



**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**

**PROOF OF EVIDENCE**

**JONATHAN MARKWELL BSc (Hons) MSc LRTPI  
ON BEHALF OF READING BOROUGH COUNCIL**

**Date: September 2021**



## CONTENTS

1. Introduction and Scope of Evidence	4
2. Appeal Development and Site Description	6
3. Details of the Reasons for Refusal	7
4. Relevant Planning History	8
5. Planning Policy Context	9
6. Approach to Determining this Appeal	10
7. The Council's Case	12
8. The Council's Case beyond that discussed by other witnesses	18
9. The Planning Balance	30
10. Conclusion	40

## Appendices

1. Appendix 1 - First draft version of a S106 Legal Agreement, sent to the Council for comment by representatives of the Appellant on 14/09/2021
2. Appendix 2 - The Council's initial comments on the draft S106 Legal Agreement, as sent to representatives of the Appellant on 27/09/2021
3. Appendix 3 - Report on the Examination of the Reading Local Plan dated 24/09/2019 (Ref PINS/E0435/429/10)

## Qualifications, Experience and Declaration

This Proof of Evidence 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 Post Graduate Masters' Degree in Regeneration Studies, both from Cardiff University. After my studies, and prior to joining Reading Borough Council in February 2015, I worked for RPS Planning as an Assistant Planner (2006-2008) and the London Borough of Camden, first as a Planning Officer, then as a Senior Planning Officer and finally as a Principal Planning Officer (2008-2015). I am a licentiate Member of the Royal Town Planning Institute. I have provided evidence in respect of a number of planning appeals, including at hearings and public inquiries.

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.

The evidence which I have prepared and provide for this appeal (reference APP/E0345/W/21/3276463) in this Proof of Evidence is true and has been prepared in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.

## 1.0 INTRODUCTION AND SCOPE OF EVIDENCE

### Introduction

- 1.1 This evidence is submitted on behalf of Reading Borough Council ('RBC') in support of the Council's case against the appeal made by Berkeley Homes (Oxford & Chiltern) Ltd ('the Appellant'). This appeal concerns the refusal of application 200188/FUL at 55 Vastern Road, Reading, RG1 8BU ('the appeal site') for the following proposed development:

*'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 The application was considered by the RBC Planning Applications Committee on 31<sup>st</sup> March 2021, with the refusal decision notice being issued on 9<sup>th</sup> April 2021.
- 1.3 The appeal is to be determined by way of a public inquiry commencing on 26<sup>th</sup> October 2021, for which this evidence has been prepared.

### Scope of evidence

- 1.4 Separate proofs of evidence (PoE) have been prepared for the Council by a number of other witnesses, summarised as follows:
- Urban Design PoE 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 on behalf of RBC.
  - Highway/Transport PoE in relation to reason for refusal 1, prepared by Darren Cook, Transport Development Control Manager at RBC.

- Ecology PoE in relation to reason for refusal 3, prepared by Giles Sutton of GS Ecology, Ecology Consultants for RBC.
- Natural Environment PoE in relation to reason for refusal 3, prepared by Sarah Hanson, Natural Environment Officer at RBC.
- Noise PoE in relation to reason for refusal 4, prepared by Rhys Scrivener of KR Associates (UK) Ltd on behalf of RBC.
- Heritage PoE in relation to reason for refusal 5, prepared by Bruce Edgar, Conservation and Urban Design Officer at RBC.
- Surveying PoE in relation to part of reason for refusal 5, prepared by Chris Rumbold, Building Surveyor at RBC.

1.5 My evidence is structured as follows:

2. Appeal Development and Site Description
3. Details of the Reasons for Refusal
4. Relevant Planning History
5. Planning Policy Context
6. Approach to Determining this Appeal
7. The Council's Case
8. The Council's Case beyond that discussed by other witnesses
9. The Planning Balance
10. Conclusion

## **2.0 APPEAL DEVELOPMENT AND SITE DESCRIPTION**

2.1 The site and surroundings and description of the development are outlined at sections 2 and 3 of the SoCG respectively. In addition, these are also detailed at length within sections 1 and 2 of the Officer committee report. In accordance with guidance within the Annex of the Inspector's Pre-conference note, this is therefore not repeated in my evidence.

### 3.0 DETAILS OF THE REASONS FOR REFUSAL

3.1 When the application was formally determined by RBC, there were a total of 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).

3.2 The decision notice is included in full at Appendix 5 of the Appellant's SoC.

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 Table 3 at page 9 of the agreed SoCG identifies the relevant recent planning applications at the appeal site. This is also detailed at section 3 of the planning officer's committee report and section 4 of the planning officer's update report to committee. As per paragraph 3.2 of the Council's SoC, nearby major development applications at 80 Caversham Road and Vastern Road Retail Park continue to be under consideration by the local planning authority, without any scheduled date for consideration at a future Planning Applications Committee meeting at the time of writing. In accordance with guidance within the Annex of the Inspector's Pre-conference note, the precise planning history details are therefore not repeated in my evidence.

## 5.0 PLANNING POLICY CONTEXT

- 5.1 The planning policy context is listed at Section 6 of the agreed SoCG, and also detailed at Section 5 of the Council's SoC, as well as various Council witness SoC and PoE. In accordance with guidance within the Annex of the Inspector's Pre-conference note, this is therefore not repeated in my evidence.
- 5.2 However it is pertinent to emphasise, further to paragraph 5.3 of the Council's SoC, that there are several areas where newly introduced changes to the NPPF (and associated documents now referenced in the NPPF, updated as of 20<sup>th</sup> July 2021) are relevant to this appeal. More specifically, there are a number of altered elements within the 2021 NPPF which, in comparison with the now superseded 2019 version, assists the Council's case (as detailed in the subsequent sections) by reinforcing components of reasons for refusal. This includes, but is not limited to, paragraph 92b introducing reference to achieving 'attractive', 'well-designed' 'cycle routes', paragraph 106d including reference to 'attractive' and 'well-designed' walking and cycle routes, paragraphs 110 and 128-129 referencing the National Design Guide and National Model Design Code as having weight in decision-making and paragraph 131 being added and making reference to the importance of trees. These are discussed in more detail within the separate SoC and PoE of Michael Doyle, Darren Cook and Sarah Hanson respectively.

## 6.0 APPROACH TO DETERMINING THIS APPEAL

- 6.1 A central principle of planning law is that development should come forward in a planned way. It should be the subject of local determination by way of the Development Plan process. This is reflected in the fact that development should be plan-led. This is inherent in section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, which establish a statutory presumption in favour of the Development Plan. This presumption is re-emphasised in the NPPF at paragraphs 15-20, which provide for strategic policies to address each local planning authority's priorities for the development and use of land in its area.
- 6.2 This was the subject of guidance by the Court of Appeal in *Gladman Developments Limited v Daventry* [2016] EWCA Civ 1146. In respect of a very old Development Plan Sales L.J. stated at paragraph [40](iv):

*“(iv) Since an important set of policies in the NPPF is to encourage plan-led decision-making in the interests of coherent and properly targeted sustainable development in a local planning authority's area (see in particular the section on Plan-making in the NPPF, at paras. 150ff), significant weight should be given to the general public interest in having plan-led planning decisions even if particular policies in a development plan might be old. There may still be a considerable benefit in directing decision-making according to a coherent set of plan policies, even though they are old, rather than having no coherent plan-led approach at all.”*

- 6.3 This means that one of the core principles of the NPPF is that planning for future development should be genuinely plan-led, providing a practical framework for local decision making within which decisions on planning applications can be made with a high degree of predictability and efficiency. Local Plans are the key to sustainable development. The comments of the

Court of Appeal in Gladman are of even greater force in Reading given that its Development Plan was recently adopted in November 2019.

- 6.4 The approach to determining this appeal is therefore set within this very clear statutory plan-led context.

## 7.0 THE COUNCIL'S CASE

- 7.1 Whilst mindful of the guidance within the Annex of the Inspector's Pre-conference note to avoid duplication with other witness's evidence, this section provides a succinct summary of the Council's case specifically in respect of identifying the conflicts with the Development Plan. After each reason for refusal is referenced, specific sections of witness's evidence is identified, where such matters are detailed in full. This assists in beginning the process of consideration of the planning balance as a whole, as detailed later in section 9 of my evidence.
- 7.2 Reason for refusal 1 identifies conflicts with Policies CR11ii, CR11g, EN11, CC7, CR2, CR3, TR3 and TR4, and guidance within the Reading Station Area Framework SPD, as detailed on the decision notice. Furthermore, as per the evidence of Michael Doyle policies CR11v and EN10, whilst not explicitly referenced within the reason for refusal, are also material. In summary, Michael Doyle's Design SoC and PoE demonstrates a range of conflicts, including that the proposed north-south link is not strategic and would instead form a 'weak link' in the strategic route from the town centre to the river and 'throttle' the proper functioning of the route. As well as including features of insufficient design quality, the link is indirect and the Appellant has failed to demonstrate what immovable constraints prevent a direct link being formed. The route is also narrow and constrained, at odds with the link's strategic role and the configuration of switchback ramps and incidental spaces is a poor design solution. The route also lacks legibility, with lines of sight closed by buildings.
- 7.3 Furthermore, Darren Cook's Transport SoC and PoE also demonstrates a number of conflicts, including the deficiencies of the north-south link from a transport perspective, in terms of its lack of directness and in particular the inclusion of switchback ramps for cyclists. Conflicts in terms of the way in which the proposed route between the site and the towpath has not been designed to accommodate cyclists, and would be non-compliant in relation to gradients for

pedestrians, are also raised. Furthermore, a conflict between HGVs servicing the site and pedestrians/cyclists would occur, owing to the proposed layout resulting in regular HGV reversing movements over the footway/cycleway at a point which drivers will have extremely limited visibility of pedestrians and cyclists.

- 7.4 Set within the context of achieving this north-south link being the main priority of the site and that this should be given substantial weight in development management, when taken together, the evidence of both witnesses demonstrate that the proposals are in conflict with the Development Plan. These points are further detailed at paragraphs 6.8 - 6.25 of my SoC and, moreover, demonstrated in full at section 3 of Michael Doyle's Design PoE and sections 4.3, 4.4 and 4.5 of Darren Cook's Transport PoE.
- 7.5 Reason for refusal 2 details conflict with Policies CR4, CR11(v), CR11g, CC7, CR2, CR3 and EN11, and guidance within the Reading Station Area Framework SPD. Furthermore, as per the evidence of Michael Doyle policies CR10 and EN13, whilst not explicitly referenced within the reason for refusal, are also material. In summary, Michael Doyle's Design SoC and PoE demonstrates a range of conflicts, including that the appeal scheme does not fit comfortably within the current riverside setting, with no other significant change planned in the riverside vicinity of the appeal site. In addition, the scheme will not form an appropriate gateway from the meadows into the station area and town centre and vice versa. The riverside and meadows are particularly sensitive to development taller than existing heights, and the scale and bulk of the proposed riverside buildings depart from the established relationship between buildings, spaces and routes and the watercourse. Harm will also be caused to the setting of Christchurch Bridge and Christchurch Meadow due to the height and massing of these buildings being insufficiently subordinate. Michael Doyle's evidence demonstrates that the proposals are in conflict with the Development Plan. These matters are further summarised at paragraphs 6.26 - 6.34 of my SoC and, moreover, stated in full at section 4 of Michael Doyle's Design PoE.

- 7.6 Reason for refusal 3 specifies conflicts with Policies EN11, EN12, EN13, EN14, CC7, CR2, CR3, CR4 and CR11. In summary, Giles Sutton's Ecology SoC and PoE demonstrates a range of conflicts, including that the proposals will result in the deterioration of a length of marginal habitat which is a rare habitat on the River Thames in Reading. The Council's case is that there is an alternative scheme that could be devised of a reduced height and with a greater set back from the river which avoids harm. As such the ecological mitigation hierarchy has not been followed.
- 7.7 In addition, the Appellant's assertions that the impact on housing supply is significantly more adverse than the impact on marginal planting are not robust, given the Council is expecting to exceed its plan target (as detailed at section 8 of this proof and the Council's main SoC at paragraphs 6.1 - 6.7 and 6.40 - 6.41). Furthermore, Michael Doyle's evidence at section 4.9 demonstrates that the Appellant's concerns about an additional set back from the river or reducing the height of the buildings fronting the river are not accepted.
- 7.8 Moreover, Sarah Hanson's Natural Environment Soc and PoE show that the proposal does not demonstrate that there is satisfactory space within the riverside buffer to allow planting of the required large canopy trees that could then grow to their full potential without conflict with the proposed buildings. The Council's case is that these tree types are required and that a set-back of the scheme would allow these to grow to their optimum size unimpeded. Taken collectively, the evidence of the Council's witnesses demonstrates that the proposals are in conflict with the Development Plan. These factors are further summarised at paragraphs 6.35 - 6.57 of my SoC and, moreover, considered in full at sections 4 - 7 of both Giles Sutton's SoC and PoE. They are also detailed in full at sections 3 - 5 of Sarah Hanson's Natural Environment SoC and section 5 of the corresponding PoE, as well as section 4.9 of Michael Doyle's Design PoE.
- 7.9 Reason for refusal 4 specifies conflict with Policies CC8, EN16 and CR6. In summary, Rhys Scrivener's Noise PoE demonstrates from an assessment of the

nearby industrial noise source of the SSE Transformers, that from the external levels impacting the façade of the proposed residential buildings that there will be a “significant adverse impact” on the people who might be inside or outside of the building within the context of the site. Rhys Scrivener’s evidence demonstrates that the proposals are in conflict with the Development Plan, as the Appellant has failed to demonstrate that the noise from the SSE Transformers could be adequately mitigated to ensure a suitable quality of accommodation for future residents. This evidence is detailed in full at sections 5 - 7 of Rhys Scrivener’s Noise PoE.

7.10 Reason for refusal 5 details conflict with Policies EN1 and EN4. In summary, Bruce Edgar’s Heritage SoC (in particular section 3) and PoE (sections 2 - 4) demonstrates a number of conflicts, including that the heritage significance of the locally listed building at the site is high and its total loss, as proposed, would be a loss to the town on a number of levels (historic, social/industrial, architectural and townscape), causing substantial harm. In addition, the Council maintains that the proposal has failed to demonstrate adequately that retention and re-use has been explored fully. The Council considers that outright (or near outright) retention is achievable and appropriate within a redevelopment scheme. Chris Rumbold’s Surveying PoE also feeds into the retention and re-use case, concluding that the flooding issues identified by the Appellant are not insurmountable and that the locally listed building could be put to a new use. Set within this context, it is the Council’s view, as detailed within the Council’s main SoC (detailed at paragraphs 6.63 - 6.72) and also referred to in section 8 of this PoE below, that the benefits of the proposals do not significantly outweigh the harm caused to the asset’s identified significance. Taken together, the evidence of the Council’s witnesses demonstrate that the proposals are in conflict with the Development Plan.

7.11 Reason for refusal 6 specifies on the decision notice a conflict with Policies CR2, CR11viii and CR11g and guidance within the Reading Station Area Framework SPD. Furthermore, as per the evidence of Michael Doyle policy CR3, whilst not explicitly referenced within the reason for refusal, is also material. In summary, Michael Doyle’s Design SoC and PoE demonstrates a range of

conflicts, including that insufficient information has been submitted by the Appellant to demonstrate that the proposals would play a full part in the comprehensive development of the Riverside sub-area, Station/River Major Opportunity Area and wider Central Reading Area, and failure to demonstrate that the proposals would provide a full range of benefits to the whole area proportionate to the potential of the sub-area. Moreover, the appeal scheme would limit or prevent the remainder of the sub-area from fulfilling policy aspirations in a number of ways. Michael Doyle's evidence demonstrates that the proposals are in conflict with the Development Plan. These matters are further summarised at paragraphs 6.73 - 6.79 of my SoC and, moreover, stated in full at section 5 of Michael Doyle's Design PoE.

7.12 Should an agreed final draft legal agreement not be submitted by 12<sup>th</sup> October 2021, then, as set out in reason for refusal 7, the proposals would potentially conflict with Policies CC3, CC4, CC9, EN9, EN11, EN12, H3, H5, TR1, TR3 and TR5, and guidance within the following SPDs: Affordable Housing; Employment, Skills and Training; Revised Parking Standards and Design; Planning Obligations under Section 106; Sustainable Design and Construction. As detailed in section 8 of this PoE, the legal agreement remains unresolved in full at the time of writing. The Appellant submitted to the Council for comment a first draft of a potential legal agreement on 14<sup>th</sup> September 2021. This is included as Appendix 1. The Council's Initial comments on the potential legal agreement were sent to the Appellant on 27<sup>th</sup> September 2021. This is included as Appendix 2. Discussions between the parties are envisaged to continue to seek to address the reason for refusal in full by the 12<sup>th</sup> October deadline. Should a final agreed draft not be submitted, the Council would subsequently provide the Inspector with a detailed written commentary on the agreed and not agreed matters, the reasons for disagreement, and which of the Development Plan policies specified above these would be in conflict with.

7.13 In summary it is identified that the Council's case, as demonstrated in full through its various witnesses, would conflict with the Development Plan. The

appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

## 8.0 THE COUNCIL'S CASE BEYOND THOSE MATTERS REFERENCED BY OTHER WITNESSES

### Housing Need

- 8.1 The Council's overarching SoC has already responded to the Appellant's comments concerning Housing Need within Reading Borough. More specifically, paragraphs 6.1 - 6.7 of the Council's SoC responded to overarching housing need comments at paragraph 3.7 - 3.12 of the Appellant's SoC. Paragraphs 6.40 - 6.41 of the Council's SoC specifically responds to commentary at paragraphs 3.148 - 3.150 of the Appellant's SoC within the context of reason for refusal 3. The previous responses remain unaltered and are therefore not repeated; in summary however it is important to reiterate that the Council does not require the site to be developed for the number of dwellings proposed to meet its housing provision targets. Based on latest figures the Council is expecting to exceed its plan target, whilst also accommodating the shortfall identified within the Local Plan and also allowing for a reduction in the number of units proposed at the appeal site in order to address the reasons for refusal.
- 8.2 Nevertheless, in subsequent correspondence with the Appellant, when seeking to complete the SoCG, it has been confirmed in more detail that the Appellant is seeking to advance its case in this regard on the basis of updated PPG from December 2020.
- 8.3 More specifically, in a draft version of the SoCG sent to the Council on 3<sup>rd</sup> September 2021, the Appellant sought for the following wording to be included:
- “The housing requirement is anticipated to rise significantly during the plan period due to the revised local housing need announced by the Government in December 2020; the increased requirement is due to come into force in November 2024”.*
- 8.4 In the subsequently finally agreed SoCG, paragraph 7.7 states:

*“RBC’s Housing Trajectory as at 31st March 2020 anticipates the delivery of dwellings on the site from 2025/26. This version of the Housing Trajectory indicates that the minimum housing provision targets in Policy H1 are expected to be exceeded over the plan period by 556 dwellings. The revised local housing need methodology announced by the Government in December 2020 would result in significant increases to housing need in Reading based on the latest figures; the increased requirement is not currently in effect in Reading, and would not be in force until it was reflected in an adopted Local Plan update or until November 2024, whichever is earlier”.*

8.5 To therefore clarify the Council’s position in this regard (beyond paragraph 6.7 of the SoC), the Council acknowledges that changes were made to PPG on 16<sup>th</sup> December 2020 that affected the standard method for assessing local housing need for a number of authorities, including Reading. This involved an additional step 4, the cities and urban centres uplift, where a 35% uplift is applied to those urban local authorities in the top 20 cities and urban centres list. Reading is listed as one of those authorities<sup>1</sup>.

8.6 Using the most recent published figures, the standard method for assessing local housing need for Reading would result in the following steps:

Step 1: The baseline using 2014-based household projections as set out in PPG:

- 68,529 households in 2021
- 73,488 households in 2031

The difference is 4,959 households between 2021 and 2031, or 495.9 households per year.

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<sup>1</sup> Paragraph: 004 Reference ID: 2a-004-20201216

Step 2: An adjustment to take account of affordability is applied. The median workplace affordability 2020 (published April 2021) in Reading is 8.85. Using the formula in the PPG, this results in an affordability adjustment factor of 1.303125. When applied to the baseline, this results in 646.2 homes per year.

Step 3: A cap is applied of 40% over the annual average adopted housing need figure. Policy H1 of the Reading Borough Local Plan (adopted 2019) plans for 689 homes per year up to 2036. As this is higher than the 646 homes identified in step 2 above, no cap is applied.

Step 4: The 35% cities and urban centres uplift is applied. This would result in a final figure for local housing need in Reading of 872 homes per year using the standard method as it currently exists.

8.7 However, the standard method does not currently apply to demonstrating housing supply in Reading. PPG<sup>2</sup> states that:

*“Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where:*

- *the plan was adopted in the last 5 years, or*
- *the strategic housing policies have been reviewed within the last 5 years and found not to need updating.*

*In other circumstances the 5 year housing land supply will be measured against the area’s local housing need calculated using the standard method.”*

8.8 The Reading Borough Local Plan was adopted in November 2019. Therefore, the housing requirement figure in policy H1 of the Local Plan (689 homes per year) will continue to apply for the purposes of considering five-year land supply until November 2024, or until the Council adopts a new or revised housing

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<sup>2</sup> Paragraph: 005 Reference ID: 68-005-20190722

requirement as a result of a local plan review, whichever is earlier. The housing requirement figure in policy H1 will also continue to apply for the purposes of the Housing Delivery Test in the same way.

- 8.9 Therefore, the standard method in PPG does not currently apply in Reading to assessing supply, and is unlikely to do so for several years. The figures used to input into the method for affordability change annually, and therefore the figure will have changed by the time that the Council reviews the plan, or by November 2024. The method itself has changed a number of times since its introduction, and there are no guarantees that the method will remain as is currently set out until that point. Therefore, whilst the figure generated by the current standard method provides an indication of what a local plan review may need to take account of, it holds little significance for current development management decisions.
- 8.10 Accordingly, this updated PPG is similarly considered to be of little significance in the assessment of this appeal proposal, with it reiterated that the Council does not require this appeal site to be developed for 209 dwellings to meet policy H1 targets.

#### **Verification of the Appellant's Appendix 18 (Heritage SoC) Annex A**

- 8.11 Paragraph 3.174 of the Appellant's SoC includes the final sentence:
- “Mr Weeks therefore subsequently notes that the Council's conservation officer said during the pre-application stage that the remaining heritage value the building possesses relates mainly to its front façade”.*
- 8.12 This specific point appears to stem from Annex A of the Appellant's Heritage SoC (Appendix 18), which details James Weeks' notes on the built heritage discussion at a pre-application meeting which took place on 29<sup>th</sup> January 2019. James Weeks details at Annex A that the Council's Conservation Officer (see clarification below) Jonathan Mullis agreed that the key part of the Local

Listing was the front façade. This is then referenced at paragraphs 2.8 and 4.2 of the Heritage SoC to seek to assist the Appellant's case.

- 8.13 In response, in addition to the relevant commentary at paragraphs 3.27, 3.29 and 3.45 of the Council's Heritage SoC, as I was in attendance at the pre-application meeting on 29<sup>th</sup> January 2021, I can advise that I have no personal recollection of Jonathan Mullis stating in the meeting, as per paragraph 4.2 of the Appellant's Heritage SoC "*that the remaining heritage value the building possesses relates essentially to its front façade*". Such a statement was not stated or reflected in any part of the Council's formal written pre-application response (document 10.6 of the Appellant's submission). In addition, the notes included by James Weeks at Annex A of Appendix 18 were not submitted to the Council for comment or agreement. As a point of reference, it is also reiterated that Jonathan Mullis was not a Council officer, or the Council's Conservation officer as James Weeks references, but a retained consultant for the local planning authority. Jonathan Mullis is no longer a retained consultant for the local planning authority. Set within this context, such comments within Annex A (and referenced elsewhere by the appellant) simply cannot be verified.

**Benefits of the proposals, in the context of whether these significantly outweigh the harm caused to the non-designated heritage asset's identified significance**

- 8.14 The Council's overarching SoC identifies the Council's case in this regard, within the context of reason for refusal 5. This is detailed at paragraphs 6.63 - 6.72 of the Council's SoC, responding to paragraph 3.186 of the Appellant's SoC. This also links into the overall planning balance, as further detailed in section 3 of this PoE. In subsequent discussions with the Appellant in agreeing the SoCG, it has become clear that one matter of uncommon ground concerns the interaction between national and local policy and whether the benefits of the development should be required to significantly outweigh the harm caused

to the significance of the locally listed building (paragraph 8.22 of the SoCG, dated 17<sup>th</sup> September 2021).

- 8.15 The Appellant has alluded in SoCG discussions that under the NPPF the benefits of the development are only required to outweigh harm, rather than significantly outweighing harm as per local policy. Accordingly, the Appellant appears to suggest that the local policy is inconsistent with national policy in this regard. Furthermore, by consequence of the NPPF (most recently updated July 2021) being most recently adopted than the local plan (November 2019) the Appellant suggests that national policy should override local policy in this regard.
- 8.16 In response to this specific point, the Council agrees that the local policy requirement that the benefits of the development should significantly outweigh the harm caused to the significance of the locally listed building sets a higher bar than the wording of national policy. However, this in itself does not mean that local policy is inconsistent with national policy. National policy requires that the scale of harm to or loss of an asset forms part of a balanced judgement, but it does not prescribe how this balance is to be judged. A local policy that makes more specific provisions on how this is to be weighed is not therefore necessarily inconsistent with national policy.
- 8.17 The Local Plan including policy EN4 was considered to be sound subject to Main Modifications in the report of the Inspector of 24<sup>th</sup> September 2019. This is included in full as Appendix 3. Sound means that it is positively prepared, justified, effective and consistent with national policy. Policy EN4 was therefore judged consistent with national policy at the time, which has not materially changed. Paragraph 46 of the Inspector’s Report states that:

*“Subject to the MMs, the policies for the Built Environment in the LP are justified, effective and consistent with national policy.”*

- 8.18 For clarity, no Main Modifications (MMs) were recommended to Policy EN4.

8.19 More specifically, the Reading Borough Local Plan (Adopted November 2019) was examined against the 2012 NPPF (hearings took place in September and October 2018). Paragraph 135 of the 2012 NPPF stated:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.*

8.20 When the planning application was determined on 9<sup>th</sup> April 2021, the 2019 NPPF was in force. Paragraph 197 of the 2019 NPPF stated:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.*

8.21 Paragraph 203 of the July 2021 NPPF is unchanged from paragraph 197 of the 2019 NPPF. Accordingly, the only change to national policy at this point between 2012 and the present day is a subtle and inconsequential (for the purposes of these proposals) alteration from ‘*affect directly or indirectly*’ to ‘*directly or indirectly affect*’. As such, Local Plan policy EN4 was considered to be sound against the background of national policy which is unchanged in all material respects. It is therefore considered that local policy is not inconsistent with national policy in this regard.

8.22 Hence, the Council's case, both being plan-led and consistent with national policy, is that the benefits of the development should be required to significantly outweigh the harm caused to the significance of the locally listed building. For reasons already detailed within the Council's SoC the benefits identified by the Appellant are not considered to significantly outweigh the harm, with the proposals contrary to policies EN1 and EN4 of the Local Plan and NPPF paragraphs 195, 197 and 203. Such benefits are also interlinked with the overall planning balance, which is discussed in section 9 of this proof of evidence.

### **Legal Agreement**

8.23 The legal agreement has been identified at paragraph 12 of the Case Management Conference Summary Note dated 27<sup>th</sup> August 2021 as being preferred to be dealt with via round table discussion sessions. In line with paragraph F.10.3 of the Procedural Guide: Planning Appeals, the section below is therefore duly clearly referenced as such at this juncture.

8.24 The Council reaffirmed at paragraph 6.80 of the SoC the principal heads of terms which are required for a legal agreement associated with the proposed development. These are as previously detailed within the officer committee report, update report and decision notice. The Council's SoC also identified heads of terms within the Appellant's SoC (paragraph 2.16) which were not previously identified by the Council, were altered (for example affordable housing) or omitted entirely. There was also ambiguity in comparing the Appellant's case at paragraphs 3.201 and 2.16 of the Appellant's SoC. Accordingly, the Council's SoC summarised that the legal agreement remained unresolved at the then time of writing.

8.25 Since this point in time the Appellant has:

- Clarified a number of points in respect of its position, demonstrated in the wording of the SoCG completed on 17<sup>th</sup> September 2021.

- Submitted to the Council for comment a first draft of a potential legal agreement on 14<sup>th</sup> September 2021. This is included as Appendix 1.
- Suggested an Addendum SoCG concerning affordable housing matters. This was provided to the Council on 23<sup>rd</sup> September 2021. Following correspondence on 24<sup>th</sup> and 27<sup>th</sup> September this was subsequently agreed and submitted on 28<sup>th</sup> September 2021.

8.26 Paragraph 10.2 of the SoCG details the summary heads of terms agreed by the parties as being required in the event the Inspector is minded to allow the appeal. In comparison with the Appellant's SoC, this now confirms agreement to the financial contributions previously referenced by the Council, clarifies that off-site ecological mitigation is accepted by the Appellant (aligning with the decision notice wording) and includes the following three elements not specifically mentioned within the Appellant's SoC:

- Provision of a new north-south link connecting Vastern Road to Christchurch Bridge and associated infrastructure/signage
- 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

8.27 The Council confirms that the summary heads of terms detailed at paragraph 10.2 of the SoCG either align with those referenced at application stage (as per the Committee Report and Update Committee Report), or in the case of affordable housing matters, earlier in the appeal process as outlined in the Council's SoC.

8.28 The Appellant subsequently contacted the Council on 23<sup>rd</sup> September 2021, suggesting an Addendum SoCG in respect of affordable housing matters. This was agreed on 28<sup>th</sup> September 2021 following discussions between the parties. Most significantly, the Addendum SoCG agrees a Benchmark Land Value and developer profit level. Both these align with the Council's Affordable Housing SoC (Appendix M), with a Benchmark Land Value of £6,500,000 (paragraph 1.23

of Appendix M) and a developer profit of 17.5% (paragraph 1.29 of Appendix M). Accordingly, paragraph 2.10 of the Addendum SoCG states:

*In light of the above parameter matters now being agreed between the parties, subject to these matters duly being included as above within the yet to be submitted final draft of the s106 legal agreement (due by 12<sup>th</sup> October 2021), and this also including satisfactory trigger points for the viability reassessment (presently being discussed), this would resolve all matters raised within the Council's Affordable Housing Statement of Case by Andrew Jones of BPS Surveyors. Accordingly, no Proofs of Evidence on Affordable Housing matters will be submitted by either the Appellant or the Council, subject to the above matters being duly included within the yet to be submitted final draft of the s106 legal agreement, due by 12<sup>th</sup> October 2021.*

- 8.29 The quote above details that trigger points for the submission of the viability reassessment are presently being discussed between the parties. The Council contends that the aim of any late stage review is to strike an appropriate balance between: a) setting the trigger sufficiently late in the development process once a good number of dwellings have been sold so that a good deal of information on achieved sales prices is available and b) the need to hold back a suitably large number of units from being allowed to be occupied prior to any payment in order to act as an incentive to exceed the trigger amount set under (a), i.e. avoid a situation whereby it is cheaper for the developer to keep the remaining units vacant rather than pay the deferred payment. The need to prevent a suitable number of units from occupation such that any payment is cheaper for the developer than keeping the units vacant. As per Appendix 1, the Appellant's first draft of the Legal Agreement at Schedule 2 Paragraph 1 (page 15) would equate to the reassessment taking place before completion of between 40 - 70% of the new units. The Council considers this as too early in the process (i.e. not enough evidence of actual sales values being available), with it suggested through correspondence as part of the Council's initial comments on the draft S106 (see Appendix 2) that this should take place no

earlier than between sales of 60-70% of units, but no later than between sales of 75-85% of units. Providing that this remaining outstanding matter and the other parameters referenced in the Addendum SoCG are duly included within the to-be-submitted final draft S106 Legal Agreement, this would resolve all matters detailed within the Council's Affordable Housing SoC.

- 8.30 The Council's Initial comments on the potential legal agreement were sent to the Appellant on 27<sup>th</sup> September 2021. These raised, as shown at Appendix 2, a number of questions and revised a number of sections of the originally suggested agreement. At the time of writing, a substantive response is awaited from the Appellant.
- 8.31 Similar to the summary conclusion detailed at paragraph 6.91 of the Council's SoC, at the time of writing the legal agreement remains unresolved. Discussions between the parties are envisaged to continue to seek to address the reason for refusal in full, with the Council again detailing a willingness to reasonably co-operate in discussions regarding this. This is with view to a final agreed draft legal agreement being submitted by 12<sup>th</sup> October 2021.
- 8.32 In the event that a final agreed draft is not submitted (e.g. the exact and precise details of the terms are not agreed between the parties), the Council would intend to provide a supplementary or rebuttal proof(s) by 15<sup>th</sup> October 2021. This aligns with the timescales detailed at paragraph 37 of the Case Management Conference Summary Note dated 27<sup>th</sup> August 2021. Such submissions would solely detail the agreed and not agreed matters and the Council's position on those matters. Given discussions are presently on-going regarding the legal agreement, the hope all matters can be resolved satisfactorily and the recency of the first draft being sent to the Council for comment (on 14<sup>th</sup> September), it is not considered appropriate to detail all outstanding matters at the time of writing.

## Other matters

8.33 There are some other matters within the Council’s overarching SoC, which I prepared, which are not explicitly referenced by the Council’s other witnesses PoE’s, but remain relevant and the Council’s position on these matters remain unaltered at this PoE stage. Therefore, remaining mindful of the guidance within the Inspector’s Pre-conference note to avoid duplication, I do not propose to repeat these points, but instead refer to the relevant sections of the SoC and summarise these below:

Relevant paragraphs of the Council’s SoC & reason for refusal	Summary of issue raised by the Appellant	Summary of LPA standpoint
Paragraphs 6.27 - 6.28 / reason for refusal 2	Impact of the proposals on the Thames / Thames Path was not called into question by the Council at either pre-application or application stage (paragraphs 3.99 - 3.100 of the Appellant’s SoC)	Unchanged; the Council made the applicant aware of such concerns.
Paragraph 6.73 / reason for refusal 6	Reason for refusal a direct contradiction with the Officer’s own comments (paragraphs 3.192 - 3.193 of the Appellant’s SoC)	Unchanged; 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.
Paragraph 6.78 / reason for refusal 6	Implied that Design South East supported how the proposals relate to the wider CR11g allocation (paragraph 3.191 of the Appellant’s SoC)	Unchanged; Design South East do not offer their own assessment on this point, but merely welcomed this being considered.

## 9.0 THE PLANNING BALANCE

9.1 Informed by the above, my proof of evidence now discusses the overall planning balance. I first identify and comment on the harmful impacts of the development, before referencing changes in the planning balance since Application stage and then considering the benefits of the proposals too. This provides a basis for reaching an overall planning balance and conclusion on the appropriateness of the proposals. It is my considered view that the appeal proposal would result in significant and numerous harmful impacts. This is set firmly within the context of the statutory requirement for Planning decisions to be plan-led. Very great weight should therefore be attached to the harms identified where these conflict with the Development Plan. The appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Council's submission is that there are no such material considerations. Departing from this plan-led approach would be contrary to these statutory obligations and would not be in the public interest.

### Harms

9.2 It is important to re-emphasise that one of the core principles of the NPPF is that planning for future development should be genuinely plan-led, providing a practical framework for local decision making within which decisions on planning applications can be made with a high degree of predictability and efficiency. Local Plans are the key to sustainable development. The proposed development is not genuinely plan-led and a series of highly significant harmful impacts would occur, which should be given the very greatest weight in the planning balance.

9.3 As a starting point, the proposal is in conflict with the Policy CR11g Riverside policy; the appeal site forms part of this specific site allocation. Firstly, with reference to the north-south link, the policy specifies that development should continue the high quality route from the north of the station to Christchurch Bridge. The supporting text at paragraph 5.4.6 is explicit in stating "*achieving*

*this north-south link is the main priority for the site and this should be given substantial weight in development management*". Michael Doyle's PoE (section 3) details that the proposed link is insufficiently strategic in scale and ambition, with deficiencies identified in terms of its design quality, lack of directness, narrowness (in the context of its strategic role) and lacking legibility amongst other harmful factors. Darren Cook's Transport PoE (section 4) also details significant directness concerns, together with technical concerns for cyclists encountering switchbacks and the design of the towpath connection and servicing conflicts with HGVs and pedestrians/cyclists. The design and transport-based concerns are numerous and substantial.

- 9.4 In light of the Policy CR11 paragraph 5.4.6 being so explicit in its wording regarding the importance and weight providing to achieving the north-south link, with this being the main priority for the site allocation, this represents a fundamental conflict with the Development Plan and should be attributed the greatest possible weight in the planning balance.
- 9.5 Policy CR11g also requires development to maintain and enhance public access along and to the Thames. It should be set back at least ten metres from the top of the bank of the river. Michael Doyle's evidence (section 5) states that based on his measurements that the proposed development is closer than 10m from the river edge. Michael Doyle's evidence continues that the proximity of proposed buildings, combined with their mass and height and their blank river path level frontages form unsatisfactory (and in design terms unresolved) areas of public realm at the level of the towpath. Accordingly, it is shown that the proposals conflict with wider site allocation and this is duly given significant weight in the planning balance.
- 9.6 Furthermore, the proposals are also in conflict with a number of the wider area Policy CR11 requirements which the site also forms part of. The vision for the wider Station/River Major Opportunity Area includes to *"integrate the transport links and areas northwards to-wards the River Thames and into the heart of the centre"*. This also links in directly with the CR11ii requirement to

help facilitate greater pedestrian and cycling permeability, particular on key movement corridors. This part of the policy specifically references north-south links through the area centred on the new station, including across the IDR (which includes Vastern Road) being of particular importance.

- 9.7 These policies only further emphasise the Council’s concerns evidenced as part of reason for refusal 1. It has been demonstrated through the aforementioned evidence of Michael Doyle and Darren Cook that the conflicts with the north-south link are fundamental. Accordingly, these harmful impacts also conflict with the requirements of the wider area, thereby compromising the objectives of a Major Opportunity Area within the Borough. As such, I attribute significant weight to these conflicts with the Development Plan in the planning balance.
- 9.8 Following on from this the proposals are also in conflict with CR11v). Section 4 of Michael Doyle’s evidence details that the proposals fall short in this regard and in relation to the more specific CR11g allocation, there is specific reference that the high quality route should include a ‘green link’. Michael Doyle’s evidence details that the ambition for a green link has been minimally provided for and cannot be considered as a material benefit of the scheme. Instead it is considered to be a further conflict, of significant harm in the planning balance.
- 9.9 The proposals are in clear conflict with Policy CR11viii) relating to comprehensiveness, as evidenced in full within Chapter 5 of Michael Doyle’s PoE and summarised within section 7 above. In short, the development will limit or prevent the neighbouring SSE owned land from fulfilling policy aspirations in a variety of identified ways. These conflicts also tie in with the CR11g allocation, and Policy CR3, where part f) of the policy is clear in specifying that *“development should be designed with consideration of adjacent development sites, and should not prevent unreasonable burdens on the future development of those sites”*. The proposals are in conflict with these policies, with the remaining SSE owned part of the site allocation evidently being more difficult to develop as a result of the proposals. This

formed reason for refusal 6 of the planning application and this matter is afforded great weight in the planning balance given the clear wording of the policy requirements and the harmful impacts identified.

9.10 Policy EN11 (Waterspaces) is another policy the proposal is in clear conflict with. This is acknowledged to be a wide-ranging policy, so much so that it is relevant to the Council's reasons for refusal 1, 2 and 3. The policy seeks the protection and enhancement of Reading's waterspaces so that they contribute (among several features) to local and regional biodiversity and ecology, local character, heritage and visual amenity and the provision of accessible leisure and recreational opportunities. The policy wording is clear in stating "*There will be no adverse impact on the functions and setting of any watercourse and its associated corridor*". Several criteria define acceptable development in the vicinity of watercourses and the proposals, in relation to the north-south link, 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 riverside buffer for required large canopy trees, are shown to be in conflict with the Policy. Given the clear nature of the wording of the policy, together with the identified conflicts, as detailed within the evidence of Michael Doyle, Giles Sutton and Sarah Hanson, I attribute significant weight to this harmful impact in the planning balance.

9.11 The proposals are also evidently in conflict with the Council's design and public realm based policies, with Policies CC7 and Central Reading specific policies CR2 and CR3 forming part of the reasons for refusal 1, 2 and 3. These policies are wide ranging in their nature and the evidence provided by Michael Doyle, Giles Sutton and Sarah Hanson demonstrate how the proposals are in conflict with these policies. For example, with reference to the north-south link, Michael Doyle contends at section 3 in respect of public realm that "*the design quality of the public realm is insufficient and is not commensurate with the overall strategic significance of the route*". In the planning balance I attach significant weight to these policies.

- 9.12 The proposals are also shown to be in conflict with Policy CR4. The policy is clear in requiring development in the River Thames area being expected to add to or maintain the setting and character of the Thames and conserve and enhance ecological value. The proposals conflict with these requirements, as stated in respect of reasons for refusal 2 and 3. Based on the conflicts identified by the evidence of Michael Doyle and Giles Sutton I attribute significant weight to this conflict with the Development Plan in the planning balance.
- 9.13 There are two transport specific policies specifically referenced in reason for refusal 1. The proposals are in conflict with Policies TR3 and TR4 by virtue of HGV movements reversing over the footway / cycleway being detrimental to the safety of pedestrians and cyclists. This is detailed within Darren Cook's Transport evidence and constitutes a clear conflict with the Development Plan. I accordingly attach significant weight to this in the planning balance.
- 9.14 It has also been demonstrated that the proposals are in conflict with Policies EN12, EN13 and EN14, in relation to biodiversity, major landscape features and trees. The evidence of Giles Sutton and Sarah Hanson combined demonstrate this in respect of reason for refusal 3. Owing to the nature and extent of the concerns raised in this evidence I duly attribute significant weight to these in the planning balance.
- 9.15 The proposals are also evidently in conflict with Policies CC8, EN16 and CR6 in relation to noise related matters, with the nearby SSE Transformer noise having a significantly adverse impact on future occupiers. This is demonstrated within Rhys Scrivener's Noise PoE. Policy CC8 is clear that development will not cause unacceptable living conditions for new residential properties in terms of noise and disturbance (amongst other matters). Policies EN16 is similarly clear in detailing that development sensitive to noise pollution will only be permitted in areas where they will not be subject to high levels, unless mitigation to minimise noise pollution is provided. Policy CR6 relates to living in Central

Reading and explicitly details that noise disturbance from neighbouring land uses is required to be considered and mitigated. Set within this policy context it is apparent that the proposed development is in conflict with these requirements. In light of Rhys Scrivener's evidence I attribute substantial weight to this conflict in the planning balance.

- 9.16 It has been demonstrated that the proposed development is in conflict with Policies EN1 and EN4, with the benefits of the proposals not being considered to significantly outweigh harm caused through the loss of non-designated heritage asset and retention and reuse not being fully explored. Policy EN1 requires, as a starting point, for proposals to avoid harm in the first instance and seeks to ensure that assets on the Local List are protected and where possible, enhanced. Policy EN4 seeks to ensure that development conserves the architectural, archaeological or historical significance of the asset. This is not the approach sought in this instance, with Bruce Edgar's Heritage SoC (Section 3 i) and PoE (Section 2) demonstrating the heritage significance of the locally listed building at the site is high and its total loss would cause substantial harm.
- 9.17 Furthermore, retention and re-use has failed to be explored fully, as detailed within Bruce Edgar's Heritage SoC (Section 3 ii) and PoE (section 3) and Chris Rumbold's Surveying PoE. This again weighs against the proposal in the planning balance. Policy EN1 continues that any loss must be accompanied by clear and convincing justification, usually in the form of public benefits. Policy EN4 details that permission for loss may be granted where the benefits of the development significantly outweigh the asset's significance. As demonstrated in section 4 of Bruce Edgar's PoE, paragraphs 6.63-6.72 of the Council's SoC and interlinked with this planning balance, I conclude that the benefits of the proposals do not meet the policy requirements. I attach significant weight to this harm in the planning balance given the clear policy position, nature of the proposal and insufficient information submitted by the Applicant/Appellant.

- 9.18 In the event that a final agreed draft s106 legal agreement is not submitted by the required deadline of 12<sup>th</sup> October, the proposal would not in overall terms mitigate its impact on the social, economic and environmental infrastructure of the Borough, failing to deliver sustainable development and being in conflict with Development Plan Policies CC3, CC4, CC9, EN9, EN11, EN12, H3, H5, TR1, TR3 and TR5. The precise matters are all detailed within the exact wording of reason for refusal 7, with this being of very significant weight in the planning balance unless resolved through an agreed draft by 12<sup>th</sup> October.
- 9.19 In light of the above it is evident that the appeal proposal is harmful in multiple and significant respects and that these harms are in fundamental conflict with policies contained within the Development Plan. When combined and considered within the plan-led context provided at section 6 above, these conflicts should be afforded the very greatest weight in the planning balance.

#### **Changes in the Planning Balance since Application stage**

- 9.20 It is also relevant to reference that that since the application was determined on 9<sup>th</sup> April 2021 the Appellant has sought to alter the affordable housing contribution, by omitting 43 on-site affordable housing units and now seeking solely a planning deferred contribution mechanism at appeal stage. This significant on-site quantum (20.57%) at application stage was appropriately weighed in the planning balance at application stage, with it referenced as a planning benefit. With the lesser appeal stage offer now proposed (set within the context of Policy H3 specifying that provision should be made on site in the first instance), the weight in the planning balance in terms of affordable housing (promoted in the NPPF at section 5 in particular) is less too. Put another way, when balancing the competing factors, the balance at appeal stage is now further weighed towards the adverse impacts of the proposals than at application stage.
- 9.21 In addition, since the application was determined a revised version of the NPPF came into force on 20<sup>th</sup> July 2021. There are a number of altered elements

within the 2021 NPPF which, in comparison with the now superseded 2019 version, assists the Council's case by reinforcing components of reasons for refusal. This includes, but is not limited to, paragraph 92b introducing reference to 'attractive', 'well-designed' and 'cycle routes', paragraph 106d including reference to 'attractive' and 'well-designed' walking and cycle routes, paragraphs 110 and 128-129 referencing the National Design Guide and National Model Design Code as having weight in decision-making and paragraph 131 being added and making reference to the importance of trees.

- 9.22 These re-emphasise and strengthen the policy basis for reasons for refusal 1, 2, 3 and 6 in particular, most explicitly detailed within the submissions by Michael Doyle (Design), Darren Cook (Transport) and Sarah Hanson (Natural Environment). Consequently, when balancing the competing factors, the balance at appeal stage is now further weighed towards the adverse impacts of the proposals than at application stage.

### **Benefits**

- 9.23 Section 5 of the Appellant's SoC sets out how the Appellant considers the proposals would achieve the three objectives of sustainable development (as per paragraph 8 of the NPPF), which the Appellant presents as being a series of planning benefits. A number of economic benefits are first referenced, such as construction jobs, future residents to support Reading's economy and the proposed new café. Contrary to the appellant's assertions, I would afford the economic benefits limited weight in the planning balance, as such benefits are common to many housing proposals and could also be achieved in an appropriately amended scheme which addressed the Council's reasons for refusal of the application.
- 9.24 In terms of social benefits, the Appellant includes reference to the delivery of 209 new homes and suggests that these would make a valuable contribution to meeting housing need, that the scheme greatly enhancing accessibility, usability and appreciation of the River Thames and Thames Path and would also

provide a link towards the town centre. In response, the Council has demonstrated that its housing land supply means the Council could continue to meet its housing targets if a reduced number of dwellings were provided on the site to address reasons for refusal. In other words it is not critical that the proposed number of dwellings should be provided on this site and opportunities also exist for sufficient housing to be provided elsewhere in the Borough shared across a number of sites. Any social benefit in respect of housing provision is therefore a general one, is not specific to the appeal proposal, and should therefore be afforded limited weight.

- 9.25 With regard to environmental benefits, the Appellant references ecological, landscaping, townscape, energy and sustainable travel matters. In many respects such benefits would be expected of any housing development of this general nature at the site, so whilst not unwelcome in principle, cannot be considered specific to the proposal. It is considered that environmental benefits could also be achieved in an amended scheme which addressed the Council's reasons for refusal of the application and it is reasonable to expect that an amended scheme would be capable of delivering greater benefits than those of the appeal proposal due to the conflicts and harm identified. Accordingly, I attribute limited weight to the Appellant's identified environmental benefits of the scheme.

### **Conclusion on the Planning Balance**

- 9.26 The harmful impacts of the scheme, as detailed above and throughout the Council witnesses' PoE, demonstrate that the proposals fundamentally conflict with the Development Plan. In particular, the conflicts with the Policy CR11g site allocation (of which the proposals form a part), together with the requirements within the wider Policy CR11 Station/River Major Opportunity Area are substantial and significant, meaning the site is simply not being brought forward in accordance with the specific requirements of the Development Plan. Beyond this, there are also numerous other harmful Development Plan policy conflicts relating to a variety of Planning matters.

These harmful impacts have increased as a result of changes the Appellant has sought to make to the scheme at appeal stage (the omission of on-site affordable housing). Underpinning the harm identified above is the foundational principle that development should be plan-led, and the Council is therefore firmly of the opinion that the harm identified in conflict with the Development Plan should be given the very greatest weight in the planning balance.

- 9.27 In contrast, the benefits identified by the Appellant are limited and are of a far lesser scale than the harms specified. Such benefits could also be achieved in an amended proposal which addressed the Council's reasons for refusal in full as a plan-led outcome which complied with the provisions of the Development Plan in the public interest. Whilst acknowledging that some benefits identified by the Appellant are not unwelcome in themselves, they could be expected as part of most reasonable proposals for re-development of the appeal site and cannot be counted as specific to this proposal.
- 9.28 Therefore, the Council's strongly held view is that there are no material considerations of sufficient weight to indicate any approach other than to determine the appeal in accordance with the Development Plan. Instead the harmful impacts are clear and substantial when applying an overall planning balance, the Council remain firmly of the view that the proposed development refused under application reference 200188/FUL remains unacceptable. Moreover, changes sought to the proposal at appeal stage and the updated NPPF means that the overall planning balance is now further weighed against the proposals. In short, it is clear that the planning balance weighs firmly against the proposed development.

## 10.0 CONCLUSION

- 10.1 It is reiterated that a central principle of planning law is that development should come forward in a planned way. Furthermore, it is also reaffirmed that development should be the subject of local determination by way of the Development Plan process. This is reflected in the fact that development should be plan-led. This is inherent in section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, which establish a statutory presumption in favour of the Development Plan.
- 10.2 Set within this context, the harmful impacts of the proposals are clear and substantial when applying an overall planning balance. More specifically, the failure of the proposal to achieve the high quality north-south link through the site is of significant concern, particularly considering 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, the impact on marginal habitats and lack of space for large canopy trees, the noise impacts on future occupiers, the loss of the locally-listed building, the lack of comprehensiveness and, at least at the time of writing, the absence of a completed legal agreement for a variety of required matters.
- 10.3 Put simply, there are no material considerations of sufficient weight to indicate any approach other than to determine the appeal in accordance with the Development Plan.
- 10.4 In addition, the change in position by the Appellant in respect of removing on-site affordable housing at appeal stage and the updates to the NPPF on 20<sup>th</sup> July 2021 means that the overall planning balance is further weighed against the proposals at appeal stage.
- 10.5 The Inspector is therefore respectfully requested to dismiss the appeal.