

READING BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES

2000

SECTION 78 APPEALS

REBUTTAL PROOF OF EVIDENCE ON REASON FOR REFUSAL No. 5

**NICK BRIDGLAND, Heritage Director (Lichfields); MA (Hons), MA, FSA
Scot, IHBC, MCIfA**

Appeal by: AVIVA LIFE & PENSIONS UK LIMITED

Appeal Site: Vastern Court, Vastern Road, Reading

Appeal Against: Refusal of Planning Permission by Reading Borough Council for: Outline planning permission with the details of access, appearance, landscaping, layout and scale reserved for later determination. A demolition phase and phased redevelopment (each phase being an independent act of development) comprising a flexible mix of the following uses: Residential (Class C3 and including PRS); Offices (Use Class B1(a)); development in Use Classes A1, A2, A3 (retail), A4 (public house), A5 (take away), D1 and D2 (community and leisure); car parking; provision of new plant and renewable energy equipment; creation of servicing areas and provision of associated services, including waste, refuse, cycle storage, and lighting; and for the laying out of the buildings; routes and open spaces within the development; and all associated works and operations including but not limited to: demolition; earthworks; provision of attenuation infrastructure; engineering operations.

Planning Inspectorate Reference: APP/E0345/W/21/3289748

Reading Borough Council Reference: 200328/OUT

Date: APRIL 2022

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1.0 Introduction

- 1.1 This Rebuttal has been prepared to accompany my earlier Proof of Evidence and in response to the Proofs of Evidence provided by the Appellant, primarily that of Dr Chris Miele concerning heritage issues.
- 1.2 It addresses a number of issues arising from Dr. Miele's report, seeking to identify areas of agreement (where they exist) and addressing differences between our evidence. It does not address all the points raised in Dr. Miele's Proof of Evidence and omissions from this rebuttal should not be taken imply that agreement with any of the statements in that document. Many of the points raised in that Proof have already been dealt with in my Proof of Evidence.
- 1.3 This rebuttal begins with some general comments regarding Dr. Miele's approach before addressing matters relating to the identification of significance and the assessment of harm. I then conclude with some comments regarding the implications for the overall decision regarding how this relates to the wider planning balance.

2.0 General Approach

Relationship between Heritage and other issues

- 2.1 Dr. Miele's evidence focuses on the heritage matters related to the proposed development. In doing so he ranges beyond the process of identifying heritage impact, touching on matters of townscape/urban design and even the wider planning balance.
- 2.2 Early on in his Proof of Evidence Dr. Miele states that he is "of the view that the proposals will not give rise to any unacceptable heritage effects" (para 3.5). All heritage consultants are used to giving informal advice to clients regarding what degree of heritage impact could derail their project. However, in the formal context of this inquiry, since Dr. Miele concludes that there is harm to designated heritage assets, such harm needs to be justified by other public benefits (Para 202 of the National Planning Policy Framework CD 7.36). Since there are no identified heritage benefits arising from the proposed development which might (as Dr. Miele touches on in the final bullet of para 5.12) provide that balance, any other public benefits (environmental, social or economic) are matters for the broader planning balance. Therefore, in the context of evidence focused only on heritage matters, Dr. Miele's assertion at para 3.5 that any heritage harms are acceptable is premature; this is a matter for the decision-maker looking at all aspects of the proposed development.
- 2.3 It is important not to confuse heritage issues with other issues. As Historic England advises in HEAN 4 Statements of Significance (CD 7.56 para 10), a Statement of Significance (and by extension, a Heritage Impact Assessment) should be impartial;
- "an objective analysis of significance, an opportunity to describe what matters and why, in terms of heritage significance"*.
- 2.4 Historic England goes on to recommend in HEAN 10 Tall Buildings (CD 7.24 para 5.14) that;
- "preparing separate Heritage Impact Assessments ... and Townscape Visual Impact Assessments can help ensure that heritage significance is effectively described"*.
- 2.5 If Heritage issues are confused with Townscape issues, as is the case with Dr. Miele's Proof of Evidence, this can lead to a flawed assessment of heritage impact.
- 2.6 Section 6 of Dr. Miele's proof considers the Design Characteristics of the Proposals, referring to matters as diverse as residential quality, the penetration of daylight to the public realm, the contrast between the commercial and residential blocks and the proportion of active and inactive frontages. He concludes in para 6.47 that "the presence of buildings to the north of the station and railway from within the historic core helps unite the two, overcoming the significant physical and perceptual barrier caused by the railway". This discussion of Design

Characteristics and this conclusion are essentially townscape/urban design issues. In designing any new development of this type such issues will be worthy of careful consideration but, unless these issues have a bearing on the significance of heritage assets, they have no relevance in discussions of heritage impact.

- 2.7 Dr. Miele's conclusion at para 6.47 also helps to illustrate the difference between townscape and heritage issues. I defer to Mr. Doyle regarding whether "overcoming the significant physical and perceptual barrier caused by the railway" is beneficial or not in urban design terms. However, in terms of Reading's history, the character of the railway running East-West across the northern side of the historic town is an important element in understanding how the town has evolved. The location and nature of boundaries and barriers can be significant elements of the historic environment and there is nothing to be gained, in heritage terms, with trying to diminish this historic characteristic of the area. It is for reasons such as this that Historic England advises that Heritage Impact Assessments and Townscape Impact Assessments should be undertaken separately.

Role of the Design Code

- 2.8 Since the development proposals are at outline stage, the key basis for an understanding of the form the development is set out in the parameter plans (CD 1.34.10) and the Design Code (CD 1.47). The Design Code was drafted in the expectation that adherence to it would be made a condition of any consent (p.12). I would agree with Dr. Miele's assertion that "The decision maker must take into account the principles set out in the parameter plans but this must be read in combination with the Design Code as it is also submitted for approval and is a material consideration of weight and factor in the decision making process" (p.46, bullet 3).
- 2.9 At several points, Dr Miele relies on the existence of the Design Code to conclude that any heritage harm identified at this stage can be addressed at reserved matters stages. He makes this point in considering the scope of his evidence (Para 3.19), when discussing the implications of local planning policy (para 5.16), when discussing harm to the significance of the Conservation Area (para 8.36), when discussing harm to the significance of the Town Council Chamber (para 9.20) and when discussing harm to the significance of the Main Building of Reading Station (Para 10.22). He consistently claims that any harm identified at this outline stage can be addressed through adherence to the Design Code.
- 2.10 As Dr. Miele states at several points he contributed to the development of the Design Code. Since he was only instructed in response to the original submission of the proposals in February 2020, his contribution to the Design Code would be apparent only in the revised version submitted with the resubmission (CD 1.47). However, this document contains no reference to the need to ensure that detailed designs should consider matters of heritage impact. The only reference in the Design Code to matters relating to Reading's historic character is a requirement that

brick (along with glass, concrete, wood and metal) be one of the main materials for the development (paras 5.5.2 & 5.9.5). This should of high quality on the office buildings “where possible” (para 5.9.6) but a colour is not specified (para 5.9.7). There is nothing else in the Design Code, as revised following Dr. Miele’s contribution, which requires any further consideration of heritage impact.

- 2.11 As set out in RFR5, the heritage harm identified relates to the height and siting of Blocks C and D. While the Design Code deals with how these buildings are to be articulated, it is explicit that their siting should not be varied (para 5.1.1) and, while there is some discussion regarding heights within the parameters in relation to Daylight and Sunlight, there is no discussion regarding the reduction of building heights in relation to heritage. Simply adhering to the Design Code would not require any proposals to reduce the degree of harm that either Dr. Miele or I have identified.
- 2.12 Dr. Miele’s reliance on the Design Code to reduce or remove heritage harm is unfounded. While I recognise that it is possible for an applicant at reserved matters to propose a development which is less harmful than the outline consent would allow for, there is nothing in the Design Code which would require this. Accordingly, I find Dr. Miele’s reliance on the Design Code to remove the harm that he himself has identified, to be anything but the “cautious” approach to heritage impact he claims to have followed.

Expectations for Tall Buildings

- 2.13 In discussing the policy context for decision-making, Dr. Miele claims that Policy CR10 (Tall Buildings) of the Reading Development Plan expects development and “shows the Council has considered and expects change in these locations adjacent to the heritage assets”. I would agree that change is expected here and I would also agree with Dr. Miele that change is not the same as harm (para 3.19, bullet 2). However, an expectation of change does not imply that harm is inevitable.
- 2.14 As Dr. Miele points out in para 5.22, the Local Plan policies do not mean that there will necessarily be harm to heritage assets. Indeed the other policies in the local plan make it clear that “All proposals will be expected to protect and where possible enhance the significance of heritage assets and their settings, the historic character and local distinctiveness of the area in which they are located” (Policy EN1). Indeed, even CR10 requires proposals for tall buildings to “conserve and, where possible, enhance the setting of conservation areas and listed buildings”. While CR10 identifies the Station Cluster as being suitable for tall buildings, this in no way reduces the need to protect and enhance Reading’s heritage assets.

Categorisation of Harm

- 2.15 In the assessment of heritage impact which accompanied the resubmission (CD 1.39) the conclusion regarding impact for 10 designated heritage

assets was that they would suffer a “negligible adverse effect”. While the assessment did not express this in terms required for the tests in the NPPF (Less than Substantial or Substantial Harm), I have explained the issue surrounding the use of a term such as negligible in my main Proof (see para 3.14): the NPPF recognises no degree of harm between Less than Substantial and No Harm. Accordingly, even what might be termed negligible harm cannot be ignored since it will require justification according to para 202 of the NPPF. I note that Dr. Miele has moved away from using the term “negligible” in his Proof and I believe this should bring a little clarity.

- 2.16 The treatment of less than substantial harm in the planning balance has been addressed in the “Barnwell” case (CD 6.1) which, memorably, finds that it is an error to treat a finding of “less than substantial harm ... as a less than substantial objection”. In this case there are three designated heritage assets which are harmed by the proposed development. The aggregation of these harms should be accorded “considerable weight” in the planning balance (in accordance with para 199 of the NPPF) and the high importance of the Grade II* listed Town Council Chamber only adds to the weight which this harm should carry.

Conclusions regarding Approach

- 2.17 These issues each represent flaws in Dr. Miele’s approach to assessing the heritage impact of the proposals. He has taken into consideration matters which are not relevant to heritage significance. Relying on an unfounded understanding of what can be achieved at reserved matters stage, he has moderated his own conclusions of harm. Finally, he places undue emphasis on the identification of the Station cluster for tall buildings, ignoring key elements of the Local Plan which call for the protection an enhancement of the historic environment. In each case the effect of these flaws has been to downplay the impact on the significance of heritage assets resulting in an assessment which has fundamental flaws.

3.0 **Assessment of Heritage Impact**

- 3.1 As is agreed in the Statement of Common Ground, (CD 12.1, para 5.55), understanding the heritage significance of an assets is fundamental to understanding the impact of proposed development on that significance.
- 3.2 Dr. Miele has focused on the three heritage assets which are referred to in the Reason for Refusal (RFR5):
- Main Building of Reading General Station: Grade II (NHLE 1321892)
 - Market Place and London Street: Conservation Area
 - Town Council Chamber and Offices with Clock Tower: Grade II* (NHLE 1113400)
- 3.3 I have already rehearsed in my main Proof the shortcomings of the assessment which was submitted with the application. Dr Miele’s proof has provided far more information regarding his assessment of their significance than was previously provided.

Main Building of Reading General Station

- 3.4 Dr. Miele and I agree that the greatest harm to the significance of a designated heritage asset arising from the proposals will be felt by the Main building of Reading General Station. I have concluded that this will result in a “moderate degree of less than substantial harm” while Dr. Meile concludes that this will result in a “low order of less than substantial harm” (P.46, bullet 5). The reasons for this difference are set out below.

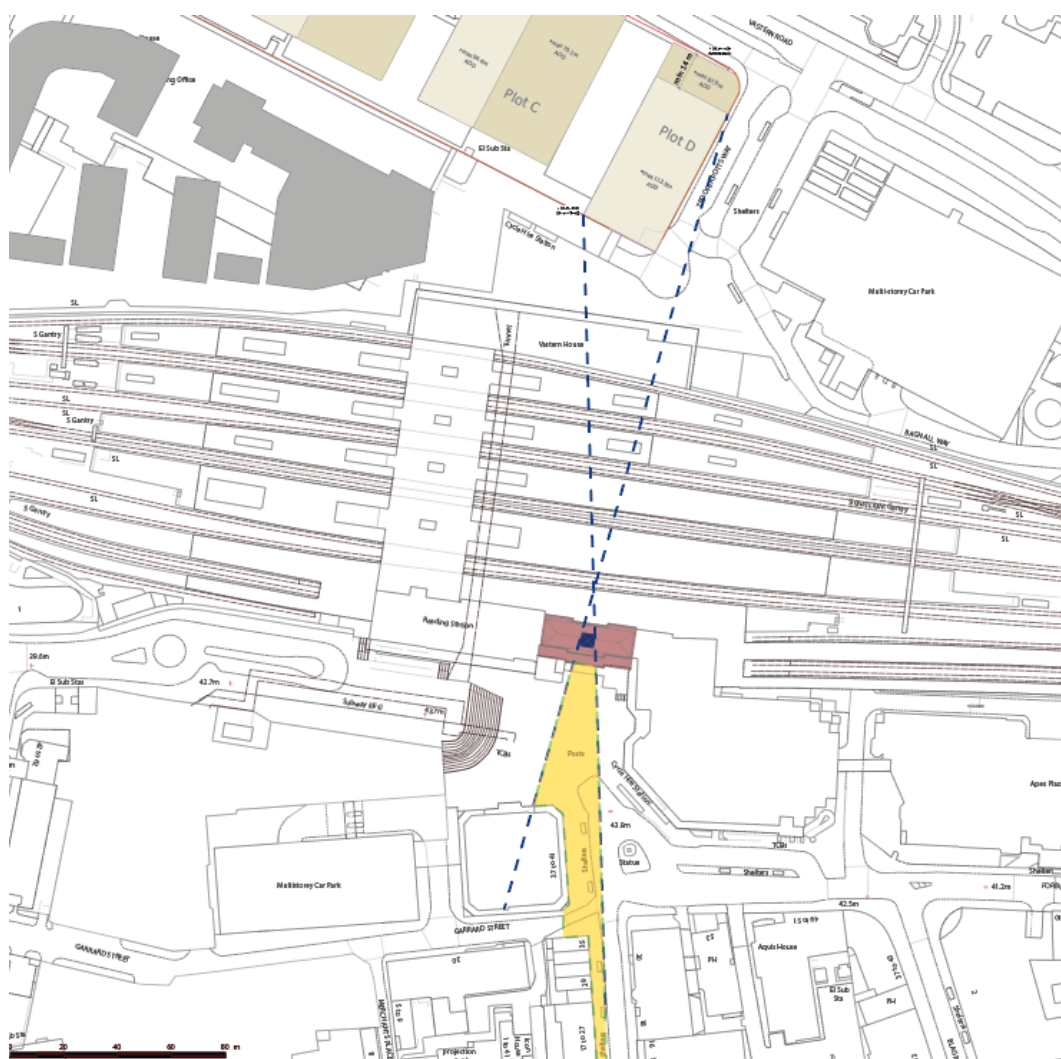
Significance of the Listed Building

- 3.5 Dr. Miele’s proof sets out his understanding of the building’s significance but concludes that he does “not consider that the scale of the station successfully closes that view [from the public square]. It is a relatively minor incident by reason of its scale and design” (para 10.14). This contrasts with his earlier comment that the “recently redeveloped part of the station has reinforced a sense of focus on the historic building from Station Square” (para 10.12). He does recognise that in para 10.14 that “key views of the station are largely from within this public square, and also from the direct southerly alignment of Station Road, where one gets a sense of the building’s presence and experience of arrival moving north”.
- 3.6 The Station building’s design, its function, its relationship with the public realm, the Grade II listed Statue of Edward VII and the Grade II listed former Station Hotel all contribute to this appreciation of the station has a focal point. It is not a building to be passed by but a place to be passed through; climbing aboard trains heading out of the town. As Dr. Miele notes in paragraph 10.11, the station has a far weaker relationship with the area to the north of the tracks but this, again reflects the way in which the railway characterised the north side of the historic town.

Impact

- 3.7 In his commentary on the Council's position Dr Miele recognises that scale and massing are at the heart of the RfR5 and refers back to his own discussion of townscape/urban design issues (para 10.18) and the expectations for tall buildings (para 10.19). As I have discussed in Section 2.0 above, these are not issues which relate to the assessment of heritage impact.
- 3.8 He does discuss the potential that in some views the proposed development will not be directly behind the clock tower but, as shown in Figure 3.1, this will be the case for a large part of the area which he has concluded as being the key views of the station (see para 3.5 above).

Figure 3.1 The area within the Station Square South in which Parameter Block D will appear directly behind the Station Clock Tower



Source: Michael Doyle

- 3.9 Dr. Miele gives no further consideration to the impact of the proposed development on the view from Station Square but it is worth noting that Mr. Chard's illustrative material contains a view showing the Station Building with its clock tower from the north (Figure 3.2). Neither I nor

Dr. Miele have identified this view of the station as significant but I draw attention to it because it illustrates the diminution of prominence of the clock tower with a large building behind it. Design adjustments to the fenestration or materials (as might be envisaged in the Design Code) would not have changed this impact in any meaningful way.

Figure 3.2 Reading General Station from Vastern Road



Source: CD8.11.3 Site Context Photo 2

- 3.10 Having identified the key views of the station, Dr. Miele has failed to recognise the full impact that the proposed development would have on the appreciation of the station in this key views.

Operation of the Design Code

- 3.11 As discussed in Section 2.0 above. Dr. Miele places unfounded faith in the operation of the Design Code to reduce the harm which he has identified. Dr. Miele accepts a “minor / moderate adverse effect” on the significance of the station building derived from the height and location of the proposed development. However, he sees this as a cautious assessment since the application is in outline and he has not therefore been able to consider “Form and Appearance”. From this I understand him to be implying that a detailed design (within parameters and following the Design Code) would be less harmful. As set out in paras 2.8 ff above, I consider this to be based on an ill-founded reliance on the Design Code.
- 3.12 Much of the rest of Dr. Miele’s assessment of impact does not concern heritage issues pertinent to this assessment of the outline scheme. On p.46, bullets 2 and 3 he anticipates that the operation of the Design Code will reduce any harm. While bullet 4 introduces townscape/urban design concerns related to legibility of the town centre.
- 3.13 In bullet 5 he finally concludes that the proposed development would result in a “low order of less than substantial harm”. Given that much of his reasoning appears to have been influenced by his consideration of townscape/urban design issues or a ill-founded reliance on the effectiveness of the Design Code to reduce heritage harm, this assessment

underplays the impact on the heritage significance of the Grade II listed building.

Market Place and London Street: Conservation Area

- 3.14 Dr. Miele's assessment of the conservation area focuses on that part closest to the development site (Character Area 4 in Figure 3.3) but touches on views from Duke Street and London Street in response to the Council's Statement of Case (CD8.4) and Committee Report (CD 3.1).

Figure 3.3 Market Place and London Street Conservation Area showing Character Areas referred to in the text



Source: Lichfields

- 3.15 In para 8.22 he dismisses the view from Duke Street as not being a view of high townscape or heritage value. Historic England's guidance on Setting of Heritage Assets, GPA3, (CD 7.42) identifies a number of ways in which a view may contribute to the significance of a heritage asset including:

“those where the composition within the view was a fundamental aspect of the design or function of the heritage asset”.

- 3.16 The heritage asset in question here is the Conservation Area focused on the historic town. The view from Duke Street is one where it is possible to appreciate the composition of the historic town; how it functioned with a main throughfare narrowing to towards the Market Place and with the buildings in the view reflecting the long evolution of the town centre. On

this basis it remains my judgement that this view makes a contribution to the understanding of the Conservation Area.

- 3.17 In paragraph 8.20 Dr. Miele makes the incorrect assumption that, in identifying harm to the Conservation Area, the Council has drawn a false equivalence between visibility and harm. As is obvious from the Heritage Impact Assessment which accompanied my main Proof, this is clearly not the case. For example, while the proposals will be visible in oblique views of the Grade II Listed Reading Museum, I do not consider that this would harm the significance of the building but I do consider that the intrusion of the Block D into the view north from Duke Street represents the intrusion of a tall building into a view which is characterised by buildings of a more traditional scale on medieval street plan.
- 3.18 In paragraph 8.34 Dr. Miele makes the point that there will be glimpsed views of the development from London Street. I agree with him that this does not represent harm to the significance of the Conservation Area. However, there is a difference between us in how we have reached our conclusions. Considering this difference in reasoning is informative of our respective approaches to heritage impact assessment.
- 3.19 In paragraph 3.2 of Appendix 2 of my proof (CD 10.8.2) I describe the view from London Street as open with views of Thames Tower and the Blade in the distance and with shorter views terminated by the modern roof of the cinema at Oracle Riverside. In this regard, I consider the London Street view to be less reflective of the significance of the historic town. On this basis I have not concluded that the proposed development would harm the significance of the conservation area by appearing in this view.
- 3.20 However, in para 8.34 of Dr. Miele's proof, he considers that this sort of effect "is to be expected and is common in these circumstances where dense redevelopments are promoted within relatively close proximity to historic cities which are covered by designations". As I have discussed in relation to the expectation of tall buildings at para 2.13 above, this expectation does not mean that heritage issues should be set aside. I reiterate that Dr. Miele and I agree that changes in the view from London Street will not harm the significance of the Conservation Area but Dr. Miele seems to conclude that what might be perceived as the inevitability of change means that there can be no harm. In doing so, Dr. Miele has, effectively, considered that the harm caused by such proposed development is a "done deal" which needs no further consideration. This is a deeply flawed approach to heritage impact assessment.
- 3.21 While Dr. Miele goes on to discuss the extent to which the proposed development will be visible from locations in Area 4, at no point does he identify the cause of harm which he considers to be a "very low level" of less than substantial harm. I concluded that a minor degree of less than substantial harm is caused to the significance of the Conservation Area. Since Dr. Miele has not identified any effects which would generate harm, I do not understand his reasoning for reaching his conclusion and, for the reasons set out in para 2.17 above, it appears likely that his conclusion downplays harm. I note at para 8.29 that there was an error in the

reporting of findings in his ES chapter (CD 1.9.14) but, as I stated in my main proof (para 6.16) this document reaches conclusions in a way which cannot be readily followed.

Town Council Chamber and Offices with Clock Tower

- 3.22 Dr. Miele’s discussion of this building goes over much the same ground as his discussion of the Conservation Area. This is to be expected since the Duke Street view concerns them both and his assessment that the view is lacking in heritage value is something I have addressed in my main proof (with appendices) and in para 3.15 above.
- 3.23 In paragraph 9.14, Dr. Miele appears to assume that some criticism is being aimed at the work of AVR London in producing the visualisations for the application submission. No criticism is made of AVR London’s work. The issue is simply that the view from Duke Street has not been produced. I fully accept that the rudimentary visualisation provided in my proof and in the committee report is no substitute for the work of specialists such as AVR London. However, I note that while Dr. Miele recommends that no reliance should be placed on this image, he has not said that it is misleading, he has not offered a more verifiable visualisation in its place and he still concludes that the proposals will result in a “very low level of less than substantial harm” to the significance of the building (para 9.20). It is possible that he is considering other views or sources of harm but he has not set this out.
- 3.24 Dr. Miele’s original assessment of the impact on the Town Council Chamber was that it represented a “negligible adverse effect” (CD 1.9.14, Table 2.6a). I note that Dr Miele has now concluded that the development represents a very low level of less than substantial harm to the significance of the Town Council Chamber (para 9.12). I take this as recognition of the issues around the term “negligible harm” which I have rehearsed in my main proof (para 3.14). In this connection, my discussion of this issue in my main proof and at para 2.15 above is pertinent. All heritage harm needs to be accorded great weight in the planning balance and the more important the heritage asset (Grade II* in this case) the greater the weight should be.

Relationship between harm and importance

- 3.25 In paragraph 9.18 Dr. Miele confuses my position in assuming that I have reached my conclusion regarding the scale of harm after making allowance for the importance of the building. This does not form part of my methodology. My assessment of harm is based on my understanding of the values that contribute to the significance of the listed building and how they will be affected by the proposed development. I have concluded a degree of harm to this highly important listed building and, in accordance with the para 199 of the NPPF, the more important the asset, the greater the weight which should be placed on its conservation. In this regard Dr. Miele’s conclusion that less than substantial harm to a Grade

II* listed building is immaterial (para 9.21) fails to recognise the clear direction of policy and caselaw such as Barnwell.

4.0 Conclusions

- 4.1 Dr. Miele's evidence brings together a number of issues in his discussion of heritage matters. In doing so his evidence make a series of methodological mistakes.
- 4.2 He fails to heed Historic England's advice in keeping townscape assessment distinct from heritage impact assessment and consistently uses townscape or urban design arguments in his reasoning for his conclusions regarding heritage impact.
- 4.3 He has repeatedly referred to the operation of the Design Code as representing a reliable mechanism by which any harms identified at this stage can be addressed at reserved matters stages. However, the Design Code, contains no consideration of heritage issues and therefore there is no certainty that its operation would reduce heritage harm.
- 4.4 He has taken the Council's identification of areas for tall buildings in the development plan as representing an acceptance that harm will be caused to heritage assets when the policies in the Local Plan make it clear that proposals within the tall building clusters in Reading are still expected to preserve and enhance the significance of designated heritage assets.
- 4.5 These methodological mistakes, to a greater or lesser extent, have fed into his assessment of impact on three designated heritage assets, leading to conclusions which have played down harm and whose basis is unreliable.
- 4.6 I maintain my conclusion that the proposals represent:
- a moderate degree of less than substantial harm to the Main Building of Reading General Station (Grade II).
 - a minor degree of less than substantial harm to the significance of Market Place and London Street Conservation Area.
 - a minor degree of less than substantial harm to the significance of the Town Council Chamber and Offices with Clock Tower (Grade II*).
- 4.7 This aggregated harm should be considered in the wider planning balance, with additional weight placed on the harm to the highly graded Town Council Chamber.