

Statement to the VWHDC Planning Committee 31 March 2021
Hester Hand – Friends of Abingdon Civic Society

Good evening. I am speaking about the Austin House application, but most of my comments would apply equally to Crescent House.

The officer's report (and his pre-application advice) draws extensively on NPPF guidance and on the Vale's development policies, but this Committee also needs to be aware of the position set out in statute and case law, which takes precedence over such guidance and policies. (The references are listed in the written version of this statement.)

The Council is required by law to give 'considerable importance and weight' to any harm to listed buildings or their settings, or to the character and appearance of Conservation Areas. In the *Barnwell Manor* case, the Court of Appeal reiterated that: "There is a strong presumption against granting permission for a development which would harm the character or appearance of a Conservation Area."

Officers accept that this development will cause harm to the setting of the listed building, and to the character and appearance of the Conservation Area. They suggest that the harm is "less than substantial", and that it is "at the lower end of this category". There's room for debate about that - and you will note that Historic England say their original concerns about the setting to the listed building have not been allayed by changes to the design - but all agree that there is harm.

There is therefore (in law) a strong presumption against granting permission. The Courts have said that that presumption may be overridden in "exceptional cases". What you have to decide is whether the public benefit from this proposal is sufficient to create such an exception - the "Planning Balance".

The introduction to the officer's report says the scheme will "enable the future proofing of the school's accommodation, better management and improved pupil cohesion. It will also free up existing buildings for other school activities". His more detailed analysis in section 6 focuses on the overall benefit created by the school - but these are not benefits of the scheme itself, they are being provided already and there is no suggestion that they will be increased because of the scheme.

The nub of the argument is in 6.5 - that the scheme will secure the 'medium to long-term viability of the school' - but there is no suggestion that that viability is in question. In other words, there is little or no identifiable public benefit to put against the "great weight" of the heritage issues.

It is unfortunate that although the officer's report listed some relevant case law, he did not brief you on its significance. However the Committee is fully entitled to take its own view of the planning balance. We urge you to do so, to conclude that there are no public benefits which outweigh the strong presumption against granting permission, and to refuse it. The School may appeal, but they will find that there is a heavy weight of high judicial authority against them, and in favour of protecting our designated heritage.

End

(for references, see over)

References:

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Forge Field Society and Sevenoaks DC [2014] EWHC 1995 paras 49 - 51, and the related cases cited there.

Barnwell Manor Wind Farm Limited v East Northamptonshire District Council and Others [2014] EWCA Civ 137

Wyeth-Price and Guildford Borough Council [2020] EWHC 3355