

**BEFORE INDEPENDENT HEARING COMMISSIONERS
IN CHRISTCHURCH**

TE MAHERE Ā-ROHE I TŪTOHUA MŌ TE TĀONE O ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of the hearing of submissions on Plan Change 14
(Housing and Business Choice) to the Christchurch
District Plan

LEGAL SUBMISSIONS FOR CAMBRIDGE 137 LIMITED ON PROPOSED

PLAN CHANGE 14:

HISTORIC HERITAGE

9 April 2024

Cambridge 137 Limited's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 3 379 2467

WYNN WILLIAMS

Solicitor: L F de Latour
(lucy.delatour@wynnwilliams.co.nz)

MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL

Introduction

- 1 Whilst it is now over 13 years since the first of the earthquakes in Canterbury earthquake sequence, it is self-evident that the earthquakes continue to impact the city, and its redevelopment and intensification. This is perhaps most acute in the case of buildings like Harley Chambers. Earthquake prone, uninhabitable, decaying, a health and safety risk and an eyesore on a prominent central city site.
- 2 The building is subject to an earthquake prone notice under the Building Act 2004 and is accepted by the Council s42A officer as being uneconomic to repair. However, it currently cannot be demolished (and the use of the site re-developed and intensified) due to its listing on the Schedule of Significant Historic Heritage (contained in Appendix 9.3.7.2 and referred to as the **Schedule**) of the Christchurch District Plan.
- 3 It is somewhat ironic that it is the Council's Schedule (which appears not to have been substantially reviewed as part of the Plan Change 13/14 process to take into account the economic and engineering factors affecting the repair of a number of heritage listed building in Christchurch) which is keeping Harley Chambers on the Council's "Dirty 30" list. Plan Change 14 (**PC14**), represents an opportunity to remedy this situation, and enable intensification on the prominent central city site as sought by the National Policy Statement for Urban Development (**NPS-UD**).
- 4 Cambridge 137 Limited (the **Submitter** or **Cambridge 137**) entered into an unconditional agreement to purchase Harley Chambers on 2 June 2023, after submissions on Plan Change 13 and 14 had closed. The previous owner of the building, however, had lodged a submission seeking to remove Harley Chambers from the Schedule. Cambridge 137 became a successor to that submission.
- 5 As the evidence of Mr Doig and Mr Lyttle, both directors of Cambridge 137, explains, the submitter had purchased the property with an open mind as to the potential retention of the building, having been involved in a number of other projects involving heritage buildings. However, it soon became evident to them that there was no viable way of retaining the building. The quantity surveying and valuation evidence of Mr Pomeroy

and Mr Doody respectively is unequivocal in terms of the financial factors in favour of removing the building from the Schedule.

- 6 There remains a difference of opinion between the Council's heritage expert, Mr Pearson, and the submitter's expert Mr Brown, of the heritage values of the building once all necessary repairs to the building are undertaken (which it is agreed must be to at least to 67% NBS). Whilst the resultant heritage values of a repaired building are relevant to the Panel's consideration, the Policy framework under Chapter 9 clearly recognises the economic and engineering factors that must also be taken into account in determining whether a building should remain on the Schedule. The economic and financial factors weigh heavily in favour of removing the building from the Schedule.
- 7 Importantly, and taking into account the economic factors in Policy 9.3.2.2.1, Mr Bonis providing planning evidence for the Submitter, and subsequently Ms Richmond, the Council's section 42A officer, are agreed that it is neither efficient nor effective to retain Harley Chambers on the Schedule.¹ Similarly, the Submitter unequivocally rejects any notion that the façade of the building should remain listed, an outcome advocated for by Mr Pearson.
- 8 The Council has confirmed that it does not oppose the removal request by the Submitter.² Accordingly, the Hearing Panel finally has the opportunity to formally recommend to the Council (and Minister) that Harley Chambers be removed from the Schedule. Not only will this enable the building to be demolished and the current health and safety risks associated with the building addressed, but equally importantly, it will enable the redevelopment, and intensification, of this prominent central city site.
- 9 The remainder of these submissions has been structured to address:

¹ Statement of Rebuttal Evidence of Suzanne Amanda Richmond on behalf of Christchurch City Council: Heritage Items and Qualifying Matter – Heritage Items dated 9 October 2023 at [16] and Summary Statement of Suzanne Richmond dated 28 November 2023 at [10].

² Legal Submissions for the Christchurch City Council on Proposed Plan Change 14: Heritage Items Qualifying Matter dated 16 November 2023 at [6.9]. the Council has acknowledged that in the light of the quantum of the repair costs and the very low probability of finding an alternative owner able or willing to take on a repair project of this cost and scale, there are financial factors related to the physical condition of the heritage item that could make it unreasonable or inappropriate to schedule the heritage item.

- (a) The relief sought by the Submitter;
- (b) The statutory framework relevant to the consideration of PC14 and the Submitter's relief, including the scope to delist a heritage item;
- (c) The case for 'de-listing' Harley Chambers; and
- (d) The relevance of façade retention.

Relief pursued by the Submitter

- 10 The Submitter's original submission sought the removal of Harley Chambers from the Schedule and associated consequential amendments to the Plan, to delete the notation of a Heritage Listing and Setting from the Planning Maps for 137 Cambridge Terrace.³
- 11 In addition to this, the Submitter also opposed the proposed changes to Rule 9.3.4.1.1 (P9) and the proposed deletion of P11 and P12, and Matter of Discretion 9.3.6.1.
- 12 The Council's proposed changes to those provisions would see the removal of terms such as upgrade, replacement, reconstruction, restoration, alteration, and relocation of a heritage item from the relevant rules and associated Matter of Discretion.
- 13 For completeness, the Submitter also lodged a further submission expressing support for the higher building limits and intensification mandated by the NPS-UD, and supporting the original submissions by Carter Group Limited, the Catholic Diocese of Christchurch and Church Property Trustees in respect of Matter of Discretion 9.3.6.1.
- 14 The submitter is not pursuing the relief sought in relation to Rule 9.3.4.1.1(P9) and (P12) as they do not relate to the works associated with the Harley Chambers building. Further the submitter's evidential case is focussed on the de-listing, rather than the provisions that will affect the subsequent intensification of the site that the further submission related to.

³ For completeness, we note that the original submission was lodged in the name of Lee Pee Limited. However, the submission was updated to be in the name of Cambridge 137 Limited, once Cambridge 137 Limited entered an unconditional agreement to purchase Harley Chambers from Lee Pee Limited.

Statutory framework and scope to delist a heritage item

- 15 The relevant statutory framework for PC14 is set out in the Council’s legal submissions,⁴ including those particular aspects of the framework that apply to the historic heritage qualifying matter.⁵ The Council has also addressed matters relating to the scope of PC14,⁶ and in particular the scope to remove heritage items from the Schedule, concluding that there is scope.⁷
- 16 However, the Hearing Panel has heard from a range of submitters on the IPI process and scope issues (including Kāinga Ora), and for completeness, these submissions briefly address scope issues and why I say that there is scope within the PC14 process to remove Harley Chambers from the Schedule, including the relevance of the Environment Court’s decision in *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga*⁸ (**Waikanae**).

Statutory framework and scope of the IPI process

- 17 The Council’s legal submissions provide a comprehensive overview of the “standard” statutory tests that apply to plan changes, along with the specific obligations applying to an IPI process.
- 18 The “standard” tests include the requirements under Part 2 of the RMA (and in particular noting the obligation in section 6(f) to protect historic heritage from *inappropriate* subdivision, use and development); the Council’s functions in section 31; the tests in section 32 of the Act; and the legal framework in section 72 to 77 of the Act. The Council’s summary of these tests is adopted for the purposes of these submissions.
- 19 Of course, as PC14 is an IPI, the “standard” tests must also be considered alongside the obligations applying to IPIs in Part 5, subpart 3 of the RMA.

⁴ Opening legal submissions for Christchurch City Council – Strategic Overview Hearing dated 3 October 2023, Part 2.

⁵ Legal submission for the Christchurch City Council – Historic Heritage dated 16 November 2023, paragraph 3.2.

⁶ Opening legal submissions for Christchurch City Council – Strategic Overview Hearing dated 3 October 2023, paragraph 2.48 to 2.85.

⁷ Legal submission for the Christchurch City Council – Historic Heritage dated 16 November 2023, paragraphs 6.2 to 6.4.

⁸ *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga* [2023] NZEnvC 56.

- 20 The key provision in relation to the scope of an IPI, is section 80E of the RMA. As the Panel will be well aware, this requires that the IPI process must:
- (a) Incorporate the MDRS provisions;
 - (b) Give effect to Policies 3 and 4 of the NPS-UD.
- 21 As Harley Chambers is in the Commercial Central City Business zone, the requirement to give effect to Policy 3 of the NPS-UD is of central importance to the relief sought by Cambridge 137 to remove Harley Chambers from the Schedule and why there is scope to do so.
- 22 The ‘intensification requirements’ of the MDRS and NPS-UD, can be limited by qualifying matters pursuant to section 77O.
- 23 As the Council has identified, the qualifying matter proposed as part of PC14 as it relates to historic heritage is provided for under section 77Q. Section 77Q provides an alternative evaluation process for existing qualifying matters in non-residential zones. The considerations for the alternative evaluation process are set out in section 77Q(1). The section 32 report has considered these matters, as well as the standard considerations for qualifying matters generally in non-residential zones under section 77P.⁹
- 24 The Harley Chambers site meets the two limbs of being an existing qualifying matter, being a qualifying matter listed in section 77O(a) to (i) and that is operative in the relevant district plan.
- 25 The qualifying matter listed in section 77O relevant to Harley Chambers, and heritage items generally, is “a matter of national importance that decision makers are required to recognise and provide for under section 6”. Specifically, under section 6(f) “the protection of historic heritage from inappropriate subdivision, use, and development”.
- 26 Harley Chambers was also listed as a heritage item in the District Plan at the time PC14 was notified.¹⁰
- 27 The Council’s section 32 report also makes it clear that the entirety of the items on the Schedule in the operative District Plan are intended to

⁹ Section 32 Report Part 2 – Qualifying Matters (District Plan Chapters 6, 8, 9, 13, 14, 18) (Part 2), page 76 to 82.

¹⁰ Christchurch District Plan, Appendix 9.3.7.2, Heritage Item 78, Heritage Setting 309.

be a qualifying matter in PC14. The section 32 report states “this proposed qualifying matter includes all existing heritage items, settings, and features currently protected under the Operative District Plan” and “will cover all currently scheduled sites listed in schedules 9.3.7.2 and 9.3.7.3 of the District Plan”.¹¹

- 28 Given the breadth of the proposed qualifying matter in relation to heritage items, and the clear reference in section 77O, it is clear in my submission that such a qualifying matter falls within the scope of an IPI (and conversely the removal of a heritage listing must also be within the scope of the IPI).
- 29 As Counsel for Kāinga Ora's submissions helpfully summarise, there are of course two aspects to scope: the scope of the IPI, and if an amendment is within the scope of the IPI, whether or not there is scope under the general RMA principles in terms of whether a submission is “on” a plan change.¹² This is addressed as follows.

Scope to remove Harley Chambers from the Schedule

- 30 This aspect of scope relevant to the Submitter's request to delist Harley Chambers is whether the relief sought is “on” the plan change which goes to whether:¹³
- (a) The submission addresses a change in the status quo advanced by PC14; and
 - (b) There is a real risk that persons potentially affected by changes sought in a submission have been denied an effective opportunity to participate in the decision-making process.
- 31 Put simply, it is submitted that PC14 has advanced a change to the status quo as it relates to heritage items listed in the Schedule, as PC14 proposes heritage items listed in the Schedule as a qualifying matter meaning certain development enabling provisions in PC14 would not apply to sites with scheduled heritage items.

¹¹ Section 32 Report Part 2 – Qualifying Matters (District Plan Chapters 6, 8, 9, 13, 14, 18) (Part 2), page 76, section 6.6.1

¹² Supplementary Legal Submissions on behalf of Kāinga Ora – Homes and Communities – Residential Provisions and Related Qualifying Matters dated, 4 December 2023.

¹³ *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [90]; *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

- 32 As is addressed above, the Harley Chambers site is subject to a qualifying matter, and therefore addresses a change in the status quo advanced by PC14. It must be, then that a submitter is entitled to argue that a qualifying matter should not apply to a site. As the Council have identified, the only effective way to do that is to submit that the site should not be in the Schedule.
- 33 Further, in addition to the particular contextual matters identified by the Council as being in favour of there being scope,¹⁴ is that the process itself for considering existing qualifying matters requires public notification of the qualifying matter as part of the IPI.¹⁵ As a result, the entire Schedule was publicly notified as part of PC14 indicating that the Schedule was able to be submitted on, in the context of PC14.
- 34 As PC14 proposes the Harley Chambers site be subject to a qualifying matter, it is logical that submitters have the opportunity to seek relief that the site is equally not to be subject to a qualifying matter. Such relief is achieved by removing Harley Chambers from the Schedule.

A final observation in relation to Waikanae

- 35 The Panel will have heard numerous submissions in relation to the relevance of the Environment Court's decision in *Waikanae*.¹⁶ Whilst that decision will of course be of relevance to a number of qualifying matters and the submissions in relation to those, in the case of Cambridge 137's submission its application is straightforward. This is because it can be quite simply distinguished. The Submitter's relief requested is in the context of an existing qualifying matter in relation to a heritage item already in the operative District Plan.
- 36 In addition, the removal of Harley Chambers from the Schedule means the site would not be subject to a qualifying matter, which would have the effect of being more enabling of development. In this case, removing

¹⁴ Legal submission of the CCC dated 16 November 2023, paragraph 6.3.

¹⁵ RMA, section 77Q(1)(e).

¹⁶ *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga* [2023] NZEnvC 56. In this decision the Environment Court made findings that a new qualifying matter (i.e., a matter not already identified in an operative district plan) went well beyond just making the MDRS, and relevant building height or density requirements, less enabling of development as contemplated by section 771. Rather, the inclusion of the new qualifying matter in the IPI removed rights the landowner had under the district plan as activities that were permitted were changed to restricted discretionary or non-complying. The Court concluded that amending the district plan as was proposed in that case was unlawful. It is noted that the Environment Court's decision has been appealed but no decision has been released.

Harley Chambers from the Schedule supports the purpose of an IPI in non-residential zones, to give effect to policy 3 of the NPS-UD, which includes enabling building heights and density of urban form to realise as much development capacity as possible in city centre zones.

The case for de-listing

- 37 It is acknowledged that the Council's section 42A officer has now recommended the removal of my client's building and site from the Schedule. Whilst we hope good sense prevails, for completeness, the remainder of these submissions addresses the key matters in support of the requested removal from the Schedule.
- 38 Before doing so, it is worth reiterating the recovery context relevant to this submission, particularly in the context of the section 6(f) matters.
- 39 The interplay of section 6(f) and the earthquake recovery context were well traversed in the Independent Hearing Panel's Decision 45 -Topic 9.3 – Historic Heritage on the Christchurch Replacement District Plan. This decision addressed in detail how section 6(f) enabled the Council to make a choice as to what historic heritage is to be protected and the method of protection, not that protection occurs at all costs, nor that section 6(f) requires every heritage item to be maintained.¹⁷
- 40 The decision concluded that the policy framework for protection should focus on what is appropriate protection, considering the context, such as economic and engineering realities for owners of heritage buildings, and the impacts of the Canterbury earthquakes.¹⁸ This is directly reflected in the policy context that this submission needs to be assessed against.

The policy context for de-listing

- 41 Mr Bonis' evidence contains a detailed summary of the higher order statutory framework relevant to the relief sought by the Submitter.¹⁹ These provisions include both provisions in the Canterbury Regional Policy Statement;²⁰ the strategic objectives of the District Plan (including proposed Objective 3.3.9 and existing Objectives, such as Objective

¹⁷ Decision 45, Chapter 9 Natural and Cultural Heritage, Topic 9-3 Historic Heritage dated 30 September 2016, paragraphs 14 and 15, and 62.

¹⁸ Ibid, paragraph 24, 32, 63.

¹⁹ Statement of Evidence of Matthew Bonis on behalf of Cambridge 137 Limited dated 20 September 2023, paragraphs 63 to 71.

²⁰ Ibid, paragraph 63, e.g. Objective 6.2.3(5).

3.3.10) and the Chapter 9 provisions, including Objective 9.3.2.1.1 and Policy 9.3.2.2.1.

- 42 As Mr Bonis has identified, the key consideration in terms of section 32 as it applies to the Submitter's relief, is an examination of whether the provision is the most appropriate way to achieve the objectives, by identifying other reasonably practical options for achieving the objectives.²¹
- 43 It is acknowledged, that as PC14 is a plan change, that this requires consideration of both the existing objectives of District Plan, along with the objectives of the proposal. Mr Bonis' has provided a comprehensive s32AA assessment in terms of the appropriateness (and efficiency and effectiveness) of removing Harley Chambers from the Schedule in terms of implementing the objectives of the District Plan.
- 44 As an IPI, PC14 is also required to include the objectives in clause 6 of Schedule 3A of the RMA.²² The objective of PC14 of relevance to Harley Chambers is "a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future" which has been proposed in Objective 3.3.7 of PC14. In relation to this objective, it is submitted that the removal from the Schedule would also be most appropriate in terms of enabling the re-development on the site and helping to contribute to a well-functioning urban environment.

Policy 9.3.2.2.1

- 45 In terms of evidence and its application to the policy considerations, of central importance is Policy 9.3.2.2.1 which concerns whether a heritage item should be listed. This policy was heavily modified through the replacement District Plan process to address deficiencies identified concerning the process of identification and assessment of significant historic heritage.²³ As noted above, this has resulted in a policy framework that specifically acknowledges the engineering and financial factors that might be relevant to considering whether a building should

²¹ Ibid, paragraph 65.

²² RMA, s 77G(5)(a).

²³ Decision 45, Chapter 9 Natural and Cultural Heritage, Topic 9-3 Historic Heritage dated 30 September 2016, paragraphs 66.

remain Scheduled. It is noted that to Counsel's knowledge Harley Chambers was not the subject of a submission during the Replacement District Plan process, so PC14 has represented the first opportunity to re-visit the merits of its entry upon the Schedule.

46 Policy 9.3.2.2.1 of the District Plan provides two circumstances where a heritage item should no longer be identified on the Schedule, even if the heritage item continues to meet the significance threshold for scheduling. These circumstances include:²⁴

- (a) the physical condition of the heritage item, and the works required to it would mean that it no longer retains its heritage significance; and/or
- (b) there are engineering and financial factors related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item.

47 As Mr Bonis' evidence comprehensively outlines, the basis for the submitter's relief, in light of the policy context, is two-fold:²⁵

- (a) First, on the basis of Mr Brown's evidence, that the repair strategy for the building will substantively diminish its heritage values so that listing is no longer appropriate.²⁶ Whilst, there is not technical agreement between the heritage experts Mr Pearson and Mr Brown on this point, it is submitted that the evidence of Mr Brown should be preferred.
- (b) Secondly, are the engineering and financial factors in favour of removal of the building from the Schedule.

48 In relation to this, the Council has acknowledged that there are financial factors associated with the repair of Harley Chambers which make it unreasonable and inappropriate for its continued inclusion on the Schedule.²⁷ Whether you prefer Mr Stanley's evidence or Mr Pomeroy's

²⁴ Christchurch District Plan, Policy 9.3.2.2.1(c)(iii) and (iv).

²⁵ The importance of the Submitter's delisting request is also exemplified upon examination of the remaining key policy framework in the District Plan and PC14. The relevant objectives and policies are assessed in the Submitters planning evidence. Evidence of Matthew Bonis dated 20 September 2023, paragraphs 68 to 71.

²⁶ Statement of Evidence of Matthew Bonis on behalf of Cambridge 137 Limited dated 20 September 2023, paragraph 21.

²⁷ Legal Submissions for CCC dated 16 November 2023 at [6.8(b)]; and Rebuttal Evidence of Suzanne Richmond for the CCC dated 9 October 2023 paragraph 87.

evidence, there is a cost of \$21.91 million to \$24.01 million to repair the building to 67% NBS (being the accepted standard for repair, including based on Mr Gerrard's evidence that 67% is the minimum insurance requirement). In the circumstances where the residual value of the reinstated building (at 67% NBS) will be \$13.2 million, it is submitted that these are the very circumstances contemplated by the Policy as being "unreasonable or inappropriate" to schedule a heritage item.

- 49 Relevantly, Ms Ohs, confirmed in cross examination that Ms Richmond's evidence should be referred to in respect of the assessment of financial factors and reasonableness assessment under Policy 9.3.2.2.1(c)(iv) for a de-listing. In that regard, the planning evidence before you from the Submitter, and now the Council, is uncontested and squarely in favour of de-listing. Further, no expert evidence has been produced by any of the further submitters who submitted against the removal of Harley Chambers from the Schedule.²⁸
- 50 Mr Bonis's assessment of alternatives highlight the potential costs of retention of Harley Chambers on the Schedule (being the status quo option). These costs include both the safety risks in terms of the retention of an earthquake prone building, but also the economic costs of the building remaining in situ. These include poor amenity outcomes and potential impacts on neighbouring development, along with the loss of productive capacity of the building itself (amongst other costs).
- 51 In the context of an IPI and the NPS-UD, seeking to ensure well-functioning urban environments (Objective 1) and realise as much development capacity as possible in central city zones to maximise the benefits of intensification (Policy 3), it is submitted that the case for removal of Harley Chambers from the Schedule is compelling.

Relevance of façade retention

- 52 Although, the Council and Submitter are agreed in respect of the conclusion that it is appropriate to remove Harley Chambers from the Schedule, there is an outstanding matter between the heritage experts in respect of the heritage value of retaining the façade of Harley Chambers on the Schedule. Through the course of the Council's case, it has

²⁸ Heritage New Zealand Pouhere Taonga, Christchurch Civic Trust, Christian Jordan, Arlene Baird.

appeared a topic of some interest to some members of the Hearing Panel.

- 53 Cambridge 137 strongly refutes any suggestion that the façade should remain listed as a ‘compromise’ heritage outcome.
- (a) The submitter’s expert, Mr Brown concludes it would be highly unlikely that any new heritage assessment of just a retained façade would conclude it should be included on a heritage schedule, unless there was some outstanding significance attached to the façade structure.²⁹ As his evidence notes, the principal aspect of interest in relation to the building, is its technological interest (rather than aesthetic value of the place). The technological aspects would be entirely lost in a façade retention option.³⁰
 - (b) Mr Brown’s evidence also emphasises that façade retention is a very poor cousin of conservation, including when considering the principles set out in ICOMOS NZ 2010.³¹ Whilst there are a handful of examples of listed façades within the existing Schedule, this is a rare circumstance that a façade will on its own warrant retention in the Schedule.³² It appears that some of these listings have been retained following the remainder of the buildings being demolished shortly after the earthquakes under emergency legislation.
 - (c) Whilst Mr Pearson for the Council has acknowledged that facadism is far from an ideal heritage outcome,³³ there is an element of, respectfully, clinging onto hope by Mr Pearson that some aspects of the building can be retained.
 - (d) The engineering evidence highlights the extent of repairs needed to the building, including the façade. Mr Hogg for the Council has recognised the façade would need to be stripped back to bare

²⁹ Evidence of John Brown for Cambridge 137 Limited dated 20 September 2023, paragraph 71 to 74.

³⁰ Ibid, paragraph 71 to 74.

³¹ Ibid, paragraph 69.

³² Ibid, paragraph 73.

³³ Evidence of David Pearson for CCC dated 11 August 2023, paragraph 100 to 101.

substrate, concrete repairs would need to be completed and the façade would need to be recoated to restore heritage features.³⁴

- (e) During cross-examination, Mr Hogg clarified that his reference to heritage features meant restoring the look of the building.³⁵ Restoring the heritage features in the sense of only the look of the building, is not the same as restoring or maintaining the heritage values of the building. In terms of the resultant heritage values of a 'restored' façade it is submitted that the evidence of Mr Brown should clearly be relied upon.
- (f) Façade retention also fails to recognise the specific constraints of the site, including what impact that this would have on the redevelopment of the site. Mr Hogg has agreed with Mr Gilmore that there are unique constraints in terms of access to the site and which would require part of the façade to be removed.³⁶
- (g) Economically speaking there is also no justification for façade retention. Retention alone, is estimated to cost \$6.57 million to \$7.16 million.³⁷ The submitter has assessed a façade retention option associated with a notional new build behind it demonstrating it is a wholly uneconomic option (assessed by Mr Doody as a negative \$9.795 million value). The financial factors in Policy 9.3.2.2 are just as relevant to the façade listing option as they are to the question of whether the building as a whole should remain on the Schedule.

54 Overall, in light of all of the expert evidence and considering the directives in Policy 3 of the NPS-UD, it is submitted that if the Panel is satisfied that the building as a whole should be removed from the Schedule, there is no justification for retaining a façade listing only under Policy 9.3.2.2.1. The notion of a façade retention option risks the redevelopment of the site of a whole. Mr Doig and Mr Lyttle's

³⁴ Evidence of Stephen Hogg for the CCC dated 11 August 2023, paragraph 26(f).

³⁵ PC14 Hearing Recording 28 November 2023, morning session 2.

³⁶ PC14 Hearing Recording 28 November 2023, morning session 2, Summary Statement of Stephen Hogg dated 28 November 2023, paragraphs 5 to 7.

³⁷ Rebuttal Evidence of Gavin Stanley for the CCC dated 9 October 2023, paragraph 57(f).

experience of façade retention in previous projects³⁸ also plays into their averseness as to this potential outcome.

Conclusion and evidence

55 In light of the aligned conclusions of the planning experts for the Council and the Submitter, it is appropriate (and necessary) that Harley Chambers be removed from the Schedule. Doing so is also consistent with, and supported by, the objectives and policies of the District Plan and PC14 and will support the intensification aims supported by the IPI process as a whole.

56 I now call the following witnesses in support of Cambridge 137's case:

- (a) Mr Lyttle and Mr Doig (Corporate);
- (b) Mr Gilmore (Engineering);
- (c) Mr Gerrard (Insurance) (whose appearance has been excused);
- (d) Mr Pomeroy (Quantity Surveying);
- (e) Mr Doody (Valuation);
- (f) Mr Brown (Heritage); and
- (g) Mr Bonis (Planning).

Dated 9 April 2024



.....
L F de Latour
 Counsel for Cambridge 137 Limited

³⁸ See Joint Statement of Evidence of Jonathan Lyttle and Michael Doig on behalf of Cambridge 137 Limited dated 20 September 2023, paragraph 59.