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**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER SECTION 78**

**APPEAL BY BERKELEY HOMES (OXFORD & CHILTERN) LTD AGAINST THE DECISION
BY READING BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR**

Demolition of existing structures and erection of a series of buildings ranging in height from 1 to 11 storeys, including residential dwellings (C3 use class) and retail floorspace (A3 use class), together with a new north-south pedestrian link, connecting Christchurch Bridge to Vastern Road

**AT
55 Vastern Road, Reading, RG1 8BU**

INSPECTORATE REFERENCE: APP/E0345/W/21/3276463

READING BOROUGH COUNCIL REFERENCE: 200188/FUL

**STATEMENT OF CASE
ON BEHALF OF READING BOROUGH COUNCIL**

Date: August 2021

Head of Planning, Development & Regulatory Services
Reading Borough Council
Civic Offices,
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- A. Agreed list of drawings and documents the decision related to
- B. Reading Borough Local Plan 2019 Policy CC4 (Decentralised Energy)
- C. Reading Borough Local Plan 2019 Policy CR10 (Tall Buildings)
- D. Reading Tall Building Strategy (Entec for RBC) 2008
- E. Reading Borough Council Annual Monitoring Report 2019-20, published December 2020
- F. Reading Borough Council Residential Planning Commitments at 31 March 2021 Summary Version, published June 2021
- G. Urban Design Statement of Case in relation to reasons for refusal 1, 2 and 6 (although there is some overlap with reason for refusal 3 as well), prepared by Michael Doyle of Doyle Design LLP
- H. Highway/Transport Statement of Case in relation to reason for refusal 1, prepared by Darren Cook, Transport Development Control Manager at Reading Borough Council (RBC)
- I. Ecology Statement of Case in relation to reason for refusal 3, prepared by Giles Sutton of GS Ecology, Ecology Consultants for RBC
- J. Natural Environment Statement of Case in relation to reason for refusal 3, prepared by Sarah Hanson, Natural Environment Officer at RBC
- K. Noise Statement of Case in relation to reason for refusal 4, prepared by Rhys Scrivener of KR Associates (UK) Ltd in conjunction with Rebecca Moon, Senior Environmental Health Officer at RBC

- L. Heritage Statement of Case in relation to reason for refusal 5, prepared by Bruce Edgar, Conservation and Urban Design Officer at RBC
- M. Affordable Housing Statement of Case in relation to reason for refusal 7, prepared by Andrew Jones of BPS Chartered Surveyors
- N. Suggested Conditions

This Statement of Case (SoC) has been prepared by Jonathan Markwell. I am a Principal Planning Officer at Reading Borough Council and have 13 years Development Management experience in a local authority setting. I hold a Bachelor of Science (Honours) Degree in City and Regional Planning and a Masters' Degree in Regeneration Studies, both from Cardiff University. I am a licentiate Member of the Royal Town Planning Institute.

I have been involved in the scheme since pre-application stage in 2018 and am familiar with the appeal site, its surroundings, and its context within the Borough. I am familiar with planning policies at local and national level which are relevant to the consideration of this appeal.

1.0 INTRODUCTION

- 1.1 Full Planning Permission was refused by Reading Borough Council under reference 200188/FUL on 9 April 2021 for the '*Demolition of existing structures and erection of a series of buildings ranging in height from 1 to 11 storeys, including residential dwellings (C3 use class) and retail floorspace (A3 use class), together with a new north-south pedestrian link, connecting Christchurch Bridge to Vastern Road*'.
- 1.2 There were seven reasons for refusal, relating to (in summary):
 - Failure to provide a high quality north-south link through the site (reason for refusal 1),
 - Height and proximity of the proposed Blocks D & E to the Thames Path harming the setting and character of the path and The River Thames (reason for refusal 2)
 - Impact on marginal habitats and lack of appropriate mitigation and insufficient space within riverside buffer for required large canopy trees (reason for refusal 3)
 - Failure to demonstrate sufficient noise mitigation measures for future occupiers (reason for refusal 4)
 - Benefits of the proposals are not considered to significantly outweigh harm caused through the loss of non-designated heritage asset and retention and reuse not being fully explored (reason for refusal 5)
 - Failure to adequately demonstrate that it is part of a comprehensive approach (reason for refusal 6)
 - The absence of a completed legal agreement for various matters (reason for refusal 7).

2.0 SITE DESCRIPTION

2.1 This is detailed at section 1 of the planning officer's committee report. In line with section J.3.2 of the Planning Inspectorate's Procedure Guide, it is not repeated here.

3.0 PLANNING HISTORY

- 3.1. This is detailed at section 3 of the planning officer's committee report and section 4 of the planning officer's update report to committee. In line with section J.3.2 of the Planning Inspectorate's Procedure Guide, it is not repeated here. No planning applications have been submitted in the intervening time.
- 3.2 As means of an update, it is however advised that at the time of writing the two nearby major outline applications at 80 Caversham Road (Ref 182252/OUT) and Vastern Road Retail Park (Ref 200328/OUT) remain live applications, under consideration by the local planning authority. Neither application has an officer level recommendation or been considered by the Planning Applications Committee.

4.0 DRAWINGS AND DOCUMENTS THE DECISION RELATED TO

- 4.1 In reviewing the Council's case at appeal stage, it has been established that there were some inadvertent minor errors in informative 1 of the decision notice (list of drawings and documents the decision related to). More specifically, some minor typographical errors and inclusion of emails which did not explicitly include information considered in the decision. An agreed list has been prepared in conjunction with the Appellant in preparing the Statement of Common Ground. For completeness, this is also included here at Appendix A.

5.0 LEGAL AND PLANNING POLICY CONTEXT

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy Framework (NPPF), among them the 'presumption in favour of sustainable development'. However, the NPPF does not change the statutory status of the development plan as the starting point for decision-making (NPPF 2021 paragraph 12).
- 5.2 The relevant Reading Borough Local Plan (November 2019) policies and associated supplementary planning documents (SPD) and other material documents are listed at section 5 of the officer committee report. These have been included as part of the LPA's questionnaire documents, although it appears that Policy CC4 was inadvertently not actually attached to the questionnaire response. Accordingly, this is included as Appendix B. In addition, in reviewing its case at appeal stage, the Council has referenced Policy CR10 (Tall Buildings) and The Reading Tall Building Strategy 2008 (a background evidence technical report to inform Policy and SPD) in its Urban Design Statement of Case. Accordingly, the policy is included as Appendix C and the background report is included in full as Appendix D.
- 5.3 Various other more specific references are made elsewhere within the committee report and specialist officers also refer to relevant policies within appendices to this SoC. In line with section J.3.2 of the Planning Inspectorate's Procedure Guide, these are not repeated here, although references are also noted in the subsequent section.
- 5.3 Whilst it is clarified that none of the Local Plan or SPD documents have been updated since the Council's decision to refuse the application on 9 April 2021, it is relevant that the NPPF has been updated as of 20 July 2021. There are several areas where newly introduced changes to the NPPF (and associated documents referenced) are relevant to this appeal. Accordingly, where

relevant, references are made to the updated NPPF (and associated documents now referenced in the NPPF) in the subsequent section and appropriate appendices too.

- 5.4 It is also clarified that the Council's questionnaire submission included two separate versions of CD 195 - Designing for cycle traffic (Standards for Highways). It is clarified that the 'Revision 1' version of the document dated March 2020 was considered when referencing the document within the officer committee report at application stage. Since this was produced, version 1.0.1 dated March 2021 has been published, which is considered at appeal stage. It is clarified that the relevant section of the document, as referenced at paragraph 4.13.48 of the officer committee report, remains the same in the March 2021 adopted document.

6.0 THE COUNCIL'S CASE AND RESPONSES TO THE APPELLANT'S STATEMENT OF CASE

- 6.1 For ease of reference each reason for refusal is considered in turn. Prior to this, aligning with the format of the Appellant's SoC (paragraphs 3.7 - 3.13), initial comments concerning Housing Need within Reading Borough are made.
- 6.2 Paragraph 3.8 of the Appellant's SoC points out that, at the end of 2019-20, Reading had a 6.67 years' supply of housing, as reported in the 2019-20 Annual Monitoring Report (AMR), which is included in full at Appendix E. Although this number is indeed reported in the AMR, the figure the Council prefers to use for 5-year housing land supply, which includes both need and supply of forms of accommodation other than C3 residential, such as student accommodation and residential care, is actually very slightly lower, at 6.65 years. Nevertheless, the Council could clearly demonstrate a five-year supply of housing at the end of 2019-20, and this does not appear to be in dispute. The appeal site does not contribute to this supply. An updated figure for the end of 2020-21 is still to be produced, but there is not expected to be any likelihood of not being able to demonstrate a five-year supply, particularly with 1,976 dwellings under construction at 31st March 2021 (as per Table 2 of Reading Borough Council Residential Planning Commitments at 31 March 2021 Summary Version, included as Appendix F) representing almost three years' supply in itself.
- 6.3 Where housing land supply issues are raised in the Appellant's SoC, they tend to be more in relation to longer term delivery over the plan period, as shown in the Housing Trajectory, the most recent version of which is also set out in the 2019-20 AMR. The case made is that, firstly the Council require the site to be developed at the density proposed in the application in order to deliver the housing targets set out in policy H1 (see paragraphs 3.8-3.9), and secondly that the loss of dwellings to facilitate mitigation through marginal planting would affect meeting housing targets (see paragraph 3.149, relating to RfR3).

- 6.4 It is therefore worth highlighting that the 2019-20 AMR shows delivery of 16,790 homes over the plan period 2013-2036 (See Appendix III of the AMR document included as Appendix E), compared to the plan targets of 16,224 homes derived from the Local Plan. The target of 16,224 homes is higher than the policy H1 target of 15,847 because it also factors in need for residential care identified in policy H6 and student accommodation in relation to policy H12, using a methodology described in Appendix 1 of the Local Plan. Therefore, based on 2019-20 figures the Council is expecting to exceed plan targets by 556 dwellings, which gives substantial headroom to accommodate the 230 dwelling shortfall identified in the Local Plan and to also allow a reduction in the number of dwellings provided on this site as required to meet other matters addressed in the reasons for refusal.
- 6.5 In addition, it is worth noting that, whilst the Housing Trajectory uses 255 dwellings for the CR11g allocation as its starting point (as the mid-point of the policy range), it applies a non-implementation rate to that figure. In common with most other Local Plan allocations where there is no permission granted, this rate is 20%. Therefore, the figure for the CR11g site that actually contributes to the overall supply over the plan period is 204 dwellings, i.e. 255 minus 20%, a figure which is lower than the appeal proposal.
- 6.6 The Council of course treats policy housing targets as a minimum, and welcomes developments that can contribute to boosting housing supply over and above that minimum as long as the proposal overall accords with other plan policies and other material considerations. However, it is not the case based on the most recent published figures, that the Council requires this appeal site to be developed for 209 dwellings to meet targets in policy H1.
- 6.7 Paragraph 3.10 of the Appellant's SoC refers to the revised standard method for calculating housing need in Planning Practice Guidance, which, using most recent figures, would generate a need of 872 dwellings per annum. As recognised by the Appellant, this will only be used as the basis for housing land supply and related planning decisions in November 2024 or at the point that a

revised version of the Local Plan is adopted, whichever is the earlier. As such it is not of relevance to this appeal.

i) Reason for refusal 1

The proposed development fails to provide a high quality north-south link through the site by virtue of related public realm, safety and directness concerns, largely due to the alignment of the site and overprovision of proposed buildings, primarily contrary to Policies CR11ii and CR11g of the Reading Borough Local Plan (2019) and guidance within the adopted Reading Borough Supplementary Planning Document Reading Station Area Framework (2010), and also Policies EN11, CC7, CR2, CR3, TR3 and TR4 of the Reading Borough Local Plan (2019).

- 6.8 In summary, reason for refusal 1 relates to the failure of the proposal to provide a high quality north-south link through the site. This reason for refusal has a number of component parts, which can be divided into urban design based concerns and more technical transport related matters. Accordingly, this reason for refusal is partly detailed within the Urban Design SoC by Michael Doyle of Doyle Design LLP on behalf of the Council (included as Appendix G) and partly within the Transport SoC by Darren Cook (included as Appendix H).
- 6.9 From an urban design perspective, Chapter 2 of the Urban Design SoC (Appendix G) by Michael Doyle methodically considers the background and policy context before analysing the proposal, identifying and detailing a series of shortcomings which when combined provide a robust evidence base for the reason for refusal.
- 6.10 Providing a high-quality north-south link for pedestrians and cyclists across the Appeal Site is crucial to the successful development of this site and the wider RSAF area. Paragraph 5.4.6 of the Local Plan states the achieving this north-south link is the main priority for the wider CR11g site, and this should be given substantial weight in development management. The link in the Appeal Scheme

is not strategic. It will form a ‘weak link’ in the strategic route from the town centre to the River and ‘throttle’ the proper functioning of the route.

- 6.11 It is demonstrated that the features of the proposed link, taken together, indicate that the proposed North-South link is of insufficient design quality. For example, the link is indirect when policy requires that it travels straight through the site. Policy and guidance on the alignment of the route is specific and detailed. The Appellant has failed, across various studies, to demonstrate what immovable constraints prevents the formation of a direct link.
- 6.12 In addition, the proposed route is narrow and constrained. The width of the main pedestrian cycle route, typically 3m wide, lacks generosity and is incompatible with the link’s strategic role. More specifically, this will be the narrowest section of the wider north-south spine and therefore likely to ‘throttle’ the capacity, restrict flow and limit the multi-modal functions.
- 6.13 The configuration of the switchback ramps and incidental spaces is a poor design solution. The configuration of ramps, dwell spaces, and stairs are poor, with many conflicts. For example, the Appeal Scheme involves several changes in direction and areas of conflict and congestion that involve stopping. The route is cranked and tortuous and lacks legibility, with many lines of sight closed by buildings. The points of orientation for pedestrians coincide with points of potential conflict with manoeuvring motor vehicles and cyclists.
- 6.14 The proposed development fails to deliver the visual link between the Thames and the Station required by policy (e.g. paragraph 7.10 of the RSAF). The proposed buildings have been intentionally positioned to terminate sight lines, when the policy directs that the views should be open.
- 6.15 The pedestrian and cycle route appears to have been devised after the housing blocks footprints, block entrance locations and levels were fixed in position, which constrains the further development of the north-south link.

- 6.16 However, the design can and should be improved. This requires flexibility on the part of the Appellant and, in Michael Doyle's view a modest reduction in unit numbers. The Appellant was similarly advised at application stage by officers, but was not willing to alter the proposals.
- 6.17 In addition to these urban design and related concerns detailed in full by Michael Doyle, there are also a number of transport-based failures which are identified within the separate Transport Statement of Case by Darren Cook, included as Appendix H.
- 6.18 First in summary, in terms of the directness of the north-south route, the Highway Authority contend that the proposed pedestrian / cycle route through the site has not been designed so that it provides a direct route, which is essential to meet both Policy and National design criteria. The Highway Authority are assessing the design in relation to the National cycle infrastructure design criteria, which is contained within Local Transport Note 1/20, Cycle Infrastructure Design dated July 2020. This specifies that routes should be direct and that directness is measured in both distance and time, and so routes should provide the shortest and fastest way of travelling from place to place. Given this is a comprehensive redevelopment of the site it is evident that the proposal does not fully accord with this criteria as the fastest route through the site has not been designed.
- 6.19 Turning to consider the switchback ramp alignment rationale, the switchback design follows on from the directness of the route assessment. The Highway Authority contend that the switchback design, in addition to not providing a direct route, also does not comply with Local Transport Note 1/20, which stipulates that cycle routes should not make users feel as if they are having to double back on themselves. The introduction of the switchback design is fully contradictory to these National design standards, which is magnified by the lack of a direct route through the site.

- 6.20 In terms of the towpath access to the southern bank of the Thames, the proposed route between the development site and the towpath has been designed for pedestrians only and does not meet the requirement for cyclists. The Highway Authority contend that the link in question should provide a cycle connection between the cycleway on Vastern Road via the proposed on site facility with the towpath. Although the towpath is not formally a cycleway, Reading Borough Council are currently progressing the dedication of the towpath to permit cycling, with this upgrade also forming part of the Council's Local Cycling and Walking Improvement Plan (LCWIP). The Highway Authority therefore insist that the route to the towpath should be designed to facilitate cycle movements.
- 6.21 The Highway Authority also state that the proposed gradients of between 1:14.5 and 1:15 do not comply with Department for Transport document Inclusive Mobility for a pedestrian route and, as such, the proposal does not comply with the requirements of the NPPF.
- 6.22 Finally, in relation to servicing/vehicle movements and pedestrian/cycle safety, the Highway Authority's concern relates to the HGV movements associated with the development and, in particular, the vehicle movements required to facilitate the servicing of the application site.
- 6.23 Access to The Turbine Hall (Block D) car park forms part of the internal turning head for refuse and service vehicles, with the Appellant providing tracking diagrams to show that vehicles can turn within the turning facility proposed. However, the tracking diagrams illustrate the provision of on-site turning only and do not specify how the site would actually be serviced, which the Highway Authority believe would be undertaken in the reverse operation to that presented by the Appellant.
- 6.24 By undertaking this operation vehicles would be reversing over the footway / cycleway at a point where drivers will have extremely limited visibility of pedestrians or cyclists travelling along the footway / cycleway, leading to

conflict between HGVs and pedestrians /cyclists. Any HGV movements reversing over the footway / cycleway with this limited visibility would be detrimental to the safety of pedestrians and cyclists and would be contrary to Local Plan Policy TR3 and Paragraphs 111 and 112 of the NPPF.

- 6.25 Together, the Urban Design and Transport SoCs detail the numerous and significant failures of the proposal to provide a high quality north-south link through the site. The proposals are shown to be in conflict with both local (including Policies CR11ii, CR11g, EN11, CC7, CR2, CR3, TR3 and TR4 and the Reading Station Area Framework) and national policy (including paragraphs 92b, 106(d), 110 - 112 and 134 of the NPPF) and the appeal should be dismissed on this basis. In particular, the scheme has not: fulfilled the specific requirement for a link through the Site as identified in Policy CR11g and paragraph 5.9 of the RSAF; provided the direct and legible route required by policy (Local Plan CC7, CR3, CR11v, Figure 5.1; RSAF paras 5.9, 7.10, Figures 5.5, 8.5. 8.6); provided a link and overall public realm of sufficient design quality (Local Plan EN11, CR11g).

ii) Reason for refusal 2

The combination of the proposed height and proximity of the proposed Blocks D & E to the Thames Path will harm the setting and character of the path and The River Thames and thus harm the quality of the public realm in this area to the detriment of the value of this part of the Thames, an identified Major Landscape feature and leisure and tourism destination. The proposal is therefore primarily contrary to Policies CR4, CR11v) and CR11g of the Reading Borough Local Plan (2019) and guidance within the adopted Reading Borough Supplementary Planning Document Reading Station Area Framework (2010), and also Policies CC7, CR2, CR3 and EN11 of the Reading Borough Local Plan (2019).

- 6.26 In summary, reason for refusal 2 relates to the height and proximity of proposed Blocks D & E to the Thames Path harming the setting and character of

the path and The River Thames and thus harming the quality of the public realm in this area to the detriment of the value of this part of the Thames.

- 6.27 The Appellant's SoC initially suggests at paragraph 3.99 that the impact of the proposals on the Thames / Thames Path was not called into question by the Council at either pre-application or application stage. The Council refutes this in full. Concerns relating to the height and massing adjacent to the river were raised in pre-application meeting 1 (see pages 6-7 of document 10.1 of the Appellant's submission), 2 (see pages 5-6 of document 10.6 of the Appellant's submission), 3 (pages 5-6 of document 10.36 of the Appellant's submission), 5 (page 5 of document 10.79 of the Appellant's submission) and 6, with an extract from page 5 of that pre-application advice dated 12/12/2019 below:

"Whilst mindful that the summary of the D:SE advice acknowledges no major issues with height and massing, paragraph 5.1 nevertheless notes the lack of context to justify the massing. Officers continue to be of the view that insufficient information has so far been submitted to justify the height and massing proposed. The totality of the additional information submitted for meeting 6 (in comparison with meeting 5) has been broad outline street/river scenes, closer 'in colour' Vastern Road and riverside elevations (which notably only show the foreground buildings and not those behind, a single north-south elevation and some additional CGIs. This falls below the level of information submitted at meetings 1-3, and in overall terms is still insufficient to provide clear and informed advice on this matter. In particular, it continues to be considered that more detailed analysis of the proposed massing in the context of the setting/surroundings is required prior to officers being able to provide a suitably informed view on the riverside and Vastern Road frontages. It now appears that this final assessment will be left to the application stage, whereby the previously agreed viewpoints in the to-be-submitted Landscape and Visual Impact Assessment, will form the basis for the overarching future assessment in this regard".

- 6.28 At application stage, the Appellant refers to its own meeting notes (paragraph 2.18 of the Appellant's Appendix 26.1), which at no point state the Council's "*acceptance to the height and design*", as alleged at paragraph 3.100. Officer feedback at Appendix 26.2 and 26.3 both reference concern in relation to the impact of the height of the proposed buildings fronting onto the River Thames on the river, albeit within the context of Ecology / Environment Agency / Natural Environment concerns. In further reviewing its case at application stage, once the Appellant had requested discussions to cease, officers decided to separate out the specific ecology based concerns and the more general massing concerns, hence reasons for refusal 2 and 3. To state the Appellant was unaware of the Council's concerns relating to height is simply incorrect.
- 6.29 The Council's case in respect of the substantive points relating to reason for refusal 2 are detailed within Chapter 3 of the Urban Design SoC (Appendix G) by Michael Doyle. This identifies the relevant background and policy context before providing a detailed statement of case. In terms of the baseline position, Appendix G details that there is no other major change planned in the riverside vicinity of the Appeal Site and development must therefore fit into and not harm the existing setting. The Appeal Scheme does not fit comfortably within the current riverside setting.
- 6.30 Furthermore, Michael Doyle considers that the Appeal Scheme will not form an appropriate gateway from the meadows into the station area and town centre and vice versa. It is considered that Christchurch Bridge and its mast forms a gateway and a landmark of great significance. The height, mass, open space configuration and riverside setbacks in the Appeal Scheme should therefore complement and not compete with the bridge.
- 6.31 It is also detailed that the riverside and adjacent meadows can be described as particularly sensitive to development taller than existing heights. The scale and bulk of the proposed riverside buildings depart from the established relationship between buildings, spaces and routes and the watercourse in the vicinity. The proposed heights exceed the RSAF guidance and do not reflect the

sensitivity of the river setting identified in the Tall Building Strategy (as per Appendix D).

- 6.32 Appendix G also demonstrates that the proposed height and massing is insufficiently subordinate to and will harm the setting of Christchurch Bridge and Christchurch Meadow. The proposals would create an overly dominant built form that will erode a sense of place and damage the relationship between Christchurch Meadows and the town centre.
- 6.33 In addition, the TVIA is limited in scope (for example, the final step of the assessment laid out in GLVIA3 has not been undertaken). It fails to note or value several baseline conditions and fails to assess several important areas/views. For instance, the impact of the development on walkers and cyclists travelling along the southern towpath has been underplayed or ignored in the TVIA. An enclosed, canyon effect is created by the layout, height and insufficient building setbacks, the configuration of the riverside open space, the embankments, the limited extent of active frontages at towpath level, the oversailing bridge and projecting café terrace, the enclosure of the bridge approach ramps, and stairs and the solidity of the weathering steel screens.
- 6.34 When all relevant matters detailed within Chapter 3 of Appendix G are taken into account, it is concluded that reason for refusal 2 is robust and the proposed development is unacceptable in this regard. The Appellant's submission does not overcome or alter the Council's reason for refusal, as stated in the decision notice. The proposals would be contrary to Local Plan Policies CR4, CR11v), CR11g, CC7, CR2, CR3 and EN11, as well as the Reading Station Area Framework.

iii) Reason for refusal 3

By virtue of its height, massing and proximity to the river, the development will shade the River Thames and impact on its marginal habitats with a lack of appropriate mitigation being demonstrated. There would also not be sufficient

space within the riverside buffer for a sustainable long-term relationship between the riverside buildings and the required large canopy trees. The proposed development is therefore contrary to Policy EN11 in particular, and also Policies EN12, EN13, EN14, CC7, CR2, CR3, CR4 and CR11 of the Reading Borough Local Plan (2019), paragraph 175 of the National Planning Policy Framework (2019) and objectives of the adopted Reading Borough Council Tree Strategy (2021) and Reading Biodiversity Action Plan (2021).

- 6.35 Reason for refusal 3 relates to ecology and tree related matters. Accordingly, separate Ecology and Natural Environment (Tree) SoCs have been prepared by specialist officers, and when combined and read in conjunction with this statement, forms the Council's case.
- 6.36 The Council's Ecology SoC has been prepared on behalf of the Council by Giles Sutton of GS Ecology Ltd. This is included in full at Appendix I. In summary, having first detailed the policy context, it is established that the River Thames is arguably Reading's most important wildlife corridor and is designated as a green link on Reading's proposals map. It is a fundamental component of Reading's green network. The marginal vegetation planted by Christchurch Bridge, immediately adjacent the appeal site, has established well and is the longest length of marginal vegetation along either side of the river at Christchurch Meadows and at the Thames Promenade, stretching approximately 105m along the southern bank of the River Thames. Other than a short section on the northern bank (adjacent to the bridge) and a short section on the southern bank (west of Thames Avenue) there are no other areas of this marginal habitat along the river banks at Christchurch Meadow or the Thames Promenade. Accordingly, the importance of the vegetation is considerable and this has been downplayed by the Appellant.
- 6.37 The proposed development would shade the marginal vegetation adjacent to the site and is likely to lead to its decline, which is a harmful and negative consequence. In short, the need for this development does not clearly outweigh the need to protect the value of the marginal vegetation in this

important location. An alternative scheme could be devised of reduced height and increased set-back from the river, which would avoid harm. This would accord with the mitigation hierarchy. The Council's case is that the Appellant's approach does not.

- 6.38 In response to the Appellant's contention that off-site mitigation is acceptable, this is not accepted by the Council, as detailed above and moreover within Appendix I.
- 6.39 In the event that off-site mitigation were advanced (not advocated by the Council), it is not accepted by the Council that the areas proposed would be suitable or would result in the successful and sustainable establishment of the marginal vegetation. This is because the river bank where the marginal planting is proposed is currently well used by the public for a variety of purposes, is heavily grazed by wildfowl, and coir rolls (the same method suggested by the Appellant) that were planted with marginal vegetation on the northern bank of the river in Christchurch Meadow (the same area that is proposed by the appellant) failed and no longer exist. Thus the proposals would result in a net loss in biodiversity. Furthermore, in response to the Appellant's suggestion that the vegetation could be augmented with more shade tolerant species, this is not supported by the Council. Whilst this may reduce the impacts of shading, the vegetation would very likely decline in vigour and the river's ecological function would be reduced. This is because the marginal habitats are often the most important for wildlife and there is very little such habitat in Reading. This would have an adverse impact on the River Thames and its wildlife. This is further explained by both Giles Sutton and the RBC Parks Department.
- 6.40 In addition to the various matters detailed within Giles Sutton's Ecology SoC, it is also recognised that the Appellant's SoC seeks to advance a case at paragraph 3.148 that harm cannot be avoided as "*The Council are relying on all allocated sites to achieve the required level of housing delivery. On that basis, it can be concluded that there is no suitable alternative to developing*

the appeal site as proposed”. This is expanded on at paragraph 3.149, whereby the Appellant considers that a loss of units from the site would further undermine the 2025-2031 housing trajectory. The Appellant concludes that the impact on housing supply is significantly more adverse than the impact on marginal planting.

- 6.41 In response, such matters have already been addressed at paragraphs 6.2 - 6.7 above, including references to Appendices E and F. In particular, it is reaffirmed that the Council does not require this appeal site to be developed for 209 dwellings to meet policy H1 targets. Based on the latest (2019-20) figures the Council is expecting to exceed plan targets by 556 dwellings, providing a sufficient buffer to absorb the 230 dwelling shortfall identified in the Local Plan and to also reduce the dwellings provided at the appeal site to address the reasons for refusal. Accordingly, the housing need assertions made by the Appellant are not robust or based on published evidence.
- 6.42 The Appellant also suggests at paragraph 3.148 of its main SoC that further setting back or reducing the height of the proposed buildings would be undesirable in design terms. This is amplified at paragraph 6.74 of the Appellant’s Design SoC (Appendix 14), where it is stated “*From an urban design perspective, a reduction in height would reduce the extent to which these buildings act as a legibility marker and thereby impact on the significance of this entrance to Reading*”. This too is disputed by the Council, as detailed at various points of Chapter 3 (in particular sections 3.5, 3.7, 3.12, 3.13, 3.14 and 3.16) of the Urban Design SoC by Michael Doyle at Appendix G. For example, in response to the above statement by the Appellant, Michael Doyle details at section 3.14.6-7 that “*This is to omit consideration of the Christchurch Bridge itself and its main mast (illuminated at night) that acts as the preeminent legibility marker at the gateway to the town centre. In my view, the bridge is the gateway and the landmark of greatest significance. The height, mass, open space configuration and riverside setbacks in the Appeal Scheme should complement and not compete with the bridge*”.

- 6.43 Paragraph 6.75 of the Appellant's Appendix 14 Design SoC continues by claiming that "*In architectural terms, the site boundary would prevent the 'Turbine Hall' (Block D) being pushed back, and so a set back from the river would result in the form of the building being more tower-like in massing terms. This would prevent this building being expressed in a power station typology, and result in a loss to the historic former use*".
- 6.44 The Council does not agree with the Appellant, with Michael Doyle commenting at paragraph 3.16.7 of Appendix G, that "*I cannot see how reducing the depth of Block D might result in 'tower-like massing'. The width of the frontage to the river would not alter whilst the width of the eastern flank would be reduced, lowering the impact on the adjacent private riverside open space and reducing the mass when viewed from the direction of Reading Bridge. In any case, a slimmer 'tower-like' massing would, to my eye, seem to result in a more elegant architectural statement and follow from the tower-like forms of Thameside power stations, including Bankside and Battersea on which the architectural language of the scheme is based (see my Error! Reference source not found. and Error! Reference source not found.)*".
- 6.45 Accordingly, the Appellant's statement at paragraph 3.150 of its main SoC that "*It is therefore considered that the scale of the Riverside buildings cannot be reduced to the extent that would be necessary*" is not agreed. It is instead simply concluded that harm can be avoided in this instance, and as detailed further in the Council's Ecology SoC, should be avoided.
- 6.46 The second component part of reason for refusal 3 relates to there not being sufficient space within the riverside buffer for a sustainable long-term relationship between the riverside buildings and the required large canopy trees.
- 6.47 The Council's Natural Environment Officer Sarah Hanson responds in full to this element of the reason for refusal in a separate Natural Environment SoC,

included as Appendix J. In short, the Council reaffirm matters specified in the reason for refusal.

- 6.48 In summary, it is first clarified that a ‘large canopy’ tree is taken to be an ultimately ‘large tree’ (in terms of height being 20+ m) with a broad spreading canopy. GreenBlue Urban (tree pit specialists) define a ‘large canopy tree’ as one with a canopy diameter of 10m after 25 years, although it is noted that trees can significantly exceed this during their lifespan, which could be hundreds of years.
- 6.49 It is also relevant to note that the Council’s adopted Tree Strategy (March 2021) (TS) is specifically mentioned in the reason for refusal. However, the Appellant has not mentioned this document in their SoC, including Appendix 20. The Appellant is therefore silent as to how the proposed tree planting meets the requirements of the TS.
- 6.50 The Appellant concludes at paragraph 5.13 of Appendix 20 that the LPA’s concerns regarding a “*conflict between wider canopy trees and the riverside buildings has been eliminated by... fastigiate cultivar forms or forms of narrower crown close to the buildings. Where space allows, wider canopy trees have continued to be included*”.
- 6.51 Although the Appellant claims to have resolved the aforementioned element of RfR3, this is not correct, as the issue remains. The Appellant has not recognised the need for greater space, or even appear to acknowledge or accept the importance of large canopy tree planting. To accept the narrower trees would be contrary to local policy aims and those of the TS. No re-design has taken place to offer a greater set back to allow large canopy trees, the Council’s concern having been supposedly resolved by proposing narrower trees; a point that is disputed. This is despite Natural Environment comments consistently advising that a sufficient set back was required to allow for large canopy trees in the riverside buffer.

- 6.52 The greater environmental benefits of large canopy trees, over that of smaller canopy trees, are well documented. These include shelter and shading from wind, rain and sun, reduction of urban temperatures as well as the temperatures of watercourses, rain interception (flood alleviation) and greater wildlife habitat provision. In this specific case, they would also provide greater softening of the extensive building mass, which is important to limit the negative visual impact of the proposal on the important River Thames.
- 6.53 It is right for the LPA to consider the proposed tree planting in the long-term, i.e. over the potential life span of both the trees and building, both of which should be considerably more than 25 years. The 25 years predicted canopy spread (as shown on Planting Framework plans) is therefore not of relevance, as trees have the potential to significantly exceed these measurements. If large canopy trees are planted, as required, the canopies will reach the building line. It is reasonable to expect residents to want clearance of 1-2m minimum from the edge of the building/balcony and to want pruning to maintain views hence the current space available would result in conflict and pressure to prune.
- 6.54 Tree Planting is secured within development sites with the ‘right tree, right place, right tree pit’ aim to ensure that trees not only survive, but thrive and are able to reach maturity, i.e. achieve their optimum size, when they will provide maximum environmental benefits. Officers therefore consider the full life span and size of a tree and express concern when foreseeable pruning is likely that prevents this.
- 6.55 To reiterate, at no point has the appellant offered to set back the buildings further to allow more space so that the building elevations are outside of the ultimate, mature canopy spreads. The only proposed solution has been to change tree type to a narrower form to seek to resolve the potential conflict, which in-turn results in trees with lower ultimate heights and spreads, compounding the original issue raised. The lack of provision to allow exclusively large canopy trees and their successful long-term integration fails

to fully meet aims of national and local policy (as referenced in the reason for refusal). In addition, the proposals would also fail to meet the objectives 2, 4 & 11 of the TS, as referenced within the reason for refusal, but not even mentioned in the Appellant's submission.

- 6.56 It is also clarified that, in response to the Appellant stating at paragraph 3.159 of the main SoC that they "*will continue to seek dialogue with a view to resolving this matter*", the Appellant has not sought to discuss this specific matter with the LPA since the application was determined.
- 6.57 In conclusion with regard to reason for refusal 3, the Appellant's submission does not address the reason for refusal stated in the decision notice, contrary to Local Plan Policies EN11, EN12, EN13, EN14, CC7, CR2, CR3, CR4 and CR11. The appeal should be dismissed on the basis of both its shading impact on the River Thames and its marginal habitats, with a lack of appropriate mitigation being demonstrated, and there being an unsustainable long-term relationship between the riverside buildings and the required large canopy trees.

iv) Reason for refusal 4

The proposed development has failed to demonstrate that a suitable quality of accommodation can be provided for all future occupiers as the mitigation measures submitted would not be sufficient to minimise the impact of nearby noise pollution thereby contrary to Policies CC8, EN16 and CR6 of the Reading Borough Local Plan (2019).

- 6.58 Reason for refusal 4 relates to noise based matters, with the Appellant failing to demonstrate sufficient noise mitigation measures that will result in acceptable living conditions in terms of internal and external noise levels for future occupiers. The Council's case has been prepared by Rhys Scrivener of KR Associates (UK) Ltd on behalf of the Council, in conjunction with the Council's Senior Environmental Health Officer Rebecca Moon, who at the time of writing is on sick leave. The Noise SoC is included in full as Appendix K.

- 6.59 Rhys Scrivener considers it was appropriate for the Council, on the information the Appellant presented within the application, to refuse planning permission on the basis that the proposed mitigation measures would not result in suitable living conditions for future residents in terms of internal and external noise levels. A number of concerns are raised in respect of the methodology and subsequent conclusions reached by the Appellant, with Rhys Scrivener being of the professional opinion that the Appellant is wrong in terms of the noise from the SSE transformers impacting the residential dwellings in close proximity.
- 6.60 In preparing the future Proof of Evidence Rhys Scrivener will undertake further appropriate work justifying the reason for refusal number 4. This will not introduce any new evidence or arguments that would not be justified in the Council's defence of this reason for refusal.
- 6.61 Rhys Scrivener's professional opinion is that when assessing internal noise levels, assessment should be undertaken with windows closed and open. Six recent appeal decisions are provided which indicate, in line with ANC guidance, that the impact of noise with the windows closed and open is the right approach.
- 6.62 In conclusion on RfR4, the Council continues to consider that the Appellant has not demonstrated that the proposed mitigation measures will lead to a suitable quality of accommodation for future occupiers in terms of noise, contrary to Local Plan Policies CC8, EN16 and CR6. Accordingly, the appeal should be dismissed on this basis.

v) Reason for refusal 5

The proposal would result in the complete loss of 55 Vastern Road, a Non-Designated Heritage Asset and building of local significance. The proposal has failed to demonstrate adequately that retention and reuse of the building has been explored fully. In this regard, the benefits of the proposal are not

considered to significantly outweigh the harm caused to the asset's identified significance. Therefore, the development is contrary to Policies EN1 and EN4 of the Reading Borough Local Plan (2019) and Section 16 of the National Planning Policy Framework (2019).

6.63 Reason for refusal 5 relates to the locally listed building at the appeal site. There are different component parts to this reason for refusal. One relates to a failure to demonstrate adequately that retention and reuse of the building has been explored fully. Another relates to the benefits of the proposal not significantly outweighing the harm caused to the asset's identified significance. To provide a viewpoint on this matter requires an identification of the significance of the locally listed building and considering this within the wider context of the benefits of the proposals as a whole. Given these topic matters, discussion concerning retention and reuse and the significance of the locally listed building are detailed within the Heritage SoC by Bruce Edgar, included as Appendix L. Matters relating to the benefits of the proposals, in the context of whether these outweigh the harm caused to the asset's identified significance, are detailed within this SoC. Both are informed by the officer committee report too, which already discusses these matters in detail.

6.64 The Council's Heritage SoC (Appendix L) identifies the relevant national and local policy and guidance before detailing the significance of the locally listed building. In summary, this relates to a combination of factors, such as:

- the age of the building (around 1900, possibly 1903);
- its historic interest in the site having strong associations with local electricity production and being a rare remaining example of the industrialisation of Reading in the early 20th Century, particularly in the area north of the main railway line and being designed by a well-known firm of local architects Albury/ Brown;
- architectural interest in being of distinctive architectural style, whilst using materials connected with Reading, and being by Albury/ Brown, who were

responsible for a number of important civic/community buildings in Reading and Oxford (see Appendix 8 of the Heritage SoC).

- 6.65 It is concluded that its significance is considered to be high (contrary to what the Appellant asserts) in terms of the social and industrial importance to the town; the quality of the architecture; and the influence of the architect linking back to his historical associations with the town and the Reading Electric Supply Company itself. The total loss of this non-designated heritage asset building would, in Bruce Edgar's and the Council's opinion, be a loss to the town on a number of social and historic levels, causing substantial harm to the character and significance of the site.
- 6.66 With regard to retention and re-use, the Council maintains that the proposal has failed to demonstrate adequately that this has been explored fully. The Council considers that outright (or near outright) retention is achievable and appropriate within a redevelopment scheme. It is considered that this building which is some 1% of the application site area in total, could be integrated into the development of this site and provide tangible benefits for the development and for urban design and historic ends.
- 6.67 At paragraph 3.178 of the Appellant's main SoC, it is suggested that the retention of the building is unviable. The Council contends that the building is of a size that will easily be converted into habitable space, commercial office or other ancillary services. Such options, as outlined, are likely to involve a low and potentially very suitable impact on the Heritage Asset. Instead, the Appellant has not followed a conservation-led approach, nor taken the locally listed building as a legitimate site constraint which informed their design. Moreover, it is considered that the redevelopment scheme in the appeal proposal has not been driven by a serious commitment to the retention of this building or even part or parts of it, which have been poorly explored.
- 6.68 Set within the above context, it is the Council's view that the benefits of the proposals do not significantly outweigh the harm caused to the asset's

identified significance. This requirement is enshrined in Local Plan Policies EN1 and EN4 and links back to NPPF paragraphs 195, 197 and 203 in particular.

- 6.69 The Appellant identifies what it considers to be a series of heritage benefits at paragraph 3.182 of the Appellant's main SoC. In response, as referenced within the Council's Heritage SoC, the appeal scheme's physical indications towards the past are general imitations and tokenistic, somewhat abstract in nature. Whereas, the retention of the locally listed building would enable a genuine part of the earlier power station to feature in the redeveloped site as part of the public realm.
- 6.70 The Appellant then offers six bullet points at paragraph 3.186, identifying what the Appellant considers to be public benefits of the scheme. These are detailed and responded to below:
- a) *The delivery of an allocated site within the Local Plan;* the proposed development seeks to deliver only part of an allocated site, with reason for refusal 6 (as discussed in detail elsewhere) relating to comprehensiveness. The Council considers that the Appellant has submitted insufficient information to demonstrate that the Appeal scheme will play a full part in the comprehensive development of the CR11(g) sub-area. A number of shortcomings are detailed in terms of the development limiting or preventing the neighbouring site from fulfilling policy aspirations. This downplays the beneficial impact of the development.
 - b) *The contribution of the proposal towards alleviating Reading's housing need;* As detailed at paragraphs 6.2 - 6.7 above, the Council can clearly demonstrate a five-year supply of housing at the end of 2019-20, with the appeal site not contributing to this supply. Accordingly, this is not considered to be a particular benefit of the development.
 - c) *The delivery of a crucial element of the north-south route from the Station to the River;* Significant concerns relating to the quality of the proposed north-south link through the site are raised primarily in reason for refusal 1, as discussed in detail elsewhere. Paragraph 5.4.6 of the Local Plan states:

“Riverside site (CR11g), achieving this north-south link is the main priority for the site, and this should be given substantial weight in development management”. In the interests of brevity, the various shortcomings identified downplay the extent to which the Appellant’s proposed north-south route can be considered a benefit of the scheme.

- d) *The provision of a leisure use and public open space at the waterfront;* Whilst the proposed café is welcomed in principle and acknowledged as a benefit of the scheme, it is important to recognise that it comprises a single unit with a limited NIA of 20.9 sqm. Its viability will be dependent upon the attractiveness of the north-south route, for which various concerns are raised elsewhere in relation to reason for refusal 1. In terms of the public open space at the riverside, the quality of this is questioned through reasons for refusal 1, 2 and 3. For example, in respect of reason for refusal 1, as Michael Doyle explains at chapter 2 of Appendix G, the space is limited because ramps have been squeezed and bent to fit the space and the levels and entrances in such a way that ‘hard’ materials predominate. In respect of reason for refusal 2 it is considered that scale and massing of the proposals at the riverside and the relationship to the riverside public realm is unsatisfactory. Regarding reason for refusal 3, the lack of space to provide the required large canopy trees is another shortfall. These factors combined reduce the benefit which can be attributed to the open space at the riverside.
- e) *The enhancement of the biodiversity on site and the proposed ecological improvements to the waterfront;* Reason for refusal 3, and the supporting Ecology Statement of Case (Appendix I) make clear that the impact of the proposals on marginal habitats, with a lack of appropriate mitigation being demonstrated, are a harmful impact of the development. Accordingly, the extent to which this can be considered a benefit is disputed.
- f) *The facilitation of a crossing on Vastern Road to further enable cyclists and pedestrians to traverse from north to south across central Reading and beyond;* Whilst the off-site provision of a pedestrian-cycle crossing on Vastern Road would be seen as a benefit of the proposal (being secured as part of a legal agreement had the proposal been supported at officer level), it is considered that this is not a particular benefit as this would be expected as

part of any proposal at the site, given the site characteristics and policy requirements.

- 6.71 Accordingly, a number of the public benefits identified by the Appellant are either downplayed or disputed, with many being in direct contrast with the many shortcomings of the proposals which resulted in so many reasons for refusal. Moreover, it is unclear whether the benefits identified by the Appellant would not have been possible to achieve had the proposals included the retention or part retention of the locally listed building?
- 6.72 Mindful that the identified significance of the locally listed building is high and the proposal would result in the total loss of the building, the benefits identified by the Appellant are not considered to significantly outweigh this harm, contrary to Policies EN1 and EN4 of the Local Plan and NPPF paragraphs 195, 197 and 203. This conclusion is reached when applying a critical planning balance of the competing matters. As such, reason for refusal 5 is maintained and the appeal should be dismissed on this basis.

vi) Reason for refusal 6

The proposed development, by virtue of its proposed layout, massing and detailed design, has failed to adequately demonstrate that it is part of a comprehensive approach, i.e. how it would enable the remainder of the sub-area site allocation to come forward in accordance with the policy expectations of CR11g and would not cause unreasonable burdens on its future development, contrary to Policies CR2, CR11viii and CR11g of the Reading Borough Local Plan (2019) and guidance within the adopted Reading Borough Supplementary Planning Document Reading Station Area Framework (2010).

- 6.73 Reason for refusal 6 relates to the proposal's failure to adequately demonstrate that it is part of a comprehensive approach. It is firstly recognised that this reason was not recommended by officers when the application was considered by Planning Applications Committee (PAC) on 31st March. Whilst recognising

concern in this regard (Committee report paragraph 6.6), officers did not recommend the extent of this formed a reason for refusal. Instead, this reason for refusal was added by elected members, who are entitled to decide the application. The PAC's reasoning is clear and justified (summarised at 4.4.1 - 4.4.5 of Appendix G), reflecting a difference in the assessment of the relevant policies, and different weighting ascribed to material considerations. In summary, the Council refused the application for this reason and the fact that this specific reason for refusal was not originally recommended by officers does not mean that it cannot be robustly justified.

- 6.74 Michael Doyle of Doyle Design LLP has been instructed by the Council to review this reason for refusal at appeal stage. This has been considered in full at Chapter 4 of the Urban Design SoC by Michael Doyle, included at Appendix G. This includes a full review of the relevant policies and reviews the Appellant's submission, in both the main SoC and relevant parts of the Design SoC (Appendix 14).
- 6.75 In summary, it is concluded that the Appellant has submitted insufficient information to demonstrate that the Appeal scheme will play a full part in the comprehensive development of the CR11(g) sub-area. For instance, the single hand-drawn sketch layout by the Appellant is far from a comprehensive plan (analysed at Figure 17 of Appendix G). There is no further information on the form, height, or layout of the proposed buildings. There are few details on access, circulation and parking and scant details on the functioning of open space. Vehicular access must be obtained solely from Vastern Road with no opportunity for vehicular circulation between sites.
- 6.76 Furthermore, the development will limit or prevent the neighbouring site from fulfilling policy aspirations. Several concerns are raised by Michael Doyle, including:

- The SSE site enjoying no immediate river frontage, resulting in the full value of the riverside frontage being ‘captured’ by the Appeal scheme to the detriment of the future economic development of the SSE site.
- Two of the blocks within the SSE site will need to be single aspect in response to the Appellant’s layout, with these blocks needing to rise to a height to address the blank walls of the appeal scheme.
- No parking details are shown. Assuming on-street parking will need to be supplemented by in structure parking, this will need to be at raised ground floor level and will create dead frontages to streets and spaces. Following on this assumption, the proposed open spaces and north south link immediately adjoin undercroft parking areas creating dead frontages.
- The presence of east-facing windows within blocks at the northern and southern ends of the appeal site means that the River Thames frontage and most of the Vastern Road frontage are unable to be developed, which would be in conflict with policy CR11iii that requires developments to front onto and provide visual interest to pedestrian routes.
- The gap between buildings C and D means the link cannot function as a vehicular route and allow a more efficient circulation route within and between the two sites using both vehicular accesses.

- 6.77 In addition, the Appellant has not demonstrated that the development, in conjunction with the rest of its sub-area, will contribute fully towards the comprehensive development of the Station/Riverside area and Central Reading Area and provide a full range of benefits to the whole area proportionate to the potential of the sub-area.
- 6.78 Finally, in addition to Michael Doyle’s comments, it is noted at paragraph 3.191 of the Appellant’s SoC implies that Design South East supported how the proposals relate to the wider CR11g allocation. Instead, the Council contends that Design South East do not offer their own assessment on this point, but merely welcomed this being considered. The Design South East advice was provided as part of the Council’s appeal questionnaire documentation

(document 4c 2), with paragraph 7.1, under the heading ‘Comprehensive development’ stating:

“The consideration of how the scheme would relate to development on the remainder of the SSE site is welcome. The panel assumes the Council will assess this possible future relationship as part of their consideration of this scheme and their aspirations for the wider site long term”.

- 6.79 Accordingly, in reviewing its case at appeal stage, the Council contend that it has not been adequately demonstrated that the proposals are part of a comprehensive approach to developing the Policy CR11g site allocation. The proposals also do not enable the remainder of the allocation to come forward following policy expectations and, subsequently, the appeal should be dismissed on this basis.

vii) **Refusal Reason 7**

In the absence of a completed legal agreement to secure an appropriate contribution towards the provision of Affordable Housing, an Employment and Skills Plan (construction phase only; employment and skills plan, or financial contribution), open space financial contribution, carbon offsetting financial contribution, various transport related works (see informative 5 for details) and ecological mitigation, the proposal fails to make an appropriate contribution to the housing needs of the Borough, fails to mitigate its impact on the social and economic infrastructure of the Borough, fails to make an appropriate contribution to the provision and improvement of existing open space in the borough, fail to acceptably adapt to climate change, achieve zero carbon homes standards and not provide appropriately towards energy infrastructure, fails to implement measures to improve sustainable transport facilities and meet the objectives of the Local Transport Plan, and fails to mitigate and compensate the ecological impacts of the development. In overall terms the proposal will not mitigate its impact on the social, economic and

environmental infrastructure of the Borough, failing to deliver sustainable development, contrary to Policies CC3, CC4, CC9, EN9, EN11, EN12, H3, H5, TR1, TR3, TR5 of the Reading Borough Local Plan (2019), the National Planning Policy Framework (2019) and the following adopted Reading Borough Supplementary Planning Documents: Affordable Housing (March 2021); Employment, Skills and Training (2013); Revised Parking Standards and Design (2011); Planning Obligations under Section 106 (2015); Sustainable Design and Construction (2019).

6.80 Refusal reason 7 relates to an absence of a legal agreement to secure various matters, summarised from paragraph 6.59 of the committee report, section 10 of the update report to committee and the decision notice, as:

- an appropriate contribution towards the provision of Affordable Housing,
- an Employment and Skills Plan (construction phase only; employment and skills plan, or financial contribution),
- open space financial contribution,
- carbon offsetting financial contribution,
- various transport related works - clarified at informative 5 as:
 - o Provision of a new north-south link connecting Vastern Road to Christchurch Bridge and associated infrastructure/signage
 - o Financial contribution of £200,000 towards a new crossing on Vastern Road
 - o Provision of a new direct link from the site onto the River Thames towpath
 - o A S278/38 Agreement towards footway improvements and an upgraded site entrance onto Lynmouth Road
 - o Provision of transport mitigation measures to include:
 - Residential Travel Plan
 - On-site car club
- ecological mitigation

- 6.81 Informative 3 on the decision notice identified that this reason for refusal could be overcome by a suitable Section 106 legal agreement or unilateral undertaking, in the event of the proposals being acceptable in all other respects. It is noted that the Appellant intends to provide a legal agreement within the required timeframes. The Council would expect to be fully involved in discussions regarding all elements of the legal agreement, but at the time of writing has not been contacted by the Appellant in this regard. The comments made below are provided solely in case the appeal is subsequently allowed. For the avoidance of doubt, the Council considers the appeal should be dismissed, but will nevertheless liaise with the Appellant to progress a legal agreement in the event the appeal is allowed.
- 6.82 In all instances it is considered that the above obligations would comply with the National Planning Policy Framework and Community Infrastructure Levy (CIL) in that they would be: i) necessary to make the development acceptable in planning terms, ii) directly related to the development and iii) fairly and reasonably related in scale and kind to the development. The Council's reason for refusal would remain if the anticipated forthcoming undertaking fails to secure the necessary obligations. This will only be able to be detailed once a final version of the agreement has been provided by the Appellant, but would relate back to the reasons and policies detailed within the reason for refusal.
- 6.83 Paragraph 2.16 of the Appellant's SoC references some elements not included in the summary list above, alters some components and omits other elements entirely, summarised as follows:
- Specified by the Appellant, but not included by the Council:
 - o Electric vehicle charging points
 - o Provision of new public art sculpture
 - Altered by the Appellant in comparison with the list above:
 - o The form of the affordable housing element - Appellant suggests a review mechanism; the Council's committee report reflected the

- application stage affordable housing offer relating to on-site provision.
- Ecological mitigation being altered by the Appellant to become ‘financial contribution towards additional riverside planting’
 - Included by the Council, but not referenced by the Appellant:
 - The associated infrastructure/signage components as part of the new north-south link
 - Provision of a new direct link from the site onto the River Thames towpath
 - A S278/38 Agreement towards footway improvements and an upgraded site entrance onto Lynmouth Road

- 6.84 There is also some ambiguity on the part of the Appellant, with a simplified list of elements being referenced at paragraph 3.201 of the SoC, in comparison with those listed at paragraph 2.16. For example, ecological mitigation is referenced at paragraph 3.201, which is more general than the ‘financial contribution towards additional riverside planting’ referenced at paragraph 2.16.
- 6.85 In terms of the elements referenced by the Appellant but not by the Council, it is considered that both EV charging points and public art would be more appropriately secured via condition, in the event of the appeal being allowed, rather than legal agreement.
- 6.86 With regard to elements altered by the Appellant, affordable housing matters are discussed first. It is initially noted that the Appellant has failed to explicitly reference in the main SoC that the Affordable Housing offer has been altered at appeal stage. When the application was determined by the Council on 9 April 2021 the proposals included 43 (20.57%) on-site affordable housing units (19 affordable rent and 24 shared ownership) and 166 (79.43%) market housing units. At appeal stage the proposal comprises 0 (0%) on-site affordable units and 209 (100%) market housing units.

- 6.87 The Council has reviewed its position on affordable housing matters at appeal stage, should the Inspector be minded to accept this change to the proposal at appeal stage by the Appellant. Whilst the Council consider it disappointing that the Appellant has removed the on-site Affordable Housing proposed when the application was determined, on the basis of the submitted viability assessment and the work of the Council's own consultants BPS Chartered Surveyors it is agreed that the development cannot viably provide any on-site affordable housing at this point in time. Despite the viability position the Appellant agreed an affordable housing proposal equating to 20.57% of the units at application stage, and this formed a beneficial element of the scheme in the Council's overall planning balance in the determination of the application. The change in position by the Appellant is duly also considered within the overall planning balance at appeal stage by the Council, as discussed elsewhere in this statement.
- 6.88 In light of the Council considering that the development cannot viably provide any on-site affordable housing at this point in time, it follows (in line with primarily Policies H3 and CC9 and the March 2021 adopted Affordable Housing SPD) that a planning deferred contributions mechanism be secured via legal agreement.
- 6.89 It is noted that the Appellant states at paragraph 3.201 that "*It has been agreed between the parties that a Legal Agreement will be entered into to secure the following... Affordable Housing review mechanism*". It is clarified that this was not agreed at the time of the Appellant's submission, as at application stage the affordable housing offer was for on-site provision of affordable housing (as detailed at paragraph 6.59 of the committee report). Only having reviewed its position on affordable housing matters at appeal stage, in light of the change in approach by the Appellant, can the Council confirm that a planning deferred contributions mechanism will be the sole element of the legal agreement in terms of affordable housing.

- 6.90 The Appellant's Affordable Housing SoC provides various details, including a suggested methodology for the deferred contributions mechanism, which deviates from the approach detailed within the Affordable Housing SPD (2021). This has been reviewed on behalf of the Council by Andrew Jones of BPS Chartered Surveyors and is included in full at Appendix M. In summary, this raises a number of comments regarding the suggested parameters of any future planning deferred contributions mechanism. This results in a divergence of opinion as to the scale of the apparent deficit. This is highly relevant to determining the prospects of this scheme ever making a meaningful contribution towards affordable housing and the extent to which the Inspector can place weight to the inclusion of a late stage viability review mechanism within any S106 Agreement.
- 6.91 In particular, the Council object to the Appellant's baseline appraisal as, in the Council's view and that of our advisors BPS Chartered Surveyors, the Appellant's appraisal overstates the scale of scheme deficit. This is primarily owing to the following assumptions being contested:
- Benchmark Land Value (Appellant states this to be £8,000,000 + £1,600,000 premium; Council/BPS states this to be £6,500,000)
 - Developer Profits (Appellant = 20%; Council/BPS = 17.5%)
- 6.92 It is the Council's view that for the late stage review provision to have any measurable benefit, the baseline appraisal which should be referenced should be that produced by BPS Chartered Surveyors (Annex 2 within Appendix M). This reflects a reduced Benchmark Land Value and profit requirement.
- 6.93 To be clear, should the Appellant not be willing to alter its approach to the methodology of the planning deferred contributions mechanism, in line with the Council/BPS comments at Appendix M, then the proposal would fail to make an appropriate contribution to the housing needs of the Borough and would not satisfactorily address reason for refusal 7. It is anticipated that this will be

subject to further discussion once the Council is contacted by the Appellant to progress the legal agreement.

- 6.94 In terms of ecological mitigation measures, it is unclear precisely what the Appellant envisages in this regard, given the contrasting comments at paragraphs 2.16 and 3.201. It is anticipated that this can be clarified in discussions as any legal agreement progresses, with the Council considering it unlikely at this juncture that a financial contribution would be appropriate. Instead, solely in the event that the appeal being allowed, it is considered more likely that a cascade of various off-site mitigation measures (likely to be actual practical measures in the first instance) will be required, owing to the wider ownership and related issues (e.g. suitability of proposed locations, given concerns are raised in respect of locations at Appendix J of the Appellant's Ecology SoC) concerning any such off-site mitigation of this kind (also linking in with reason for refusal 3, solely considered in the event the appeal is allowed). It is considered that this will be likely to be progressed further in due course. If it is not, then the proposals would fail to mitigate and compensate the ecological impacts of the development and would not satisfactorily address reason for refusal 7.
- 6.95 In respect of the elements referenced by the Council but not mentioned by the Appellant, it is unclear at this juncture whether the Appellant is not willing to enter into a Legal Agreement regarding these matters, or has simply inadvertently not included reference to them in the Statement of Case. This will be clarified with the Appellant once the Council is contacted in order to progress the legal agreement. The Council considers that these elements comply with the NPPF and Community Infrastructure Levy tests. If these elements are not included then it would not satisfactorily address reason for refusal 7.
- 6.96 To summarise, the legal agreement remains unresolved at the time of writing. It is however acknowledged that the Appellant has indicated a willingness to conclude this matter, including discussions with the Council. The Council is

willing to co-operate in this in order to seek to address this reason for refusal, solely in the context of the event of the appeal subsequently being allowed. Without the legal agreement, the development would be an unsustainable form of development, and as such should not be approved.

viii) Overall Planning Balance

- 6.97 At the time of the original decision by the Council, the benefits of the proposed development were weighed against the harmful impacts, to arrive at an overall planning balance of all material considerations.
- 6.98 The committee report acknowledged a number of benefits associated with the proposals, such as the provision of residential development in a sustainable location, the inclusion of 20.57% on-site affordable housing, various infrastructure that would have been secured via legal agreement and the sustainability credentials of the proposals.
- 6.99 However, these were required to be weighed against the harmful impacts of the proposals. These are summarised as forming the basis of the subsequent reasons for refusal of the application: failure to provide a high quality north-south link through the site; height and proximity of the proposed Blocks D & E to the Thames Path harming the setting and character of the path and The River Thames; impact on marginal habitats and lack of appropriate mitigation and insufficient space within the riverside buffer for large canopy trees; failure to demonstrate sufficient noise mitigation measures for future occupiers; benefits of the proposals not significantly outweighing harm caused through the loss of a non-designated heritage asset and retention and reuse not being fully explored; failure to adequately demonstrate that it is part of a comprehensive approach; and, the absence of a completed legal agreement for various matters.
- 6.100 When applying an overall critical planning balance of all material considerations, the Council concluded at application stage that the conflicts

with the proposals (when considered against the development plan and other material considerations) outweighed the benefits of the proposals. The Council applied a suitable planning balance when reaching this conclusion.

- 6.101 The same conclusion is reached by the Council having reviewed its case at appeal stage, as evidenced by this SoC and the various specialist SoC appended. In short, the adverse impacts of the proposals would significantly and demonstrably outweigh the benefits.
- 6.102 It is relevant to note, as referenced previously within this SoC, that the on-site affordable housing provision has been omitted and replaced with only a planning deferred contributions mechanism now being offered. The previously beneficial impact of this element, as identified at application stage, has reduced to neutral at appeal stage due to the change in position by the Appellant. Whilst it is accepted the scheme viability has made this element challenging, the Appellant was nevertheless willing to offer a significant quantum of on-site affordable housing at application stage; hence it being identified as a benefit at the time. The omission of this at appeal stage therefore reduces this benefit to neutral. As such, when balancing the competing factors, the balance is now further weighed towards the adverse impacts of the proposals than at application stage, reinforcing the Council's view that the proposals are unacceptable.
- 6.103 Section 5 of the Appellant's main SoC offers a series of economic, social and environmental planning benefits of the proposals from the Appellant's perspective, linking back to paragraph 8 of the NPPF. In response, many of the benefits identified would be expected of any development of this general nature / scale at the site, so whilst not unwelcome, cannot be specific to the proposal. For example, the construction jobs, new residents, housing need, on-site overall biodiversity net gain and sustainable travel components would all be expected in any redevelopment proposal at the site.

6.104 It is considered that the benefits identified by the Appellant could also be achieved in a scheme which addressed the adverse impacts identified by the Council in the reasons for refusal. Moreover, in many instances, the benefits would actually be greater than the present proposal. For example, the Appellant detailed that the proposals seek to improve the interaction between the site, the River Thames, the Thames Path and the town centre. However, a number of the reasons for refusal link back to shortcomings in these regards and the Council contends that a revised proposal which addressed the Council's reasons for refusal would achieve better outcomes.

6.105 Considered from a different angle, it is unlikely that the benefits identified by the Appellant could not be achieved in an amended proposal, as required to meet other matters addressed in the reasons for refusal.

6.106 Finally, some of the benefits identified by the Appellant have already been responded to and downplayed in section 6 v) above. In the interests of brevity, these matters are not repeated here, but apply equally.

7.0 CONCLUSION

- 7.1 After careful consideration of the Appellant's grounds for appeal and information submitted as part of the Appellant's SoC, the Council remain firmly of the view that, having regard to the provisions of the Development Plan and other material considerations, including the National Planning Policy Framework 2021 and associated guidance, the proposed development refused under reference 200188/FUL remains unacceptable.
- 7.2 Put simply, the adverse impacts of the proposals would outweigh the benefits. In particular the failure of the proposal to achieve the high quality north-south link through the site is of concern, bearing in mind this is identified as being the main priority for the site and should be given substantial weight in development management. Significant concerns are also raised in relation to the height and proximity of the proposed Blocks D & E to the Thames / Thames Path, impact on marginal habitats and lack of space for large canopy trees, noise impacts on future occupiers, the loss of the locally-listed building, the lack of comprehensiveness and the absence of a completed legal agreement.
- 7.3 In addition, the change in position by the Appellant in respect of removing on-site affordable housing at appeal stage means that the overall planning balance is now further weighed against the proposals.
- 7.4 The Inspector is therefore respectfully requested to dismiss the appeal for the reasons set out in this statement and the associated appendices.
- 7.5 If the appeal is to be allowed, the Council requests that the conditions enclosed at Appendix N be secured.