



READING BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES
2000**

SECTION 78 APPEALS

**REBUTTAL PROOF OF EVIDENCE ON REASON FOR REFUSAL
No. 3 (Tree Matters)**

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1.0 INTRODUCTION

- 1.1** This rebuttal Proof of Evidence has been prepared in response to the Appellant's Planning Proof of Evidence from Kim Cohen, Townscape & Visual Proof of Evidence from Mr Clark and Design Proof of Evidence from Mr Taylor; specifically in relation to the tree element of RfR3.
- 1.2** No Arboricultural Proof of Evidence has been provided by the Appellant, with the tree element of RfR3 being addressed within the above PoE's.
- 1.3** This rebuttal will focus on the justification, in Policy terms, for the Council's requirement for large canopy trees to be provided. The appropriateness of the proposed landscaping on a wider scale and the visual and townscape impacts of proposed landscaping will be addressed within the rebuttal PoE from Michael Doyle.

2.0 POLICY

2.1 With reference to paragraphs 4.55 of the appellant's Planning PofE and paragraph 3.91 of the Town & Visual Matters PofE, these emphasise their claim that large canopy trees are not required by Local Plan Policy, which is not correct. This is discussed in section 3 and 4 of this rebuttal. The Policy requirement is discussed in my SoC (section 2) and PoE (5.2-5.7) but is clarified below in response to the appellant's PoEs.

EN11 WATERSPACES

2.2 EN11 WATERSPACES states:

Reading's waterspaces will be protected and enhanced, so that they can continue to contribute to local and regional biodiversity and ecology, flood mitigation, local character, heritage and visual amenity, the provision of accessible leisure and recreational opportunities and, where appropriate, navigation. There will be no adverse impact on the functions and setting of any watercourse and its associated corridor. Where development in the vicinity of watercourses is acceptable, it will:-

- *Provide appropriate, attractive uses and buildings that enhance the relationship of buildings, spaces and routes to the watercourse, including through creating or enhancing views of the watercourse, and create a high quality public realm;*
- *Make positive contributions to the distinct character, appearance, historic significance, landscape and amenity of the watercourses;*
- *Provide a strengthened role for watercourses as important landscape features, wildlife corridors, historic features and recreation opportunities;*
- *Wherever practical and consistent with its biodiversity role, provide good, level access to and along the waterside for all those who want to use it;*
- *Be set at least ten metres back from the watercourse wherever practicable and appropriate to protect its biodiversity significance;*
- *Improve the quality of watercourse environment through protecting and enhancing habitats and ensuring that habitat creation is balanced with access and urban uses; and*
- *Pursue opportunities for deculverting of watercourses.*

2.3 This policy recognises the importance of the Thames within the Borough and demonstrates the importance of careful and detailed consideration of any adjacent development proposals. The Thames is one of the most important natural features in Reading, being a designated Major Landscape Feature, and such sites directly abutting the river are rare in coming forward for redevelopment. As such the proposals demand a careful assessment and there is an expectation for higher quality design and landscaping

2.4 Paragraph 4.2.46 of the supporting text for EN11 states:

*‘Reading is built on two main rivers that contribute to the distinct character of the Borough. Each provides a very different character and role. **The Thames remains largely natural in character, bounded by parks, green spaces and fields for most of its stretch through Reading, although it meets the edge of the town centre on the south bank between Caversham and Reading Bridges. The Kennet is similarly rural in the south west of the Borough, but has a stronger integration into the fabric of the town centre than the Thames. It is important that development recognises and builds on these distinct characters**’*

2.5 The appropriateness of steering new planting and landscape design towards the river’s distinct, *natural* character with larger trees, as opposed to the urban character encroaching on the river (including upright form trees) is supported by Policy EN11.

2.6 In relation to making a *‘positive contribution to the distinct character, appearance, historic significance, landscape and amenity’* to the Thames, this ‘distinct character’ is a ‘natural’ character as per the supporting text in 4.2.46, i.e. bounded by parks, green spaces and fields, so is not urban. The provision of larger-scale landscaping, through large canopy trees on a wider riverside landscape buffer, would be the appropriate response to the scale of the River Thames and its natural character of which large trees form a distinctive and visually important part. Large canopy trees are required to make a positive contribution to this distinct character and landscape of the river. The fastigate variety trees proposed cannot make that positive contribution because their more urban character does not reflect the largely natural character discussed in 4.2.46. The proposals fail to provide

buildings which leave space for large canopy trees so fail to create the required high-quality public realm. Large canopy trees, simply because of their size and prominence, would provide a greater visual contribution to the character and appearance of this designated Major Landscape Feature.

2.7 As above, EN11 requires developments to provide a:

*‘strengthened role for watercourses as important landscape features, **wildlife corridors**, historic features and recreation opportunities’*

Paragraph 4.2.50 of the supporting text of EN11 states:

*‘The wildlife function of the watercourses is also vital. There is also a clear relationship between this policy and EN12 on Biodiversity and the Green Network, as the main watercourses are identified as green links within that policy, vital for wildlife movement. In order to enhance this biodiversity role, development should be set **at least ten metres** back from the bank where possible and appropriate. In this case, development refers to buildings, fences and walls as well as laying of non-permeable surfaces. Ideally, unless direct access to or along the waterside is of particular significance on a site, a buffer should be maintained as a natural or semi-natural habitat **free from built development, parking areas, private gardens and formal landscaping**’*

2.8 The River Thames is not just the water but the vegetated corridor within which it is set; if this corridor is denuded, then so is the river. The ‘treed corridor’ designation within our adopted Tree Strategy recognises the importance of maximising tree planting adjacent to this Major Landscape Feature, including for wildlife benefits and for maximising opportunities for this important landscape feature. Paragraph 1.65 of the Strategy defines ‘treed corridors’ stating that they are:

‘... a priority for tree retention and planting to provide green corridors into, out of and through the town’.

With paragraph 3.94 stating [in relation to biodiversity]:

‘Whilst woodlands tend to be the most important, trees within the urban environment play a vital role by providing corridors and stepping stones for wildlife’.

- 2.9 Broad spreading native and wildlife friendly trees provide a much greater wildlife benefit than narrow form trees as their greater biomass and surface area provides more resources for invertebrates, birds, and other wildlife. For example, a greater insect population would provide more food for bats and birds whilst longer branches provide more nesting opportunities for birds compared to narrow form trees. Given the importance of the Thames as a landscape feature, it is vital that the landscaping buffer fronting the river is sufficiently wide to allow for large canopy trees and the greater wildlife benefit they provide, which would otherwise be limited by more fastigate, urban form trees.
- 2.10 With its reference to a *‘strengthened role for watercourses as important landscape features, wildlife corridors, historic features and recreation opportunities’*, the ‘treed corridor’ designation within the Council’s adopted Tree Strategy provides useful guidance in understanding how this natural approach may be achieved and recognises the importance of maximising tree planting adjacent to, and to strengthen the role of, this Major Landscape Feature.
- 2.11 In relation to development being *‘set at least ten metres back from the watercourse wherever practicable and appropriate to protect its biodiversity significance’*, it has been concluded by Mr Doyle and accepted in paragraph 3.80 of the appellant’s Design PofE that the proposals do not achieve the 10m setback. Even if this 10m criteria were met, policy requirement is ‘at least’ 10m. In this case, a setback wider than 10m would be needed in order to meet the aforementioned requirements of EN11, which the proposal does not.
- 2.12 Policy EN11 requires developments to provide high quality public realm adjacent to the Thames, make a positive contribution to the character and landscape of the Thames and to strengthen the role of the Thames as an important landscape feature and wildlife corridor. Large canopy trees, as discussed above, are required in order to meet with these policy requirements. These requirements are not met by the use of trees with a narrow, architectural form.

EN14 TREES, HEDGES, WOODLANDS

CC7: DESIGN AND THE PUBLIC REALM

2.13 EN14 TREES, HEDGES, WOODLANDS states:

*‘Individual trees, groups of trees, hedges and woodlands will be protected from damage or removal where they are of importance, and Reading’s vegetation cover will be extended. The quality of waterside vegetation will be maintained or enhanced. **New development shall make provision for tree retention and planting within the application site, particularly on the street frontage, or off-site in appropriate situations, to improve the level of tree coverage within the Borough, to maintain and enhance the character and appearance of the area in which a site is located, to provide for biodiversity and to contribute to measures to reduce carbon and adapt to climate change. Measures must be in place to ensure that these trees are adequately maintained’***

Policy CC7: DESIGN AND THE PUBLIC REALM states the following:

*All development must be of high design quality that **maintains and enhances the character and appearance of the area of Reading in which it is located.** The various components of development form, including: -*

- *Layout: urban structure and urban grain;*
- *Landscape;*
- *Density and mix;*
- *Scale: height and massing; and*
- *Architectural detail and materials*

2.14 As is mentioned in my SoC and PoE, the site is within a low canopy cover area (as defined in our Tree Strategy). Extending the vegetation coverage in the Borough, and on priority sites like this, ‘enhancing’ the quality of waterside vegetation and enhancing the ‘character of the area’, that being natural in character, is required by policy. This will be achieved through the planting of larger canopy trees rather than narrow, more architectural form trees as discussed above. The greater biodiversity benefit of large canopy trees is included in 2.9 above; the larger the tree the greater the amount of carbon that is captured and stored, and large canopy trees provide better resilience for the Borough to the impacts of climate change

by e.g. providing greater shade in hotter summers and better aiding flood prevention in high rainfall events through canopy rainfall interception by broad spreading crowns.

EN13: MAJOR LANDSCAPE FEATURES AND AREAS OF OUTSTANDING NATURAL BEAUTY

2.15 EN13 states:

‘Planning permission will not be granted for any development that would detract from the character or appearance of a Major Landscape Feature. The following areas, as shown on the Proposals Map, are defined as Major Landscape Features:

- *The Thames Valley;*
- *The Kennet and Holy Brook Meadows;*
- *The West Reading wooded ridgeline;*
- *The East Reading wooded ridgeline; and*
- *The North Reading dry valleys and Chilterns Escarpment.’*

The supporting text in 4.2.65 includes:

‘The urban context means that the preservation of these features as a backdrop is of particular importance. New development should seek to maintain and enhance the natural beauty and visual amenity of the identified major landscape features’

2.16 The use of urban style trees would detract from the character of the Thames as a Major Landscape Feature hence would not comply with this policy by failing to protect this natural feature in the urban context ‘as a backdrop of particular importance’.

2.17 There is a clear interplay between Policies EN11, EN13, EN14 and CC7 which consistently seek to steer the design of new development alongside the river towards a more natural frontage which protects, maintains and enhances the special qualities and character of the river.

3.0 APPELLANT'S PLANNING PROOF OF EVIDENCE

The requirement for large canopy trees

3.1 Paragraph 4.55 of this Proof states:

'There is no development plan policy basis for requiring large canopy trees within the riverside buffer, or anywhere within the site. Policy EN11 seeks the provision of a strengthened role for watercourses as wildlife corridors. Policy EN12 seeks the provision of new tree planting wherever practicable. Policy EN14 seeks provision for tree retention and planting. None of these policies, nor any other policy within the development plan, require the provision of large canopy trees. Paragraph 4.2.68 of the Plan says there will be a need to use appropriate large canopy trees, but as Mr Clark points out that does not amount to a requirement to place large canopy trees in every or any particular location'.

3.2 The policy support for large canopy trees on the riverside frontage is demonstrated in section 2 above and in my SoC and PoE, hence the appellant is mistaken in claiming that development plan policy (supported by the Council's Tree Strategy) does not require these trees. The Council are not claiming that large canopy trees should be used in every location as that would be unfeasible. Nearby town centre sites, such as 71-73 Caversham Road did not have a requirement for large canopy trees due to site constraints and a more urban character. Each site is assessed on its individual merits; the appeal site in question having a relatively unique setting adjacent to the river within which these larger canopy trees are wholly appropriate and the correct response to enhancing the river's natural character.

3.3. It would not be reasonable to expect Development Plan policy to dictate specific detailed design for each and every site, instead it sets the framework within which proposals can be considered in more detail using available evidence including national and local guidance, specialist advice,

best practice etc. In this case the SPD (Sustainable Design and Construction) and Tree Strategy, provide useful, well considered, adopted guidance on how policies should be implemented.

Reading Borough Council adopted Tree Strategy

3.4 Paragraph 4.56 of the Appellant's Planning PoE states:

'The Tree Strategy adopted by RBC in March 2021 does not have development plan status, nor is it an SPD. It seeks the provision of large canopy trees; however, the document is guidance only and does not have the weight of a statutory development plan document'

3.5 The adoption process of the Tree Strategy is explained in 2.2.6 of my SoC. Weight should be given to this formally adopted document, revised (from 2010) in response to the Council's Climate Emergency declaration. The Tree Strategy has had the benefit of a process of stakeholder consultation, public consultation and democratic scrutiny and it supports, compliments, and provides useful guidance in respect of the interpretation of policy.

OBJECTIVE 11 (Trees & Development) of the Tree Strategy states that:

'tree retention, protection and planting within development sites will be in accordance with the aims of the Tree Strategy and Local Plan policies'.

3.6 Paragraph 4.59 of the Appellant's Planning PoE states:

'In addition to the large canopy tree, 7 other trees are proposed within the riverside buffer. These tree species were chosen based on advice provided by the EA in relation to tree species and in response to concerns raised by RBC about overshadowing and possible physical contact with proposed buildings, as Mr Rawlinson explains in his SoC. As Mr Clark demonstrates at paragraph 3.95 of his PoE, these trees are entirely suitable to provide softening of the built frontages and a progression in scale to them from the Thames Path, whilst not

unduly compromising the amenity benefits of riverside views and immediacy of active frontage to the river corridor’.

- 3.7 Whilst native species are proposed, they are of a narrow form, so this point does not address or overcome RfR3. Softening by narrow form trees is not sufficient or appropriate. The primary policy aim of the trees is not simply to provide “softening” to the built form which suggests landscaping as something of an afterthought. Policy references above in section 2 focus primarily on protection and enhancement of the natural character and the need to integrate landscaping as part of achieving a high quality public realm appropriate to the setting. The trees are required and would play an integral and fundamental role in the success of the design of the development and the way it functions as opposed to some form of rather superficial mitigation. As has been covered in my SoC and PoE, the issue of physical contact between trees and the proposed buildings has been addressed by the appellant only by including narrower form trees.

Alleged tree canopy overshadowing of the river

- 3.8 In terms of potential overshadowing of the river by trees (mentioned in 3.6 above), I note that 5.5 of the Ecology Proof of Evidence states:

‘Although the proposed buildings will add additional shade to the marginal vegetation, some of this would occur as a result of the proposed trees and North/South link to Christchurch Bridge. Also, if large canopy trees were used along the river frontage (as requested by the Council), the shade caused by these to the marginal vegetation in the summer months could be greater than that caused by the proposed buildings’.

- 3.9 Shade cast by trees is fundamentally different to that cast by buildings as it is seasonal (and less at the beginning and end of the growing season) and dappled. Furthermore, it is rarely continuous, i.e. there are gaps between trees.

- 3.10 It is the council's case that there is an insufficiently wide buffer between the new buildings and the river and that an alternative scheme could be devised that provided this. Indeed, the appellant has set out in 4.41 of their Planning PoE two scenarios which would set back the development from the river. In such a scenario there would be a buffer zone that would be wide enough to accommodate large canopy trees whilst still providing sufficient sunlight hours for the adjacent marginal vegetation. Such a buffer zone could truly be designed to enhance the wildlife value of the River Thames
- 3.11 As indicated within this rebuttal, a larger riverside buffer is required to accommodate larger canopy trees to avoid reliance on the tow path and riverside for canopy space. The quantity of such trees within a wider buffer has not been established as no planning application has been formally considered that provides a wider buffer. Furthermore, as no such application has been submitted, no indications of potential shading of the marginal vegetation from large canopy trees within a wider buffer has been provided. This would, of course, have to be considered alongside shadowing caused by any proposed buildings.

Long-term relationship between trees and buildings

- 3.12 Paragraph 4.60 of the Planning PoE states:

'The riverside buffer proposed provides sufficient space for a sustainable long-term relationship between proposed buildings and planting, as demonstrated by Mr Rawlinson within his SoC'.

- 3.13 The sustainable relationship only exists due to the narrower form trees proposed, contrary to what policy requires.

- 3.14 Paragraph 4.61 of the Planning PoE states:

'The long-term management of planting can readily be secured by planning condition; this will ensure that there is no future conflict between planting and buildings which could lead to pressure for tree removal from residents'

3.15 Large canopy trees are required hence the management of narrow form trees is not relevant.

4.0 APPELLANT'S TOWNSCAPE AND VISUAL PROOF OF EVIDENCE

The requirement for large canopy trees

4.1 Paragraph 3.91 of this Proof states (as per the Planning PoE):

'...I consider that there is no policy 'requirement' for large canopy trees along the riverside...'

'...large canopy trees are not a 'requirement' of the [tree] strategy...'

4.2 This policy point is rebutted in section 2 above. In relation to the Tree Strategy, large canopy trees are a requirement of Objective 2 'where feasible', which they would be here with a greater set-back. These tree types would provide a greater contribution to Objective 4 to increase canopy cover, which should be to the maximum on a priority site such as this (low canopy cover, AQMA, treed corridor).

4.3 Paragraph 3.92 of the Proof states:

'This sets out an aspiration for use of large canopy trees (albeit subject to climate change tolerance) but it would be illogical to conclude from this that every proposed tree should be of a large canopy species'.

4.4 The Council do not claim that every tree should be of a large canopy species and have accepted smaller-sized trees within the appeal site. Logically, the fact that not every tree need be a large canopy tree does not mean that a good proportion of trees should not be large canopy species. It is not correct to suggest that large canopy trees are not required where it is possible and appropriate to use them to enhance the natural character of the Thames, as discussed in Section 2.

4.5 Paragraph 3.92 of the Proof refers to the Councils 'aspiration' for use of large canopy trees. I do not find this terminology helpful or accurate and is dismissive of our Tree Strategy. As 'aspiration' is a 'hope or ambition of

achieving something’; whereas an ‘aim’ is a ‘purpose or intention; a desired outcome’. The aims of the Tree Strategy are just that and are consistent with the requirements of Development Plan policies and an assessment of the character and environmental qualities of the river as referred to above.

4.6 Paragraph 3.93 of the Proof compares the proposed development, in terms of tree provision, to nearby sites, such as Clearwater Court and Regents Riverside (end of Brigham Road) implying that the proposal is acceptable due to greater tree provision. It is inappropriate to compare the proposal in question to others that were determined under previous National and Local policy from the 1990s. They are developments from a different time period, permitted within a different policy context. They are of little usefulness in the determination of this appeal. The appeal proposal should be determined in line with current Policy and the specific merits of the proposal.

4.7 Paragraph 3.95 states (in relation to the appropriateness of the proposed trees):

‘Therefore, a large canopy tree is provided where legibility is most relevant and where it reflects distinctive local character. This specimen is complemented by other smaller trees which are entirely suitable to provide softening of the built frontages and a progression in scale to them from the Thames Path, whilst not unduly compromising the amenity benefits of riverside views and immediacy of active frontage to the river corridor.’

4.8 From this, the appellants recognises that the ‘distinctive local character’ of this riverside location is one of large canopy trees. However, the Appellant only proposes one large tree for townscape/legibility reasons and the rest of the trees are smaller, it appears partly to benefit future residents, i.e. so their riverside view is maintained. This is not a planning consideration.

4.9 Paragraph 3.96 of the Proof states:

‘I also note that the open space at Christchurch Meadow to the north already includes extensive large-scale canopy tree provision and offers further opportunities, within the Council’s control, to deliver planting along the identified treed corridor of the River Thames’.

4.10 It appears from this comment that the appellant is indicating that the Council can provide large canopy trees elsewhere as some form of justification for the appeal site failing to make suitable provision. It is noted that the appellant has not proposed any off-site planting to the north of the river in their proposals. It is not reasonable to rely on other landowners, including the Council, to compensate for a failure of the appellant to provide appropriate planting on the appeal site. Indeed, the appellant’s statement helpfully serves to confirm that the existing riverside environment is characterised by “*extensive large-scale canopy tree provision*”

4.11 For information, the Council’s Landscape Services Manager within the Parks department (who manage Christchurch Meadow) confirms:

‘Maintenance, particularly in the form of re-pollarding, is regularly carried out to preserve for as long as possible the existing trees at Christchurch Meadows. The Council also has a programme of succession planting in relation to its tree stock and has invested in around 70 new trees on the site over the past decade. Further locations for new tree planting have been identified, and investment is expected to continue, particularly of large-canopied trees. This is in line with the aims of the Tree Strategy (TS) in view of the Thames being a ‘treed corridor’, Major Landscape feature (as identified in the Local Plan)’.

4.12 Paragraph 3.98 of the Appellant’s Proof states:

‘In relation to the Council’s Statement of Case paragraph 6.52, it is unclear why ‘greater softening of the extensive building mass’ is

needed to limit 'negative visual impact'. Clearwater Court doesn't have any trees on its frontage and is a substantial built mass but is a dramatic and successful feature on the riverside. 'Negative visual impact' implies a worsening of the situation from the current situation (allowing for balancing of adverse and beneficial changes). Given the utilitarian void that the Appeal Site comprises at present and the range of townscape qualities and visual interest of the Proposed Development, I do not think this claim to be remotely justifiable'.

- 4.12 This refers to RBC's Main SoC (from Jonathan Markwell). This is an important riverside frontage where we should seek a softer frontage to respect the Thames environs. This would not be fully realised with smaller and narrow species trees which, by their very nature, would not be commensurate with the scale of either the large buildings proposed or the grand scale of the Thames river and its natural surroundings. The negative visual impact (worsening) would occur, not only as a result of tall buildings close to riverside instead of the current more open riverside frontage, but also because of a failure to address the various policy requirements to protect, maintain and enhance the distinctive qualities, appearance and character of the river area and its function as a Major Landscape Feature. The provision of large canopy species trees is critical to meeting these policy requirements for the reasons set out above and in the Council's PoE and SoC. Clearwater Court is not a recent development (see 4.6) and this appeal must be determined in light of current policy and guidance.

5.0 Conclusion

- 5.1 The Council's requirement for large canopy trees within the riverside buffer is fully supported by policies EN11, EN13, EN14 & CC7, as discussed within this rebuttal. Such trees are required on the riverside to provide a high-quality public realm which contributes positively to the distinct, natural character of the Thames whilst strengthening the role the river plays as an important landscape feature and wildlife corridor. The appellant is wrong to suggest that there is no policy requirement for large canopy trees within the riverside buffer, whereas I consider that policy fully justifies their inclusion, particularly on this site and specifically in the riverside buffer zone. The aims of the adopted Tree Strategy support these policy requirements.
- 5.2 The inclusion of narrow form trees does not meet with the above policy requirements and also limits the contribution of tree planting to increasing canopy cover, limits the benefits to wildlife, reduces potential carbon capture/storage and contributes less to climate change resilience.
- 5.2 Following demonstration of the requirement for large canopy trees, it then follows that a wider buffer than currently provided is required to allow for the long-term successful integration of these trees, without future conflict with the proposed buildings.
- 5.3 The site sits alongside the most important natural feature in Reading, designated as a Major Landscape Feature and treed corridor. Policy is clear on the principles that the proposals should meet in terms of landscaping and the riverside setting. It is a rare riverside development site that rightfully demands not just sufficient and high-quality landscaping, but landscaping appropriate to the riverside location.