



Representations

on the

Examination of Development Consent Order Application for Botley West Solar Farm

Application ref: EN010147

for

The Blenheim Estate

Deadline 5 Submission
12 September 2025



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Figure 1 Identified view cones (from Blenheim Palace World Heritage Site Revised Management Plan 2017, Appendix 1, Figure 5 Character of the Setting)

1. Introduction

- 1.1. These representations build upon advice provided by tor&co to The Blenheim Estate in 2024, prior to the submission of the Development Consent Order [DCO] application in early December 2024 and its subsequent acceptance by the Planning Inspectorate, confirmed on 13 December 2024.
- 1.2. For the purposes of these representations, 'The Blenheim Estate' refers to the Blenheim Palace 1984 Maintenance Fund and the Vanbrugh Unit Trust, which are the landowners for the proposed Botley West site. All the land contained within the Order Limits lies outside the World Heritage Site [WHS] and therefore outside the demise of the Blenheim Palace Heritage Foundation.
- 1.3. The Blenheim Palace Heritage Foundation – the charity responsible for the care of the World Heritage Site within the Park Walls – remains supportive of the proposal. Its trustees, who act independently of both the 1984 Maintenance Fund and the Vanbrugh Unit Trust, are satisfied that any potential harm arising from the scheme has been addressed and designed out through an iterative process with Historic England and its advisory panel.
- 1.4. We were instructed with a specific remit to provide independent advice on the pre-application documents, the contribution of setting to the Outstanding Universal Value of the Blenheim Palace WHS and any impacts arising on it from the proposals within the Order Limits. We have not provided advice on the significance of, or impacts on, any other designated or non-designated heritage assets potentially affected by the proposals.
- 1.5. As part of this background, we prepared a Briefing Paper on the WHS setting which was presented to the Historic England Advisory Committee meeting held at Blenheim Palace on 5 November 2024. The purpose of the paper was broadly twofold:
 - i. to set out an understanding of 'setting' within the English planning system and in UNESCO's international publications, and evaluate any implications for integrating the two in practice; and
 - ii. to provide a reasoned and objective understanding how the setting of the WHS contributes to the Outstanding Universal Value [OUV].
- 1.6. The first of the above limbs was felt necessary due to what can only be described as some degree of tension between UNESCO's approach to setting, largely contained within its 'Toolkit' published in 2022,¹ and the approach to setting enshrined in national policy. The need for the second limb was to ensure that approaches to setting being put forward by the applicant, by Historic England and/or by ICOMOS and ICOMOS-UK were consistent with the interpretation of setting in national policy and were not underplayed or, indeed, overplayed in emerging assessments and consultation responses.
- 1.7. The Briefing Paper was informed by a site visit in October 2024, as well as a review of a number of relevant documents including the Preliminary Environmental Information Report [PEIR] (RPS/TetraTech, November 2023); a series of Technical Reviews by ICOMOS relating to the Botley West project

¹ Guidance and Toolkit for Impact Assessments in a World Heritage Context (UNESCO *et al*, 2022)

and other future projects in the ambit of the WHS; the Blenheim Palace WHS Management Plan (2017), including in particular Appendix III: Setting Study.

- 1.8. These representations therefore present an expanded and continued version of that earlier Briefing Paper and take into account Examination submissions to date from Historic England, ICOMOS and ICOMOS-UK, all of which deal with the setting of the WHS and all of which make assessments, judgements and/or recommendations based on their respective interpretations. From a review of these submissions and their explicit or implicit rationale, it is clear that the need for a reiterated exposition of the two limbs above remains a pressing one.
- 1.9. For the avoidance of doubt, tor&co is not, and has never been, instructed by Photovolt Development Partners (PVDP), SolarFive Ltd or RPS/TetraTech. However, tor&co has acted, and continues to act, in other capacities for The Blenheim Estate, including in providing multi-disciplinary advice on planning applications for residential projects around the estate. In addition, tor&co was not involved in the production of the 2017 Management Plan or the accompanying Setting Study.
- 1.10. These representations have been researched and prepared by Dr James Weir, Technical Director and Head of Built Heritage and Archaeology at tor&co. Dr Weir holds a DPhil in Architectural History from Kellogg College, Oxford and has been a full member of the Institute of Historic Building Conservation (IHBC) since 2010.
- 1.11. Before joining tor&co, Dr Weir was the Senior Conservation Officer at Dorset Council with a specialist remit of dealing with spatial planning and major applications. The spatial planning aspect included input to the emerging local plan, such as writing policy and assessing potential impacts on heritage assets arising from draft site allocations. For major applications, he was involved in heritage input to major full, outline and hybrid applications across sectors. As part of the role, he was also responsible for providing training to both Members and the planning officers on heritage policy and its application, including understanding setting of heritage assets.
- 1.12. Dr Weir has also previously held positions at the National Trust and as a Guardian and Board Trustee of the Society for the Protection of Ancient Buildings (SPAB).

2. Abbreviations

2.1. These representations make regular mention of several documents, to which we shall refer in the following shorthand for brevity:

| | |
|-----------------|---|
| D1, D2 etc. | Deadline 1, Deadline 2 etc. |
| DCO | Development Consent Order |
| EN-1 | Overarching National Policy Statement for Energy (November, 2023) |
| ExQ1 | Examining Authority's First Written Questions [PD-008] |
| HE | Historic England |
| HEGPA3 | The Setting of Heritage Assets, 2 nd edn (Historic England, 2017) |
| HIA | Heritage Impact Assessment |
| LURA | Levelling-up and Regeneration Act 2023 |
| MP | Blenheim Palace World Heritage Site Revised Management Plan 2017 |
| NPPF | National Planning Policy Framework (December 2024) |
| NPPG | National Planning Practice Guidance: Historic Environment (https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment) |
| NSIP | Nationally Significant Infrastructure Project |
| NPS | National Policy Statement |
| OG | Operational Guidelines for the Implementation of the World Heritage Convention (UNESCO, 16 July 2025) |
| OUV | Outstanding Universal Value (synonymous with 'significance' in other designated heritage assets) ² |
| 'the proposals' | The proposed solar PV array and associated infrastructure within the Order Limits; |
| PEIR | Preliminary Environmental Information Report (RPS/TetraTech, November 2023) |
| RPG | Registered Park and Garden |
| SoOUV | Statement of Outstanding Universal Value |
| Toolkit | Guidance and Toolkit for Impact Assessments in a World Heritage Context (UNESCO <i>et al</i> , 2022) |
| WHS | World Heritage Site |
| WODC | West Oxfordshire District Council |
| WR | Written Representations |

² See below, 4.8.

Xi'an

Xi'an Declaration on the Conservation of the Setting of
Heritage Structures, Sites and Areas (ICOMOS, 21
October 2005)

- 2.2. For ease of identification, specific submissions and representations are referred to by their reference in the Examination Library [REPX-XXX etc].

3. Scope and structure

- 3.1. As did the Briefing Paper referred to above, these representations focus specifically on establishing an objective and rational understanding of the setting of heritage assets in the English planning system and, applying this understanding, on identifying exactly how setting contributes to the OUV of the WHS.
- 3.2. As the latter phrasing implies, the key tenet of our approach is to prevent an understanding of the *contribution* of setting, which is the correct framing of the concept, being conflated with a mere *description* of setting as a set of physical or other conditions which happen to exist *de facto* around an asset. If the latter were to be taken as the explicit or implicit basis for assessment, then any proposal for change would necessarily elicit harm to an asset merely through the act of change itself.
- 3.3. This ‘descriptive’ approach to setting is, however, widely perceptible and betrays itself in two principal ways: i) through an inability to articulate specifically *how harm arises* to significance/OUV, and ii) through extending the ambit and interpretation of setting into areas which stretch the concept beyond breaking point.
- 3.4. As in the Briefing Paper, these representations focus on the WHS and its setting. The WHS itself contains a number of designated heritage assets, including the grade I-listed Blenheim Palace and the grade I-listed RPG. The latter is almost entirely contiguous with the WHS, but for an area immediately west of Bladon in the meander of the River Glyme, which is not included in the WHS, but is within the RPG.
- 3.5. Given the provisions of the OG relating to the need for WHS boundaries to contain all the attributes necessary to convey OUV (see below, 4.21), the exclusion of separate consideration of these individual assets is not thought to be prejudicial to consideration of their settings. If anything, it is favourable: we would consider them to be bound up in one indivisible whole with the WHS and afforded the same coverage of the latter’s OUV and attributes. Therefore, for the purposes of these comments, consideration of the setting of the Blenheim Palace WHS equals consideration of the setting of Blenheim Palace, the RPG, and their constituent assets.
- 3.6. In what follows, we provide first a holistic overview to assist in understanding setting in a legislative and policy context, and in the context of both HE and UNESCO guidance. From this, we summarise the OUV of the WHS, derived from the SoOUV and the associated attributes and statements of authenticity and integrity. The latter also includes consideration of setting as expressed in the Setting Study, which exists as appendix III of the MP, and identifies some tension between it and the basis from which setting is to be understood as a contributing element to significance. We also consider how setting relates to the attributes which convey OUV.
- 3.7. With the above as a basis, we consider the various submissions and representations to date from ICOMOS and ICOMOS-UK as a ‘taking stock’, exploring whether the points raised can be made out on a proper interpretation of setting.

4. Understanding setting

Legislation

- 4.1. There is no proprietary legislation in the UK relating to WHSs. The UNESCO Convention Concerning the Protection of the World Cultural and National Heritage 1972, to which the UK is a signatory, is not part of the legislative framework.³
- 4.2. Relevant to the above is the recent Court of Appeal decision (October 2024) relating to the now-defunct Stonehenge Tunnel.⁴ Given that this judgement also relates to the provisions of the Planning Act 2008 and the decision-making framework of the NPSs, it provides useful clarification on the relationship between the planning system and the Convention, which can be read across to Blenheim Palace WHS and the Botley West project. Broadly, the judgement confirms two important points.
- 4.3. First, the Court saw no implicit or explicit conflict between the application of the planning system and the UK's responsibilities under articles 4 and 5 of the Convention (see, for example, [48], [136], [158], [167]). This means that, by proper application of our legislation and policy to protect cultural heritage, it is considered that the UK's responsibilities under the Convention – its international obligations – are being met.⁵ In turn, this means that the consent of any development which results in harm to the OUV of a WHS, when that harm is properly assessed, minimised, mitigated, and/or balanced with public benefits in accordance with legislation and policy, does *not* breach those international obligations.
- 4.4. Second, and linked to the above, the Court found that neither article 4 nor 5 'expresses an absolute prohibition on any heritage harm being allowed to occur to a World Heritage Site' [157], which therefore further confirms compatibility between the Convention and planning policy; in particular the concept of the 'planning balance'.
- 4.5. The provisions of the LURA, which are not yet fully enacted, will further integrate WHS into the planning system. Section 102 of the Act provides for a new section (58B) to be inserted into the Town and Country Planning Act, which requires local planning authorities to have 'special regard to the desirability of preserving or enhancing the asset or its setting'. This applies to 'relevant assets', defined as WHSs, scheduled monuments, registered parks and gardens and protected wrecks.
- 4.6. It should also be noted that the LURA does not provide for any insertions into the Planning Act 2008 which might suggest that WHSs be treated differently in the determination of NSIP applications.
- 4.7. The practical effect of the prospective (i.e. not yet fully enacted) LURA provisions is threefold: i) it enshrines in statute the same 'special regard' for these assets that is already provided for listed buildings and conservation areas by virtue of the Planning (Listed Buildings and Conservation Areas) Act 1990; ii) it confirms that this 'special regard' extends to their settings; and iii)

³ NPPG, Paragraph: 001 Reference ID: 18a-001-20190723

⁴ *R (Save Stonehenge World Heritage Site) v Secretary of State for Transport* [2024] EWCA Civ 1227

⁵ EN-1, 1.14; NPPF, para. 2

by these tokens it regularises the legislative position with the provisions of existing planning policy. The latter point is crucial: national policy – in the form of the NPPF and, for the purposes of this project, EN-1 – already takes this position with regard to WHSs as designated heritage assets.

- 4.8. In addition, the LURA contains the important clarification that the ‘significance’ of a WHS is to be understood as comprising its OUV (section 102(1)). This small point provides a vital bridge between OUV in UNESCO’s terms and ‘significance’ in the terms of planning policy. By extension, this means that it is reasonable and correct to equate the SoOUV with an assessment of the significance of a WHS.
- 4.9. However, what the provisions of LURA *do not* do, is establish WHSs as a separate statutory entity requiring separate or distinct treatment from other designated heritage assets; nor do they establish a parallel statutory framework relating to them. In *not* establishing these provisions, the LURA reinforces the obvious conclusion that existing statutory provisions relating to all designated heritage assets, including WHSs, are considered sufficient to ensure their proper conservation as part of a comprehensive and balanced planning regime.

EN-1/NPPF

- 4.10. National planning policy relating to WHSs is contained in both the NPPF and NPSs, the latter being the base policies for deciding NSIP applications under the Planning Act 2008. For all practical purposes, the provisions relating to heritage assets in the NPPF and EN-1 are akin, and equivalencies are given below in brackets. It should be noted that a consultation on draft amended NPSs, including EN-1, has concluded in recent months. However, as there are no significant amendments proposed to the historic environment provisions, we refer here to the current version of EN-1 (November 2023).
- 4.11. With regard to WHSs, EN-1 contains four relevant elements. First, it confirms that WHSs are designated heritage assets ‘of the highest significance’ [5.9.30; NPPF para. 202]. Second, it reflects the ‘fasciculus of paragraphs’ confirmed by the courts (with regard to the NPPF) as laying down a decision-making approach which corresponds to the statutory duty to have special regard for the preserving or enhancing of designated heritage assets and their settings.⁶ Third, it provides a definition of setting as ‘the surroundings in which a heritage asset is experienced’, noting that its extent is not fixed and it is liable to change as the asset and its surroundings evolve [footnote 231, p. 135; NPPF, glossary]. Fourth, it confirms that setting is an element which is relevant insofar as it contributes to significance [5.9.3, 5.9.36; NPPF para. 207], not something which stands apart from it.
- 4.12. The import of the latter point can easily be overlooked. It is intended to avoid the conflation described above between a simple description of an asset’s setting as something which exists as an entity *per se* and the way in which that setting contributes to significance/OUV; the latter comprising a layer of assessment which goes beyond the former and raises the bar for any potential

⁶ As stated in *Jones v Mordue* [2015] EWCA Civ 1243 [28]. Whilst we are not aware of cases where *Jones v Mordue* has been applied specifically by the courts to the provisions within NPSs, the analogy is clearly evident and indeed logical given the latter’s tight reflection of the NPPF.

harm. The point is captured neatly by the Court of Appeal in *Palmer*,⁷ where Lewison LJ approvingly cited the judge at first instance when clarifying harm to setting:

It is still plainly the case that it is for the decision taker to assess the nature and degree of harm caused, and in the case of harm to setting rather than directly to a listed building itself, the degree to which the impact on the setting affects the reasons why it is listed. [34, emphasis added]

- 4.13. Though the above related to a listed building, it rationally extrapolates to all designated heritage assets and their settings, including WHSs. It encapsulates the intended means by which setting, and impacts on significance/OUV arising from development within it, is to be assessed. One may conclude with some confidence that setting of a WHS is contributory to the OUV to the extent that it contributes to understanding or appreciating the reasons for its inscription.

HE Guidance

- 4.14. HEGPA3 supports this view of setting: it is ‘not itself a heritage asset, nor a heritage designation...its importance lies in what it contributes to the significance of the heritage asset or the ability to appreciate that significance’ (p. 4). The ways in which setting can contribute to significance/OUV is usefully summarised as being either through the asset’s physical surroundings or through experience of the asset (p. 11).
- 4.15. One aspect of setting which requires frequent clarification is how it relates to views, and the guidance is useful in this respect. It defines views as a ‘purely visual impression of an asset or place’ which can have various qualities (dynamic, long, short, etc.) (p. 6). Importantly, however, views are relevant to setting where they contribute to the significance of a heritage asset.
- 4.16. The guidance is useful in distinguishing setting from both landscape and general amenity, which could otherwise be confused (p. 7):

14. Analysis of setting is different from landscape assessment. While landscapes include everything within them, the entirety of very extensive settings may not contribute equally to the significance of a heritage asset, if at all. Careful analysis of therefore required to assess whether one heritage asset at a considerable distance from another, though intervisible with it – a church spire, for instance – is a major component of the setting, rather than just an incidental element within the wider landscape.

...

16. Similarly, setting is different from general amenity. Views out from heritage assets that neither contribute to significance nor allow appreciation of significance are a matter of amenity rather than of setting.

UNESCO Guidance

- 4.17. All publications by UNESCO are prepared for a global audience and are therefore not necessarily prepared with reference to, or aligned with, prevailing legislative or planning policy regimes. In addition, where those legislative or

⁷ *Palmer v Herefordshire Council* [2016] EWCA Civ 1061

planning policy regimes already exist, as in the UK, there is no statutory requirement for UNESCO's *guidance* to supplant or be superfluous to existing policies and guidance which provide the same outcome.

- 4.18. However, there is an immediate tension in UNESCO's proposition, which must be borne in mind when considering WHSs. The UNESCO guidance applies globally to WHSs and deals with them as an asset apart from any other, unavoidable when applying to a global audience which may or may not recognise the concept of 'designated heritage assets' in the same way as English planning policy. There is a risk that this separateness is erroneously carried through into English planning policy, which is clear that WHSs are included among designated heritage assets with a commensurate level of 'great weight' to be given to their conservation and an existing, well-established, and comprehensive framework for assessment.
- 4.19. Though the English planning concept of setting as a contributor to OUV (and so not a thing in itself) is not unequivocally espoused in the OG, there is support among its guidance for interpreting that this concept is indeed intended.
- 4.20. The OG refer to the 'wider setting' of a WHS, which, in a point analogous to that in HEGPA3, may relate to – *inter alia* – 'topography, natural and built environment'. It goes on to state that 'management of the wider setting is *related to its role in supporting the OUV*' [112, emphasis added]. In addition, the OG stipulates that requests for preliminary assessment of a potential nomination to the World Heritage List require a description of how the elements of setting 'support the potential Outstanding Universal Value' (Annex 3, p. 92). These references to setting 'supporting' the OUV may reasonably be interpreted as being equivalent with the role of setting as contributing to OUV.
- 4.21. The OG is clear that the boundaries of a WHS 'should be drawn to incorporate all the attributes that convey the OUV and to ensure the integrity and/or authenticity of the property' [99]. Furthermore, for those properties inscribed under criteria (i) – (vi) (as is Blenheim), the boundaries are to include all those areas and attributes which are a direct tangible expression of the OUV, as well as any areas which could do so after further research [100].
- 4.22. By definition, the area around a WHS can therefore only provide a supporting role to OUV, clearly intimating that harm to OUV can only occur when a supporting element is lost or weakened. By logical extension, development within the *geographical* setting of an WHS, but which does not support (i.e. contribute to) OUV, cannot be harmful.
- 4.23. Where it is necessary for the proper protection of the property – e.g. perhaps in areas where there is no legal or policy concept of 'setting' – the OG makes provisions for buffer zones. These can include 'the immediate setting... *important views and other areas or attributes that are functionally important as a support to the property and its protection*' [104, emphasis added]. Buffer zones are dealt with in more detail below (5.24 to 5.26) in the context of the Blenheim Palace WHS.
- 4.24. As an advisory body to UNESCO, ICOMOS has also highlighted an implicit distinction between the whole setting and the setting which contributes to significance by acknowledging that 'the setting of a heritage structure, site or

area is defined as the immediate and extended environment that is part of, or contributes to, its significance and distinctive character' (Xi'an, p. 2).

- 4.25. The above was taken forward by UNESCO in the Toolkit and combined with the elements in the OG regarding components of setting and the need for boundaries to include all the elements of the OUV (Toolkit, 3.2.3). However, the Toolkit introduces the concept of 'interdependency' to describe the relationship of a WHS to its wider setting. Given that the term is not qualified or defined to restrict this interdependency to those elements of setting which contribute to OUV, which is the otherwise consistent message, there is a risk that the critical distinction between what the setting of a WHS *is* on the one hand, and what elements of it *contribute* to OUV on the other may be blurred.
- 4.26. With regard to that risk, it is possibly significant that, in setting out the indicative contents of an impact assessment report, the Toolkit merely states that the baseline element should contain a 'description of the WHS property and its wider setting' (Table 6.3, p. 6). It does not contain an assessment equivalent to HEGPA3 by requiring an assessment of the degree to which the setting makes a contribution to OUV. Similarly, this provision is not included in the Toolkit glossary for the 'Wider Setting' entry (p. 63).
- 4.27. On the above basis, it is clear that some caution is required when integrating UNESCO's approach with that of HE and English planning policy. The Toolkit could imply that the 'wider setting', which exists *de facto* around every WHS and heritage asset, is synonymous with the setting which is contributory to the OUV of the WHS. However, a further level of analysis is required to establish exactly what of the setting contributes to understanding or appreciating OUV and, by extension, the reasons for which a property was inscribed.

5. Summary of OUV and contribution of setting

- 5.1. UNESCO considers a property to have OUV if it meets one or more of ten criteria [OG, 77] and meets the necessary conditions for integrity and/or authenticity and an adequate protection and management system [OG, 78]. The inscription criteria are therefore at the kernel of what prompts inscription, whilst the conditions provide confirmation that the criteria are sufficiently whole, authentic, and secured for the future to warrant OUV.
- 5.2. Blenheim Palace is considered to meet two of these criteria: criterion (ii), which relates to exhibiting an important interchange of human values on architecture or technology etc.; and criterion (iv) as an outstanding example of a type of building or landscape which illustrates a significant stage in human history.
- 5.3. Understanding these criteria, and how Blenheim Palace exhibits them, is fundamental to understanding OUV and, by extension, how any element of the wider setting can support (i.e. contribute to) it. For that reason, the brief explanation of these criteria in the SoOUV (MP, 5.01, pp. 46-47) is repeated here:

- *Criterion (ii) By their refusal of the French models of classicism, the Palace and Park illustrate the beginnings of the English Romantic movement, which was characterised by the eclecticism of its inspiration, its return to national sources and its love of nature. The influence of Blenheim on the architecture and organisation of space in the 18th and 19th centuries was greatly felt both in England and abroad.*
- *Criterion (iv) Built by the nation to honour one of its heroes, Blenheim is, above all, the home of an English aristocrat, the 1st Duke of Marlborough, who was also Prince of the Germanic Holy Roman Empire, as we are reminded in the decoration of the Great Drawing Room [the Saloon] by Louis Laguerre (1719-20). Like the World Heritage properties Residence of Würzburg and the Castles of Augustusburg and Falkenlust in Brühl, Blenheim is typical of 18th century European princely residences.*

- 5.4. The criteria above describe succinctly how Blenheim Palace represents both an interchange of human values through its inspiration and influence, and also an outstanding building type illustrating a significant stage in human history, in this case a turning-point in the War of the Spanish Succession. In both cases, these criteria are unambiguously linked to the building itself and its architecture, as well as to the whole designed landscape around the Palace, which serves both to reflect its inspiration and enhance the grandeur of the 'princely residence' it represents; the building and the designed landscape therefore go very much hand-in-hand when considering the OUV of the WHS.
- 5.5. The statement of integrity (MP, 5.01. p. 47) sets out the ways in which these criteria have remained whole. For example, the perimeter wall 'defines its extent and maintains physical integrity'; 'the layout of the principal buildings remains unaltered'; changes wrought by later owners 'have not detracted from the OUV'; the park contains important veteran trees; and 'important visual links [exist] between the gates, the parkland buildings [and] buildings in the surrounding villages and landscape'.

- 5.6. The statement of authenticity (MP, 5.01, p. 47) stresses that ‘the overall relationship between the Baroque Palace and its Park is still clearly in place’, enabling the OUV to be understood, whilst the ‘form and design’ of the Palace, including fittings and furniture’ has a high degree of survival.
- 5.7. The statement of protection and management requirements (MP, 5.01, p. 47) summarises the legislative and planning system, the existence of an MP since 2006, the work of the Steering Group, and annual repair and maintenance.
- 5.8. Taken together, the elements of the SoOUV therefore encapsulate the OUV of Blenheim Palace, with the statements providing support and detail to the criteria. It is clear that the inscription criteria focus exclusively on the Palace and the designed landscape. The only element within the SoOUV to refer to areas outside the Park is the statement of integrity’s reference to ‘important visual links’. There is no reference in the criteria or SoOUV to any other prevailing element or characteristic of the surrounding landscape being part of the OUV *per se*.
- 5.9. The focus on visual connections in and out of the Park is continued in the set of seven informal attributes which, though not forming part of the SoOUV, are intended to help convey it (MP, 5.02, pp. 48-49). Generally, the attributes mirror the focus of the criteria on the Palace, the Park and the family and do not refer to the character or use of the wider landscape in and of itself. However, attribute 7 picks up the comments in the statement of integrity regarding visual relationships:

...views into and out of the site still provide key visual linkages between Blenheim Palace and the traditional English countryside and villages surrounding it.

- 5.10. The import of these visual relationships *vis-à-vis* the inscription criteria is not made clear in either the SoOUV or the attributes. Given that any such visual links are considered ‘important’, it stands to reason that designed views are particularly envisaged. It is after all any such designed views which would have been intended to perforate the perimeter belt and boundary wall, to which much mention is given in the SoOUV and attributes for its deliberate containment of the WHS.
- 5.11. In any case, visual links would be considered contributory only where they support our ability to understanding or appreciate Blenheim’s representation of an interchange of human values in its building and landscape design and/or its position as an outstanding building and landscape type.
- 5.12. The attributes themselves are expanded further in the MP (5.03-5.09, pp. 49-59). Attribute 7 is dealt with alongside attributes 3 and 4 (both relating to the designed landscape and its interrelationship with the built elements). Whilst the description does not mention the ‘key visual linkages’ with the outside landscape, it does refer again to the ‘tall stone park wall’, the perimeter tree belts and the avenue alignments, as well as highlighting the various built structures which contribute to the totality of the Park’s design.
- 5.13. Some of these matters are expanded upon in the setting study (MP, appendix 3). In terms of key views, the setting study provides two illustrations.

- 5.14. One (p. 22, reproduced from the 2014 Parkland Management Plan, figure 8) shows a wider series of views which are largely contained within the Park itself, whether looking inward from the edges or between features within it. Notable exceptions are the eastward views towards the Hensington Gate; northward views along the Grand Avenue towards and through the Column of Victory; and southward views from the Palace towards Bladon. It will be noted that these aforementioned views follow and project the axial arrangement of the Palace and Park.
- 5.15. The second (p. 45; also figure 5 in appendix 1 of the MP) focusses on two specific view cones looking out of the Park and is repeated from the 2006 MP (reproduced in our figure 1). The first of these extends eastwards from the Column of Victory and the description specifically mentions the eastward view towards Woodstock from the east side of the Grand Avenue, and the view towards the Column from Oxford Street in Woodstock (a view also noted among the exterior viewpoints referred to above). The second view cone extends southwards from the Palace towards Bladon, but also notes the 'limited visibility' from Bladon towards the Palace. The view towards Bladon is especially important as it aligns with the principal north-south axis of the Park.
- 5.16. The description of the view cones in the Setting Study has been augmented from the descriptions in the 2006 MP to indicate the report author's additional assessment that, as well as the views, the land *within* the cones is as contributory as the key visual linkage which the cone denotes. On the same drawing, large areas of the landscape around the WHS – and outside these cones – are identified as of 'scenic value' which 'contribute to the WHS'. As mentioned above, the land character and use of the wider landscape is not mentioned in the criteria, the SoOUV or the attributes and so this element requires some explanation.
- 5.17. The Setting Study takes a significantly expanded view to attribute 7, which itself is intended to illuminate how OUV is conveyed. We noted above how attribute 7 refers to 'key visual linkages between Blenheim Palace and the traditional English countryside and villages surrounding it'. This is repeated in the setting study (5.01, p. 43), but is then expanded with additional text of the author's own in a section which intends to set out 'the elements of Blenheim's OUV...which the setting most directly relates to' (5.02).
- 5.18. The additional text contains a nuanced, yet significant, difference from the text of the SoOUV and attributes insofar as it expands the contributory setting to include:
- The character of the setting as traditional English countryside, dotted with picturesque villages mainly built using a uniform palate [sic] of materials.*
- 5.19. The statement thus divorces the identified and significant connection between the *key visual linkages* and the traditional countryside and, in so doing, veers away from illustrating how the setting contributes to OUV and makes the countryside itself – without definition or delineation – the contributing element.
- 5.20. The matter is compounded by a blurred distinction between landscape amenity and heritage significance throughout the Setting Study, a distinction to which we drew attention in the context of HEGPA3 above (4.16).

- 5.21. From the above, it is clear that a reasonable assessment of how setting contributes to the OUV is obtainable from both the criteria, the SoOUV and the attributes. The key visual linkages are noted as the connecting element because they illustrate and enable an experience of the Palace and landscape in a way which a) was originally intended as part of the design (e.g. axial views); and/or b) permits the outer landscape to be read *within those views* in a way broadly comparable with the original experience.
- 5.22. It is therefore only with regard to these key visual linkages that the surrounding landscape and countryside is relevant to supporting – or contributing to – OUV.
- 5.23. A generalised expression of the contribution of the surrounding landscape use and character was not specifically noted in the criteria, SoOUV and attributes, and there is no evidence to assume it was implied. This stands to reason, as it was – and indeed remains – less clear how this would reasonably be argued to contribute to the specific criteria under which the property was inscribed.
- 5.24. There is a considerable amount of previous information on the buffer zone question at Blenheim, all of which can be found on UNESCO's proprietary page for the Blenheim Palace WHS.⁸ The background papers reflect frequent, multi-party review of the need for a buffer zone extending over more than a decade. As recently as the 2024 Periodic Reporting Cycle, which is completed by the State Party, it was considered that the 'boundaries are adequate to maintain the property's Outstanding Universal Value' and that Blenheim 'does not need one'.⁹ The same comments can be found in the earlier reporting cycle in 2013.¹⁰
- 5.25. On buffer zones generally, as stated in HE's D1 submission [REP1-086], these are typically put forward and decided on a case-by-case basis. There is no one-size-fits-all approach to whether they are appropriate or not. However, considering their purpose, one might reasonably suggest that buffer zones are more applicable to those WHSs with no definable edge containing the aspects of OUV. In these cases, where a WHS bleeds into the landscape beyond, one can appreciate the benefits to consideration of a buffer zone.
- 5.26. However, at Blenheim it is patently clear that the OUV (remembering that this is encapsulated within the reasons for inscription) is contained *within* the perimeter wall and tree belt, self-evidently intentional features of enclosure. This gives a clear boundary for the WHS and so a clear separation between it and the land outside it. In that case, and alongside the extent of landscape and heritage protections in the planning system which require setting considerations, it is understandable why a buffer zone has never been considered appropriate at Blenheim Palace.

⁸ <https://whc.unesco.org/en/list/425/documents/>

⁹ Periodic Reporting Cycle 3, Section II (2024)

¹⁰ Periodic Reporting Cycle 2, Section II (2013)

6. ICOMOS and ICOMOS-UK submissions

- 6.1. The above overview of the legislative and policy context and guidance on setting, along with the summary of how setting contributes to OUV, can now form the basis on which to provide comment on the submissions by ICOMOS and ICOMOS-UK. The summary of that context is quite simply that, where setting is concerned, harm arises to the significance/OUV of a designated heritage asset when it can be articulated that the impact on the setting is such that *the reason(s) the asset is designated is negatively affected*. As this implies, any argument founded – whether wittingly or not – on ‘change’ itself being harmful is undermined from the outset.
- 6.2. It will be useful here briefly to reiterate the distinction between the two bodies. ICOMOS, headquartered in Charenton-le-Pont, France, is a non-governmental organisation and one of three global advisory bodies to UNESCO; the other two being the International Union for Conservation of Nature (IUCN) and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM). Among other roles, it provides the World Heritage Committee with technical evaluations (Technical Reports) on projects which potentially affect the OUV of WHSs.
- 6.3. ICOMOS-UK is the UK National Committee of ICOMOS with a remit to promote appreciation and understanding of cultural heritage in the UK. As such, it is not a separate advisory body to UNESCO.
- 6.4. The reasons for which the Blenheim Palace WHS is inscribed are bound up in the two criteria set out above (see 5.3) and are elucidated further in the SoOUV and attributes. It always merits reiteration that the latter two exist as elucidatory adjuncts to the criteria for inscription to form an understanding of OUV, and are not an entirely new corpus of OUV above and beyond the former. Therefore, for harm to arise to setting, it would ultimately need to be shown how our ability to understand or appreciate these criteria is negatively affected.
- 6.5. Our main focus will be the ICOMOS Technical Review, dated August 2025 [REP4-052], which also incorporates an earlier Technical Review on the Botley West Solar Farm, dated February 2024 (Annex A) and a Technical Review on ‘Urban Expansion in setting [*sic*] of the property’, dated February 2024 (Annex B). We shall also focus on ICOMOS-UK’s response to ExQ1 [REP2-070], dated 27 June 2025, which is an updated version of its earlier WR [REP1-103] following publication of recommended omissions.
- 6.6. We are not aware of any site visit having been undertaken by representatives of ICOMOS to inform its submissions; certainly, no site visit is referred to in the submissions we have consulted. Necessarily, the lack of a site visit in any assessment of this scale and complexity would limit both its accuracy and the accuracy of any conclusions. This approach contrasts with HE, which has made numerous site visits and established and evolved its submissions through an iterative process.
- 6.7. The ICOMOS and ICOMOS-UK submissions are lengthy, but several elements can be distilled and looked at more closely. First, and what may be dealt with swiftly, is ICOMOS’ understanding of the provisions of the LURA (see above, 4.5-4.9); second is the methodological approach the two bodies

demonstrate in their approach; third is ICOMOS' assessment of harm; and, fourth, is the relationship of ICOMOS's response to HE's position. For ease of reference, we shall take these in order.

Position on LURA

- 6.8. The ICOMOS Technical Review [REP4-052, p. 6] states that para. 102 of the LURA 'introduces a statutory duty relating to the protection of World Heritage Sites' and notes further the introduction of the need for "special regard" to the desirability of preserving the setting.'
- 6.9. For the reasons set out above in our exposition of the LURA provisions, the positioning of this statement is potentially misleading. Not only is this section of the LURA not yet enacted (at the time of writing), but it also does not introduce anything which is not already present in the decision-making framework contained in either the NPSs or the NPPF. The 'great weight' to be given in these frameworks to the conservation of designated heritage assets (to an extent commensurate with their importance) is already analogous with that 'special regard', as made clear in *Jones v Mordue* (see above, 4.11). The purpose of LURA with regard to WHSs is therefore to regularise rather than innovate, and the provision has no practical effect on the rigour of decision-making under the Planning Act 2008 or the Town and Country Planning Act 1990.

Assessment and methodology

- 6.10. As set out above, the assessment methodology for impacts on OUV, once it is understood, may be boiled down to two simple steps: i) identify how setting contributes to OUV, as primarily set out in the criteria for inscription and elucidated in the SoOUV and attributes; and ii) identify how proposals affect that contributory setting and therefore the criteria for inscription to which the setting contributes. This approach is not evident in the submissions from either ICOMOS or ICOMOS-UK.
- 6.11. The fundamental element underpinning both parties' submissions is the Setting Study's concept (referred to above, 5.18) that the 'traditional English countryside', unbounded and undefined, is a contributing factor to the OUV of Blenheim Palace. It is never made clear to which of the two criteria the 'English countryside' contributes, when both are focused unequivocally on the house and designed park and their linkage, and/or the response to European historical and architectural developments.
- 6.12. However, it is likely to be based on the Setting Study's (almost certainly unintentional) overextension of that concept beyond its connection with the 'important visual links' with the Park. These 'important visual links', referred to in the statement of integrity, are analogous with the 'views into and out of the site [which] provide key linkages between Blenheim Palace and the traditional English countryside and villages surrounding it' highlighted in attribute 7 (see above, 5.9-5.10).
- 6.13. This can be seen, for example, in the ICOMOS Technical Review relating to 'urban expansion' [REP4-052, Annex B) where it states that a landscaped park, such as Blenheim, 'should not be seen in isolation, but rather as inextricably linked to the rural vestiges of its wider setting' (p. 9). It is also reflected in the 2024 Technical Review relating to Botley West [REP4-052,

Annex A, p. 7], which stated that ‘Blenheim and the experience of Blenheim is inextricably linked to the Oxfordshire landscape’.

- 6.14. However, there is some confusion in understanding this ‘traditional English countryside’. Firstly, this concept is never defined: what is ‘traditional’? Is it the countryside of the medieval period? Is it the countryside of the 18th century? Is it the countryside of the 19th- (or indeed 21st-) century Romantic imagination? Secondly, one might assume that the meaning at least wishes to imply a countryside unaffected by the artistic contrivance of a designed park. However, ICOMOS seems on numerous occasions to blur the line between the designed ‘Arcadian landscape’ *within* the Park and the ‘traditional English countryside’ *outside* it, without clearly establishing why any change to the latter (as an undefined whole) should affect the OUV of the former.
- 6.15. For example, in its comments on the submitted HIA, ICOMOS states that ‘the assessment does not address the symbolic or cultural significance of the setting, such as the Arcadian landscape ideals associated with Blenheim...’ [REP4-052, p. 7). It goes on to note that the ‘HIA describes the surrounding landscape as having “generally low” sensitivity – a judgement ICOMOS explicitly rejects given the site’s designed and Arcadian context.’ [*ibid.*]. In another example it states that,

The Arcadian landscape presents an idealisation of a bucolic pastoral landscape. As such, landscape parks like that at Blenheim should not be seen in isolation but rather as inextricably linked to the rural vestiges of its wider setting.

- 6.16. In another (REP4-052, p. 7), again in the context of a critique of the submitted HIA, it states that the latter gives little consideration as to how

changes in land use – such as the shift from arable farmland to energy infrastructure... – might affect the legibility or perception of the designed landscape, or how the arrangement of rural villages, approach routes, and their spatial relationship to the estate contribute to the experience of the OUV.

The submission could have benefitted from an illustrative or specific example as to how experiencing these external characteristics through, for example driving along the A44 through Begbroke, enables us to understand or appreciate i) how the Palace and Park reflect the rejection of French models of classicism and the beginnings of the English Romantic movement; and/or ii) that Blenheim Palace was the nation’s equivalent of a European princely residence, ‘built to honour one of its heroes’. Indeed, this seems especially important to articulate given that, aside from two key views, the Palace and Park are physically and visually divorced from the countryside beyond, as reflected in ICOMOS-UK’s assessment (see 6.19 below).

- 6.17. In these examples, there seems to be a confused approach to relating Blenheim’s designed landscape to the wider countryside. The ‘Arcadian landscape ideals’, are explicitly contained within the Park and boundary walls, concealed with a perimeter belt; these ideals are not writ large in the (undesigned) countryside beyond. Indeed, it is typical of Arcadian landscapes to make use of specific, borrowed aspects of the land beyond (e.g. in designed views in or out), rather than relate to it in its entirety. This is the case at Blenheim.

- 6.18. The 'rural vestiges of the wider setting', referred to by ICOMOS, are therefore relevant insofar as they are experienced in those designed views, as it is only through this experience that OUV can be elucidated, especially criteria (ii).
- 6.19. This very point seems to be acknowledged by ICOMOS-UK in its responses to ExQ1 [**REP2-070**, p. 2]:

The 1000 ha Park is enclosed by a high wall and continuous tree belt so that there are only two outward views from the Park...A southerly view from the Palace to Bladon Church...[and]...An easterly view from the Column of Victory...

- 6.20. The difficulties of using a broad concept of the 'rural landscape' as a contributor to setting are made clear in other ways within the submissions. For example, ICOMOS-UK's assessment veers away from OUV towards an assessment on landscape amenity, which, as identified above, is not synonymous with setting as a contributory element to significance/OUV.
- 6.21. In its responses to ExQ1 [**REP2-070**], ICOMOS-UK provides a 'preliminary assessment of impact on Blenheim's rural landscape, surrounding the WHS and part of the Blenheim estate' (pp. 2-4) and comments on 'some landscape issues of concern' (pp. 4-5). It states its interest in sustaining the rural landscape generally, but qualifies its submission by noting that 'in this instance [it] contributes to the setting of the WHS'.
- 6.22. Notably, its assessment does not make use of, or reference, the UNESCO Toolkit or any form of structured assessment akin to those required by applicants. However, more significant is that the assessment in these pages does not once refer to OUV or how the landscape being discussed contributes to it. Instead, comments such as those below are found in the assessment:
- 'the attractive countryside which would be affected by the three blocks of the [proposals] is sensitive to downgrading' (p. 2);
 - '...parts of the current proposals are altogether unacceptable because they impinge too closely on adjacent villages' (p. 2);
 - 'Shipton Slade hamlet abuts the southeast corner of the North Solar Farm. To reduce the sense of oppression by solar panels upon this hamlet...[various fields should be removed]' (p. 3);
 - 'The Central Solar Farm...would need to be arranged to avoid being too obvious by being set away from adjacent villages and important landscape features' (p. 3);
 - 'To provide the village with breathing space arrays on the fields between Bladon village and the village recreation footpath [should be omitted]' (p. 3);
 - '...solar arrays are proposed far too close to Cassington village' (p. 4); and

- ‘The value of nearby houses would undoubtedly be reduced if this solar farm proceeds’ (p. 5).

- 6.23. Whilst these observations may have their own validity in a landscape assessment context, it is not made clear why, for example, not giving ‘breathing space’ to a village or a reduction in house prices should affect our ability to understand or appreciate the Palace and Park’s rejection of French models of classicism and the beginnings of the English Romantic movement and/or that Blenheim Palace was the nation’s equivalent of a European princely residence, built to honour one of its heroes. Similarly, none of these landscape-related points is linked to the two designed views identified by ICOMOS-UK itself (cited at 6.19 above).
- 6.24. Finally on this point, we wish to draw attention to two particular methodological issues in ICOMOS’s submissions, aside from the lack of structured assessment referred to above.
- 6.25. First, the Technical Review raises a concern that the applicants submissions do ‘not meaningfully explore how the broader landscape setting supports the property’s Outstanding Universal Value’, which in turn leads to a recommendation that the State Party commission a Landscape Character Assessment to provide this information [REP4-052, pp. 7, 8]. We read this as a suggestion that insufficient information has been provided from which to make an accurate assessment. If that be the case, then one would typically expect the consultee to reserve judgement until that information be provided. However, in this case ICOMOS has provided a lengthy assessment, seemingly without reservation and certainly without the information it states is required.
- 6.26. Secondly, also in its critique of the submitted HIA, ICOMOS raises an issue with the latter having relied on the MPs ‘predefined list of attributes, without applying an independent methodology for identifying and analysing OUV’ [REP4-052, p. 7). This is followed by a recommendation that the State Party require an HIA which ‘independently defines attributes of the Outstanding Universal Value...’ [REP4-052, p. 8]. The suggestion that attributes conveying OUV, which form part of a meticulously curated and consulted upon MP, should be revised on an *ad hoc* basis in the assessment of an application is unorthodox and we would question its validity. The SoOUV and attributes within the MP is surely the appropriate and correct bases on which to assess OUV and impacts.

Assessment of harm

- 6.27. With this rural landscape focus, it is not surprising to see why ICOMOS’s assessment conclusions are stark. The proposals represent a ‘substantial threat to the landscape character [our emphasis] and spatial context that support the property’s Outstanding Universal Value’ [REP4-052, p. 8]. The proposals will result in ‘substantial harm’ to the OUV and a ‘significant adverse impact on the OUV of Blenheim Palace through a cumulative transformation [our emphasis] of its wider rural setting’ [*ibid*]. However, the ways in which the ‘landscape character’ and any such ‘transformation’ affect the reasons the WHS is designated are evidently not made out.
- 6.28. To put it another way, as a test of validity these conclusions may be framed to suggest that, were Botley West to be consented, there would be substantial

threat and harm to our ability to understand or appreciate how Blenheim Palace and Park embody the rejection of French models of classicism and the beginnings of the English Romantic movement and/or that Blenheim Palace was the nation's equivalent of a European princely residence, built to honour one of its heroes. This does not seem to be a tenable conclusion.

- 6.29. The Government's Planning Practice Guidance is clear that substantial harm is a 'high test, so it may not arise in many cases'. The guidance states that this would arise where an adverse impact 'seriously affects a key element of its special architectural or historic interest', for which we might here read 'OUV'.¹¹ The benchmark for understanding the quantification of substantial harm in a heritage context remains *Bedford*,¹² which, usefully, turned on impacts to the setting of a designated heritage asset.
- 6.30. In *Bedford*, Jay J made the observation that, for harm to be substantial, the impact on significance would need to be so serious that 'very much, if not all, of the significance was drained away' [24]. Furthermore, he went on to confirm that [emphasis added]:

Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced [25].

- 6.31. Setting ICOMOS's conclusions against this yardstick would force one to conclude that, were Botley West to be consented, we would all but lose our ability to understand or appreciate the reasons why Blenheim Palace and Park were inscribed as an WHS. Again, this conclusion would not seem to be a tenable one.
- 6.32. Though, as we have set out above, ICOMOS-UK's submission makes numerous comments in relation to the wider landscape it considers to contribute to OUV, it does not provide a specific conclusion as to any impacts on the OUV it considers to arise from the proposals.

Relationship with HE's position

- 6.33. The above has established ICOMOS's position as 'substantial harm' to the OUV of the WHS. HE, by contrast, takes a different position, one which we can vouch is supported through lengthy engagement, site visits and meetings.
- 6.34. HE's latest position, expressed in its letter to Mr Owen-Lloyd advising on the proposed Change Request 2 [REP2-045] is that the removal of solar panels from the fields identified in its D1 submission [REP1-086] would have '*the potential to remove* the previously identified harm to the Outstanding Universal Value of the WHS and the significance of the ensemble of the RPG and palace.' [our emphasis]
- 6.35. However, we also note that in its response to ExQ1, 1,6.14 [REP2-056] it had previously acknowledged that implementation of the 'targeted changes' put

¹¹ PPG, Paragraph: 018 Reference ID: 18a-018-20190723

¹² *Bedford BC v Secretary of State for Communities and Local Government* [2013] EWHC 2847 (Admin)

forward in ICOMOS-UK and HE D1 submissions ‘would be sufficient to avoid any harm to the contribution made by the rural landscape to the significance of the WHS and to maintenance of its attributes of OUV’. We are therefore not clear at this stage why, in HE’s assessment, there is only now the ‘potential’ to remove harm now that the required amendments have been proposed, but the thrust of the conclusion is nonetheless clear.

- 6.36. In any case, it is to be borne in mind that there is again a fundamental tension between UNESCO’s approach to harm, which we would assume to be that followed by ICOMOS, and the approach within the English planning system, followed by HE. Broadly, UNESCO’s position is that harm to a WHS is never acceptable, ‘which means that rectification, reduction (to less severe but still significant) or offsetting of impacts is inappropriate in a World Heritage context’.¹³
- 6.37. This tension may be reflected in ICOMOS’s explicit statement that it does not agree with HE’s conclusion on harm [REP4-052, p. 8].
- 6.38. We may deal with this tension by referring again to the consideration of the relationship between the UK’s obligations to the Convention and the implementation of the planning system (see above, 4.3-4.4). In essence, the planning system, founded upon a principle of balancing harm and benefits, trumps the UNESCO position that harm is never acceptable.
- 6.39. However, there is one significant area of implicit agreement between ICOMOS-UK and HE, specifically relating to the buffer zone question (see also above 5.24-5.26). In ExQ1, question 1.6.14 contains a statement – rather than a question – that the MP and the Setting Study have deemed that a formal buffer zone was not required owing to the extent of existing designations which apply to the landscape around Blenheim Palace WHS, such as the Cotswold National Landscape, Green Belt, and WODC policy EW9.
- 6.40. In response to this, HE states that ‘there is no proposed buffer zone’ [REP2-056] and directs the ExA to a previous submission [REP1-086] on the context for implementing buffer zones. In its response to the statement [REP2-069], ICOMOS-UK refers to the landscape being ‘designated for protection in the ways described by the question’ and refers to this being a ‘general character rather than a definable buffer zone.’
- 6.41. A buffer zone is also referred to in ICOMOS’s Technical Review [REP4-052], where notes the position in the MP that the property ‘does not require a buffer zone to supply it with the added layer of protection necessitated for the adequate protection of the nominated property’ (p. 3). However, in its response it refers on numerous occasions to the ‘absence’ of a buffer zone.
- 6.42. As stated above, and as demonstrated by UNESCO’s records (see footnote 8 above), there has long been a conclusion that a buffer zone is not necessary or appropriate for the Blenheim Palace WHS. Given that the proposals do not affect the basis on which these conclusions were made (e.g. current protections, applicability of buffer zones to contained sites etc.), we see no reason why this conclusion, reaffirmed as recently as 2024, should be revised in the light of the Botley West project.

¹³ UNESCO, Guidance and Toolkit for Impact Assessment, p. 27

7. Summary and concluding remarks

- 7.1. The above has provided an independent approach to summarising the OUV of Blenheim Palace WHS and how setting contributes to it. It has highlighted a fundamental need, easily overlooked and lost in lengthy discussions, for all parties to demonstrate that, for setting to be contributory, it must assist us in understanding and appreciating (i.e. experiencing) the reasons why Blenheim was inscribed as a WHS. Ultimately, this approach is supported in both HE guidance and in the OG, though is somewhat muddled in the Toolkit with its concept of a blanket 'interdependence'.
- 7.2. On first principles, those reasons relate to the how the Palace and Park reflect the rejection of French models of classicism and the beginnings of the English Romantic movement; and that Blenheim Palace was the nation's equivalent of a European princely residence, 'built to honour one of its heroes'. Where any aspects of the setting around the WHS enable those specific elements to be understood and appreciated, then they will contribute to OUV. Where a setting exists, in any form, outside a WHS or any other designated heritage asset, but does not enable these specific things to be understood or appreciated, then it does not contribute to setting and OUV cannot be harmed through change. Once this entirely rational position is taken as the basis for assessment, then one can appreciate the bar which has to be met to demonstrate both the contribution of setting and impacts on it.
- 7.3. Applying these principles, we have questioned the concept of the 'traditional English countryside' as nebulous and too susceptible to misapplication. A more measured and supportable approach demonstrates that the countryside contributes to the OUV of Blenheim insofar as it is related to the two designed 'key visual links' between it and the WHS. This is because the intervisibility (to an extent which needs definition) in these views relates specifically to designed concepts embodied in the Palace and Park as a whole in a way which is understandable and appreciable in our experience of the WHS. This clearly has implications for suggestions that landscape character or use *per se* contributes to this understanding and appreciation, and as to whether it *contributes* to OUV, or merely exists *de facto*.
- 7.4. These representations have also sought to clarify the position of WHSs within the (as yet unacted) LURA insofar as it regularises an existing policy position through the NPSs and NPPF and does not result in any parallel statutory framework for WHSs. Any suggestions that this might be the case would be misleading.
- 7.5. Related to this, we have drawn attention to the UK's international obligations to the Convention and clarified that this is not a statutory position. We highlighted how the Court of Appeal in the *Stonehenge* case has unequivocally demonstrated that these obligations are met by the proper implementation of the planning system as regards WHSs. There has been no statutory challenge to the Court of Appeal's position on this point.
- 7.6. We have looked in some detail at ICOMOS and ICOMOS-UK's submissions, which are notable in their difference from HE's approach. We have demonstrated how the reliance on the concept of a contributory 'traditional English countryside' resulted in a somewhat wayward assessment focusing predominantly on landscape, but straying to consider, for example, 'the value

of nearby houses', with little or no linkage to the reasons why Blenheim is inscribed as a WHS and how *that* is affected.

- 7.7. In addition, we identified some methodological issues, in which ICOMOS has suggested additional assessment is required (e.g. landscape character assessment), but has nonetheless provided an unambivalent assessment. We also raised concerns regarding the suggestion that, in its HIA, the applicant should have effectively disregarded the MP and the attributes conveying OUV and undertaken an *ad hoc* assessment to an 'independent methodology'.
- 7.8. In highlighting ICOMOS's assessment of 'substantial harm', we have sought to remind the ExA of the 'high test' that this category needs to pass to be considered valid, as established in case law. On that basis, and considering what is required to argue successfully that setting contributes to OUV, we have established that this conclusion has not been adequately made out.
- 7.9. We have established ICOMOS's position in relation to that of HE, noting that the latter's assessments have been iterative, based on site visits and considerable engagement with the project team to resolve issues. As a result, we drew attention to HE's latest position that, with the amendments proposed in Change Request 2, there is now the 'potential' for its previously assessed harm to OUV to be removed.
- 7.10. Finally, we noted that HE and ICOMOS-UK appear to be in agreement regarding the extent of landscape and other designations around the WHS taking the place of a formalised buffer zone. In the absence of strict guidance as to when these are required, we offered our view that they are more reasonably applied where no defined edges to a WHS exist (e.g. a landscape). By contrast, at Blenheim Palace there is a clearly demarcated area which contains the elements of OUV, as per the stipulations in the OG (see above, 4.21).
- 7.11. Based on the above, we would counsel the ExA to maintain a robust and focused approach to understanding setting and where it contributes to OUV, and to making assessments of impacts.
- 7.12. The Blenheim Estate fully supports HE's position that the proposed amendments to the proposals set out in Change Request 2 are sufficient to remove any harm, previously identified in HE's assessment, to the OUV of Blenheim Palace WHS.



View cones

Representations on the Examination of
Development Consent Order Application
for Botley West Solar Farm Application ref:
EN010147 for The Blenheim Estate
Deadline 5 Submission

Notes/Revision

Blenheim Estate

0 250 500 m



Figure 1: Identified view cones (from
Blenheim Palace World Heritage Site
Revised Management Plan 2017,
Appendix 1, Figure 5 Character of the
Setting)

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|-----------------------------|------------------------|----------------------------|
| Status: | Drawn by: JC | Checked by: SD |
| Project number: 226410 | Scale @A3: 1:15,000 | Date created: 2025/9/11 |
| Drawing number: TOR-H001 | Revision: - | |

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