity which embraces the diverse nature of Headington; and,- fostering beneficial development.* The proposal is not contrary to these given we consider it is beneficial. In our view the proposal would accord with the HNP policy CIC1 to help reinforce the identity of Headington.

43. In our view allowing this property to be used as applied for would make Oxford/Headington a better place. This house as short stay accommodation would improve the cachet of Headington, and would not make it a worse place. Planning is about making things better. In this particular case the benefits of the proposal should be given greater weight than the conflicts with policy. Like the 1986 Inspector said, any system of control must make some small place for the dynamic. This use is in our view an acceptable use in this particular circumstance and thus material considerations are of sufficient weight to indicate that the site should be allocated.

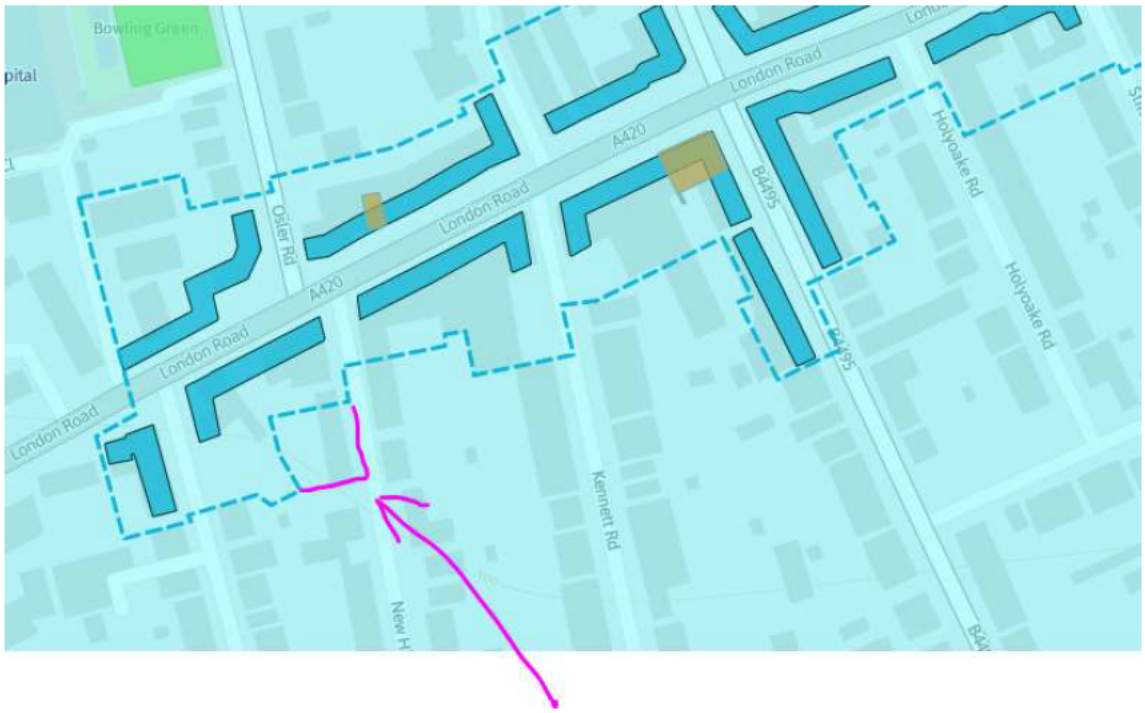
44. In short we trust that you agree that 2 New High Street, Headington should be allocated for short-stay accommodation. For clarity the location is shown below:



A full location plan is also attached.

Alteration to the Headington District Centre

45. Although above we indicate that the site should be allocated there is also the option of the Council including the site in the Headington District Centre via a very small alteration/extension to the proposed centre designation as indicated on the image below.



46. This would then allow more favourable consideration for a planning application. the relevant considerations as set out in the preceding sections of this letter also setting out why this would be a sensible extension to the District Centre area, given that there are commercial premises further down the Street than the Shark House

Yours sincerely

[redacted]

Henry Venners BSc(Hons) MA MRTPI

[redacted]

[i] Source https://www.oxfordpreservation.org.uk/content/june-new-housing-deserves-very-best-planning

Attached location plan

Appendix 2

Planning Inspectorate

Appeal Decisions

Site visit made on 26 November 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date:

11th December 2024

Appeal A Ref: APP/G3110/C/23/3335859
2 New High Street, Oxford OX3 7AQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Magnus Hanson Heine against an enforcement notice issued by Oxford City Council.
- The notice was issued on 29 November 2023.
- The breach of planning control as alleged in the notice is Without planning permission the material change of use of the Land from a dwellinghouse (Use Class C3) to short term let accommodation (Sui Generis).
- The requirement of the notice is to cease the use of the property for the provision of short term let accommodation.
- The period for compliance with the requirement is 1 month from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/G3110/W/23/3335902
2 New High Street, Oxford OX3 7AQ

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr M Hanson-Heine against the decision of Oxford City Council.
- The application Ref is 23/01859/FUL.
- The development proposed is described in the application form as 'use of property for short stay letting (change from C3 use)'.

Formal Decisions

Appeal A

1. It is directed that the enforcement notice is varied by:

   - The deletion of the text 'Cease the use of the property for the provision of short term let accommodation' at paragraph 5 of the notice and its substitution for the text 'Cease the primary use of the property as short-term let accommodation'; and

   - The deletion of the text '1 month' at paragraph 6 of the notice and its substitution for the text '12 weeks'.

2. Subject to the variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B

3. The appeal is dismissed.

Appeal A: Ground (b)

4. To succeed under this ground the appellant needs to show that the alleged material change of use of the land from a dwellinghouse falling in the C3 use class (a 'C3 dwellinghouse') to short-term let accommodation ('STLA') has not occurred, as a matter of fact. The submission of a planning application and an appeal under ground (a) are not admissions that the alleged breach has taken place, or that it requires planning permission if it has taken place.

5. The property is a family-sized house with kitchen, dining, lounge and utility areas, bedrooms and bathrooms. It has 3 double bedrooms with en-suites at first floor level, and a double bedroom at ground floor level (also referred to as a dining room on plans). A Planning Contravention Notice (PCN) response from the appellant explains that it is not lived in by anyone 'permanently', as it is rented out from time to time, with most occupiers staying for short periods.

6. Between November 2019 and September 2024 there were at least 145 separate bookings taken for people to stay at the house, covering at least 529 nights (as of the date of the PCN response in November 2023). Furthermore, I noted a sign on the front door to the house referring to the Airbnb online travel agent website, and the house was set out ready for guests to stay.

7. It is therefore clear that the house was in use as STLA before the notice was issued and that the alleged breach of planning control has occurred, as a matter of fact.

8. The appeal under ground (b) fails.

Appeal A: Ground (c)

9. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that the change of use does not constitute a breach of planning control.

10. Section 57 of the Act sets out that planning permission is required for the carrying out of development. Section 55 provides the relevant meaning of 'development', which includes the making of any material change in the use of any buildings. A change in the use of a building does not therefore necessarily require planning permission, unless if it is a material change. Where that is the case, a change to a use within the same use class, as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended) ('the UCO'), shall not be taken to involve development[1].

11. There is scant evidence as to how the site was used prior to short-term letting commencing. The appellant's PCN response states that it was rented on a year-long let initially after he purchased it in 2016, and then by a company known as Hands Free Letting Ltd from August 2017 to November 2019. However, it is not disputed that the house was previously a C3 dwellinghouse, or that this is its lawful use.

12. The C3 use class is defined in the UCO as: 'Use as a dwellinghouse (whether or not as a sole or main residence) by – (a) a single person or by people to be regarded as forming a single household; (b) not more than six residents living together as a single household where care is provided for residents; or (c) not

[1] Section 55(2)(f) of the Act

more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).' This is a broad definition capable of covering a great number of different types of living accommodation, where occupants form a single household.

13. A Government consultation[2] on the possibility of a new use class being created for short-term lets does not lead me to ignore the findings in *Moore*[3]. That is to say, whether the use of a dwellinghouse for commercial letting as holiday accommodation amounts to a material change of use will be a question of fact and degree in each case, depending upon the particular characteristics of the use. When considering whether a material change of use has taken place, a comparison should be made between the character of the activities associated with the existing use and those associated with the former use, rather than any potential lawful uses.

14. It is therefore a matter to be assessed in each case whether a material change of use has taken place, and the supporting text to Policy V5 of the Oxford Local Plan 2036 (2020) (the OLP) is unhelpful in this regard. Aside from the ambiguity of the advice it provides at paragraph 8.20, it oversimplifies what can be a complex legal issue and does not reflect the findings of the Courts. That part of the OLP does not therefore offer great assistance.

15. The site is home to a popular piece of public art in a residential setting, known as the Headington Shark House. It is a two-storey mid-terrace dwelling which is modest in all respects, save for the spectacular tall model of a shark crashing through the front roof slope. The shark sculpture has been in place since 1986 and has become a local tourist attraction, of sorts. As such, the site attracts visitors down the residential side street from the main London Road, affecting the context in which the use of the site is experienced.

16. There is no evidence before me as to how many people have been occupying the house during each stay. Having noted 4 double beds during my visit, it would be reasonable to assume that up to 8 people can stay there, although I noted ample space in the lounge, where sofas may be informally used as beds.

17. The appellant's PCN response suggests that there had been 25 to 44 separate bookings each year since November 2019, covering between 97 and 187 nights each year. Cleaners visit the house between each stay and there is no evidence of intervening tenancies, with the property said to be available for minimum 2-night bookings 365 days-a-year.

18. The evidence shows there is a substantial turnover of occupants, and it is correct to describe the nature of their stays as transient. It is unclear whether they form single households, but the short duration of their stays and the opportunities for them to comprise large groups of friends leads me to doubt they would. This is because there would be little time for an effective single household to be formed or to operate in any meaningful manner. I have not been provided with evidence to suggest otherwise.

19. The character of STLA of such size in this location is therefore very different to that of the former use as a C3 dwellinghouse. There are regular comings and goings of numerous people who are likely to be unfamiliar with the site and surroundings. People unrelated to the site are essentially moving in and out of

[2] Introduction of a use class for short term lets and associated permitted development rights (April 2023)
[3] *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 2101

the house multiple times each week/month on an ongoing basis. The nature and extent of the short-term letting, and the absence of intervening tenants forming a single household leads me to find that the use of the site as STLA is not ancillary or incidental to the lawful primary use as a C3 dwellinghouse.

20. The context of the site, where the shark sculpture attracts visitors to its immediate surroundings to stop and observe, does not significantly alter how the change in the character of the use is experienced. The site remains in a relatively quiet residential area, set away from the traffic and commercial uses of London Road to the north, notwithstanding the proximity of that busier environment, and two hairdressers to the south.

21. There is no evidence of complaints about the STLA, but that is not indicative of an absence of any material change. The change in the nature of the residential accommodation has brought about a very different use of the site, which has significant planning consequences: there are regular comings and goings of different people unfamiliar with the site and surrounding area; it is taxed differently[4]; and it has resulted in the loss of a C3 dwellinghouse where occupants would form a single household. For the above reasons, it has not been shown on the balance of probabilities that a material change of use has not taken place, or that the STLA falls within the C3 use class.

22. The onus is on the appellant to provide evidence to support their case. While I sympathise that it is difficult to prove something which is claimed to have not taken place, there is little evidence relating to how the site is used to support the appellant's arguments. On the evidence which is available, as a matter of fact and degree, a material change of use has taken place. This does not benefit from planning permission and is in breach of planning control.

23. The appeal under ground (c) must therefore fail.

Appeal A: Ground (a) and the deemed application for planning permission and Appeal B: the appeal against the refusal of planning permission

24. The main issues are the effect of the development on the provision of housing and whether the site is an appropriate location for STLA.

Provision of Housing

25. Policy H5 of the OLP states that planning permission will not be granted for development that results in the net loss of self-contained dwellings, except where particular circumstances apply. It is not disputed that none of those exceptions apply and that the development conflicts with Policy H5.

26. The loss of a single C3 dwellinghouse represents a very modest reduction in the city's housing stock in the context of the tens of thousands of houses being planned for and/or built within and around Oxford. However, the supporting text to Policy H5 makes it clear that given the scale of the objectively assessed housing need in Oxford it will be important to ensure that the existing stock of homes is protected. This is to prevent the benefits of building new houses being undermined. The development has resulted in the loss of a C3 dwellinghouse, which is contrary to Policy H5 of the OLP.

[4] It is not disputed that the property is now listed as being subject to a non-domestic assessment associated with a commercial use, rather than Council Tax associated with domestic accommodation

Location

27. Policy V5 of the OLP states that planning permission will only be granted for the development of new sites for holiday and other short stay accommodation in specific locations, and subject to various criteria. These specific locations include District Centres and on Oxford's main arterial roads. The site is not within any of these locations and criterion b) of Policy V5 states that short stay accommodation must not result in the loss of a dwelling.

28. Representations have been made seeking to change the boundary of the Headington District Centre to include the site. However, there is nothing before me to show such a change is likely to be made in any subsequent development plan.

29. It is a very short walk from the site to the Headington District Centre and London Road (a main arterial road). Part of the District Centre also runs along the rear boundary of the site. There is no evidence of any harm being caused to the living conditions of neighbouring residents or highway safety and I am satisfied such potential harm could be prevented by conditions. However, even if I were to disregard the fact that the site is not within the specific locations mentioned by Policy V5, the development would remain in conflict with criterion b) of the policy. Therefore, although this specific development is in an appropriate location, it is contrary to Policy V5 of the OLP which seeks to achieve sustainable tourism.

Other Matters

30. Some tourists may assume that the house is open to closer inspection on account of the shark sculpture. I do not doubt that some people may try to peer through windows or even gain access to the house to see inside. While these are unwelcome interruptions for residents, the shark sculpture has been in place for almost 40 years with the house remaining in use as a C3 dwellinghouse. Curtains, blinds and obscure glazing to the front elevation windows provide reasonable levels of privacy, considering it is a terraced house close to the road. Even with the advent of social media, no more than minimal weight should be given to the harmful effects that the presence of the public art is claimed to have on the living conditions of residents.

31. The site is on the Council's Heritage Asset Register, and it is therefore a non-designated heritage asset. There are no details before me of the maintenance costs associated with the public art, or how the roof may leak as a direct result of the sculpture. As it has not been demonstrated that the use of the house as STLA is necessary to fund maintenance works to the sculpture and roof, I assign little weight to claims that the shark will likely be removed if planning permission is not granted. The development does not support the retention or enhancement of the distinctive character of the public art, and nor does it protect against any harm or loss of significance to the non-designated heritage asset. Policy DH5 of the OLP does not support the development.

32. Policy CIC1 of the Headington Neighbourhood Plan (2017-2032) (2017) states that a set of projects to reinforce the identity of Headington will be identified and implemented after wider consultation. A list of potential projects includes a suggestion that Headington Shark symbolism could be extended and strengthened. The shark sculpture is a powerful symbol for Headington, but it

has not been shown that retention or enhancement of the public art is reliant on the development. There is no support from Policy CIC1.

33. There are small-scale economic and social benefits associated with the development. It facilitates people visiting the area to spend money locally and supports the vitality of the nearby District Centre, and those effects may be multiplied by the appeal of the public art. However, there are also negative economic and social effects associated with the loss of a C3 dwellinghouse. In any event, the economic and social benefits of the development only attract modest weight in its favour. Although the development is appropriate for its location, it draws minimal support from Policies V1 and V6 of the OLP, which seek to ensure the vitality of District Centres and encourage cultural and social activities, amongst other things.

34. There is no evidence of any harm caused by the development to the living conditions of neighbouring residents or highway safety through increased parking stress. However, the lack of such harm is not a benefit weighing in favour of the development.

35. It is possible that once a C3 dwellinghouse use is reinstated, rooms within the house could be let to guests without bringing about a material change in the use of the land. The appeal decision[5] I have been referred to as justification for this 'fallback position' refers specifically to the 'occasional letting of two bedrooms in a six bedroom house', which is very different to the circumstances in this case. That appeal decision does not confirm that 'a single person or a couple living in the house and allowing others to come and stay' would not necessarily require planning permission. However, even if such an arrangement would be lawful, a C3 dwellinghouse would remain, and its primary purpose would be to provide accommodation for a single household.

36. Another appeal decision[6] I have been referred to is also of little relevance, as it concerned planning permission being granted for a material change of use from a House in Multiple Occupation (C4 use class) to part bed and breakfast, short-term letting, and a self-contained flat. Very different circumstances applied in that case, where Policy H5 of the OLP was not raised and a self-contained dwelling remained.

Conclusion

37. The development is contrary to Policies H5 and V5 of the OLP on account of it resulting in the loss of a C3 dwellinghouse and its location outside of a District Centre and not on a main arterial road. The site is, however, very close to the Headington District Centre and London Road, and in the absence of evidence to suggest the development may harm the living conditions of neighbours or cause highway safety issues, it is in an appropriate location. This reduces the weight I assign to the harm resulting from the development's failure to accord with Policy V5.

38. Although the loss of a single C3 dwellinghouse is a modest reduction in the city's housing stock, I do not reduce the weight I assign to the harm caused by that loss, which Policies H5 and V5 seek to avoid, unless exceptional circumstances apply. I have found no such circumstances exist in this case,

[5] Appeal Ref: APP/J3720/X/21/3282578
[6] Appeal Ref: APP/G3110/W/23/3317443

and I assign significant cumulative weight to the harm associated with the failure to accord with Policies H5 and V5 of the OLP.

39. There are benefits weighing in favour of the development and some support from Policies V1 and V6 of the OLP, but for the above reasons I assign these considerations modest cumulative weight. I also note the claimed fallback position, but that would not result in the loss of a C3 dwellinghouse.

40. Overall, taking all matters raised into account, the development is not 'sustainable development' as referred to by Policy S1 of the OLP and the National Planning Policy Framework, and these do not support the development. The development is contrary to the development plan taken as a whole and there are no material considerations which indicate planning permission should be granted. The appeal under ground (a) in Appeal A and the appeal in Appeal B therefore fail and the deemed application for planning permission is refused.

Appeal A: Ground (f)

41. To succeed under this ground of appeal the appellant needs to show that the requirement of the notice exceeds what is necessary to remedy the breach or, as the case may be, to remedy any injury to amenity which has been caused.

42. The notice requires the use of the house for the provision of STLA to cease. The purpose of the notice is therefore to remedy the breach, rather than any injury to amenity.

43. Notwithstanding the above, the notice seemingly prohibits any short-term letting of the house, even that which may not require planning permission. For example, once the use of the site reverts to a C3 dwellinghouse, occasional short-term letting may be ancillary to that lawful primary use, dependent on how it is carried out.

44. The *Mansi*[7] principle is relevant, in that the notice cannot prevent the appellant from doing things which are otherwise lawful. I can vary the notice to ensure it requires the primary use of the house as STLA to cease, which would not impinge on the appellant's right to use the house for occasional short-term letting, provided its primary use remains as a C3 dwellinghouse.

45. The appeal under ground (f) therefore succeeds to the extent set out above.

Appeal A: Ground (g)

46. To succeed under this ground of appeal the appellant needs to show that 1 month falls short of what should reasonably be allowed for the notice to be complied with. It is requested that this is extended to 12 weeks.

47. The appellant was entitled to assume their appeals would be successful, which were not without merit. Though it may have been prudent for no more bookings to have been accepted once the notice was issued, there was no certainty as to how long the appeal process would take. Cancelling all existing bookings beyond the next month would be a straightforward process, penalising the appellant and people who have made bookings in good faith. Alongside this, the harm caused is the loss of a C3 dwellinghouse, and marketing the house for rent or sale would take some time, during which the

[7] *Mansi v Elstree RDC* [1964] 16 P&CR 153

house would likely remain empty. Under these circumstances, I consider 12 weeks a reasonable period for the notice to be complied with.

48. The appeal under ground (g) therefore succeeds.

Conclusion

49. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

[redacted]

INSPECTOR