



**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

CIL COMPLIANCE STATEMENT

READING BOROUGH COUNCIL

Date: October 2021

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Appendices

Appendix 1 - Reading Borough Council Infrastructure Funding Statement 2019-2020
(Published 29th June 2021)

Appendix 2 - Reading Borough Council Infrastructure Delivery Plan (Section 10.3 of the
Reading Borough Local Plan 2019)

1.0 INTRODUCTION AND BACKGROUND

1.1 This statement justifies the planning obligations sought in respect of the appeal proposal, which includes 209 residential dwellings and 20.9 sqm (NIA) of retail floorspace, in the context of relevant legislation, policy and guidance. These are provided on a without prejudice basis to the Council's case that the appeal should be dismissed in overall terms; however, if the Inspector is minded to allow the appeal then these obligations would be required.

1.2 Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

1.3 These requirements are mirrored at paragraph 57 of the 2021 National Planning Policy Framework (NPPF).

1.4 As per Section 10 of the Statement of Common Ground completed on 17th September 2021, the Appellant and Council agree that planning obligations are required in respect of the following principal heads of terms:

- Affordable housing planning deferred contributions mechanism
- Various highways/ transport related works, including:
 - o Provision of a new north-south link connecting Vastern Road to Christchurch Bridge and associated infrastructure/signage
 - o Provision of a new direct link from the site onto the River Thames towpath
 - o A S278/38 Agreement towards footway improvements and an upgraded site entrance onto Lynmouth Road
 - o Contribution of £200,000 towards a new crossing on Vastern Road
 - o Provision of transport mitigation measures to include:

- Residential Travel Plan
- On-site car club
- Open space/leisure contribution of £100,000
- Employment and skills plan (construction phase only) (either a local Employment and Skills Plan or a financial contribution of £46,487.50)
- Carbon offsetting contribution
- Off-site ecological mitigation

1.5 Furthermore, paragraph 10.3 of the Statement of Common Ground confirms that the parties agree that all obligations would comply with the NPPF and CIL tests.

1.6 The Reading Borough Local Plan (Adopted November 2019) forms the Development Plan policy context for the planning obligations sought. As detailed within reason for refusal 7 of the Council's decision, the following policies are relevant (as identified by the Core Document [CD] reference):

- CD 3.3 Policy CC3: Adaption to Climate Change
- CD 3.4 Policy CC4: Decentralised Energy
- CD 3.9 Policy CC9: Securing Infrastructure
- CD 3.15 Policy EN9: Provision of Open Space
- CD 3.17 Policy EN11: Waterspaces
- CD 3.18 Policy EN12: Biodiversity and the Green Network
- CD 3.27 Policy H3: Affordable Housing
- CD 3.28 Policy H5: Standards for New Housing
- CD 3.30 Policy TR1: Achieving the Transport Strategy
- CD 3.31 Policy TR3: Access, Traffic and Highway-related Matters
- CD 3.32 Policy TR5: Car & Cycle Parking & Electric Vehicle Charging

1.7 In addition, the NPPF and Planning Practice Guidance are national policies/guidance which are material considerations in this regard. Moreover, the Council has a number of fully adopted Reading Borough Supplementary

Planning Documents (SPDs) which provide specific guidance on a number of the planning obligations required, as follows (relevant CD reference again noted):

- CD 6.5 Affordable Housing (Adopted March 2021)
- CD 6.6 Employment, Skills and Training (Adopted March 2013)
- CD 6.6A Revised Parking Standards and Design (Adopted October 2011)
- CD 6.7 Planning Obligations under Section 106 (Adopted April 2015)
- CD 6.8 Sustainable Design and Construction (Adopted December 2019)

1.8 This CIL Compliance Statement considers each of the planning obligations listed above, which are included within the Appellant's draft Section 106 Legal Agreement under discussion with the Council. It supports the case that the planning obligations sought in respect of the appeal site meet the Regulation 122 tests.

2.0 JUSTIFICATION

Affordable Housing

- 2.1 Policy H3 (Affordable Housing) requires residential development to make an appropriate contribution towards affordable housing to meet the needs of Reading. The requirements for affordable housing are also detailed within the March 2021 adopted Affordable Housing SPD and page 10 of the overarching Planning Obligations under Section 106 SPD (Adopted April 2015). Should the Inspector be minded to accept the change to the affordable housing offer by the Appellant at appeal stage (on-site provision omitted and planning deferred contributions mechanism proposed instead), the basis for the planning deferred contributions mechanism is detailed within the Affordable Housing SPD. More specifically, paragraphs 6.12 - 6.14 of the SPD demonstrate the necessity of this requirement and discussions in advancing a legal agreement have agreed an appropriate form of mechanism in this instance.
- 2.2 Any future deferred contribution would in practice be in the form of a financial contribution, with paragraphs 8.7 - 8.8 of the SPD explaining this in full. Most specifically, the Council will choose the registered providers to which to direct the funding for the provision of affordable housing. Funding will be directed towards schemes to meet the housing needs of Reading Borough. Furthermore, the Infrastructure Funding Statement 2019-2020 (IFS - included in full as Appendix 1) specifies at paragraph 5.16, in the context of future spending priorities, that:
- Financial contributions towards affordable housing will be spent on provision of new affordable homes in Reading. The Council is building new affordable homes through its Local Authority New Build programme, and this is likely to be the main spending priority, but the Council may also grant fund other Registered Providers to deliver new affordable homes.*
- 2.3 In the context of the established policy, recently adopted SPD guidance and anticipated future spending priorities, any affordable housing obligation would

be evidently directly related to the development and would be fair and reasonable in terms of scale and kind.

- 2.4 It is also noted that affordable housing contributions are outside of the Council's Community Infrastructure Levy (CIL) Charging Schedule, with the Planning Obligations under Section 106 SPD (paragraphs 4.2 at page 5 and the commentary box at page 10) confirming that Affordable Housing is specifically excluded from being part of CIL and will always be sought under Section 106 rather than CIL.

Transport / Highways related works

- 2.5 In overall terms the Transport / Highways related obligations stem from Policies TR1, TR3 and TR5 of the Reading Borough Local Plan. Furthermore, policy CC9 specifies that securing transport infrastructure will be amongst the highest priority of measures in the Borough. In addition, there are also elements within the policy CR11g Riverside site allocation, for which the appeal development forms a part, which link directly into transport related matters, such as the need to maintain and enhance public access along and to the Thames and the requirement to continue the high quality route from the north of the station to the Christchurch Bridge. These matters then align with elements of the policy CR11 vision for the wider Station/River Major Opportunity Area and policy CR11ii) and iii) requirements in particular. This policy basis is also supplemented by the guidance stated at pages 6-7 of the Planning Obligations under Section 106 SPD and the Revised Parking Standards and Design SPD.
- 2.6 With regard to securing both the new north-south link connecting Vastern Road to Christchurch Bridge (and associated infrastructure/signage), and the new direct link from the site onto the River Thames towpath, these are both necessary in order for the appeal proposals to align with the aforementioned policy CR11 requirements. Without prejudice to the Council's case that the appeal should be dismissed, if the Inspector is minded to allow the appeal then

securing the provision of both elements would be necessary to make the development acceptable in planning terms. Both components are also directly related to the appeal development. Furthermore, they are also fairly and reasonably related in scale and kind to the appeal development as they will serve future residents of the development and future patrons of the proposed café within the appeal site.

- 2.7 In terms of the footway improvements / upgraded site entrance onto Lynmouth Road and the new crossing on Vastern Road, these are required to mitigate the impact of the appeal development on highways and are directly related to the proposals. Policy TR1 details that development proposals should make appropriate provision for works and contributions to ensure an adequate level of accessibility and safety by all modes of transport from all parts of a development. Furthermore, policy TR3 specifies that the effect on safety, congestion and the environment will be considered in determining proposals involving altered access onto the transport network and improvement works to the transport network, amongst other matters. These site related highways works are justified in light of this specific policy context, as well as that referenced at the outset of this transport section.
- 2.8 More specifically, securing a new crossing on Vastern Road would seek to improve links between Reading Station and the appeal site, towards Christchurch Bridge, as required by policies CR11ii) and CR11g. It would therefore be evidently necessary and be directly related to the development. With specific reference to the quantum of the financial contribution towards the Vastern Road crossing, this was calculated on the basis of detailed quotations for the works undertaken by the Appellant at application stage. The Council agree that the £200,000 financial contribution is suitable in this context, demonstrating that it is fairly and reasonably related in scale and kind to the appeal development.
- 2.9 A travel plan is considered to be necessary to encourage future residents to use alternatives to single occupancy car-use, instead promoting and supporting the

use of sustainable transport facilities to avoid the proposed development having significant transport implications, in line with policy TR1 and Chapter 10 of the Revised Parking Standards and Design SPD in particular. The car club provision is a specific site related transportation mitigation measure which stems from the policy context above and policy TR5 as well. Given the Central Reading location of the site and the parking restrictions in place around the site, a lower than SPD standard provision of car parking is proposed at the site. The car club would assist future occupiers without a car having access to use of a car when required. Both the travel plan and car club would be necessary to mitigate the impact/needs of the proposed development, would be directly related to the appeal development and would be fairly and reasonably related in scale and kind to the appeal scheme to serve the resultant future population at the site.

- 2.10 In overall terms each individual transport related measure is demonstrated to adhere to the Regulation 122 tests.

Open space / leisure

- 2.11 Policy EN9 is clear in stating that all new development should make provision for appropriate open space based on the needs of the development. The policy also acknowledges that there are a variety of ways in which this can be achieved, either through on or off-site provision, contributions toward provision or improvement of existing leisure or recreational facilities. More specifically in relation to the appeal development, the policy also details that on sites of 50 dwellings or more, new provision will be sought. There is also reference in the specific policy CR11g Riverside site allocation, for which the appeal site forms a part, whereby potential for an area of open space at the riverside is stated. In addition, policy CC9 (Securing Infrastructure) details that amongst the highest priority for contributions is open space. The Planning Obligations SPD specifies at page 6 that enhancement and management of and access to local outdoor recreation and open space directly serving the development would be secured via s106 legal agreement.

- 2.12 From the outset of the application submission, the Applicant (now Appellant) has progressed a case whereby the provision of a financial contribution towards open space / leisure would be anticipated, which policy EN9 provides a basis for. The proximity of the site to Christchurch Meadows and the adjoining Hills Meadow (as specified in discussions in advancing the legal agreement) means a financial contribution towards improving existing open space, or providing new facilities, to cater for additional use would be necessary and directly related to a development for 209 residential units.
- 2.13 Whilst it is acknowledged that there is no set SPD formula for determining the financial contribution, the agreed £100,000 financial contribution would be considered fairly and reasonably related in scale and kind to the development. This is set within the context of the viability of the scheme and could potentially contribute towards a range of different green infrastructure schemes detailed within the Summary Infrastructure Delivery Schedule (Figure 10.2 of the Local Plan, included as Appendix 2). In particular, the contribution could assist the identified borough wide Thames Parks Plan, Open Spaces Strategy or Play Requirements schemes.
- 2.14 Alternatively, it could make a valuable contribution towards the area specific Christchurch Meadows scheme, where a total capital cost and funding of £500,000 is specified to enhance sports facilities including team sports, tennis and update leisure facilities on the opposite bank of the river to the appeal site within Christchurch Meadows. The proximity of the site to Christchurch Meadows means that such a contribution would directly serve the development, assisting the enhancement of, management of and access to this open space. Accordingly, it is appropriate for this financial contribution to be secured via legal agreement, as per the page 6 of the Planning Obligations under Section 106 SPD.
- 2.15 With this context in mind the financial contribution towards open space would be justified in policy terms, directly stemming from a development of this size

and would be necessary to make the development acceptable in planning terms.

Employment and Skills

- 2.16 Policy CC9 (Securing Infrastructure) details that amongst the highest priority for contributions is economic development services and infrastructure, including employment, skills and training development initiatives. In addition, the Employment Skills and Training SPD 2013 provides precise details concerning employment and skills, including full justification at Chapter 4. In overarching terms, the Planning Obligations under Section 106 SPD applies too, with page 9 confirming that construction skills will be sought through Section 106 obligations from major schemes. As such, the policy context is clear in demonstrating the necessity of the obligation in making the development acceptable in planning terms should the appeal be allowed.
- 2.17 As per Chapter 5 of the Employment Skills and Training SPD the proposed development would necessitate a construction phase ESP, being a major development. On the basis of recent discussions with the Appellant in progressing the legal agreement, it is evident that the Appellant is seeking to make a financial contribution, rather than implement an ESP. Financial contributions are used to fund employment, skills and training initiatives. This is an accepted approach, as per paragraph 5.6 - 5.8 of the SPD. Paragraph 5.8 of the SPD provides examples of types of training that construction specific training funding would secure. The calculation of the financial contribution derives from the Section 6 SPD formula, as follows:

$$\text{£2,500} \times \text{Gross internal floor area of the proposed residential component of the scheme (18,595m}^2\text{)} / 1000\text{m}^2 = \text{£46,487.50}$$

- 2.18 On the basis of the established formula, the contribution would be fairly and reasonably related in scale and kind to the appeal development.

Carbon offsetting

- 2.19 The Council declared a climate emergency in February 2019, with the need to address this being an urgent priority. Policy H5c expects major new-build residential development to be designed to achieve zero carbon homes standards. The supporting text to the policy at paragraph 4.4.46 states, at a minimum, this means a 35% improvement over building regulations standards, with the remainder as a financial contribution to carbon offsetting, as secured via S106 Legal Agreement. This is also complemented by Policies CC3 and CC4.
- 2.20 The December 2019 adopted Sustainable Design and Construction SPD provides more detail on securing these contributions, predominantly at paragraphs 3.9 - 3.16. Paragraph 3.13 is clear in stating that the financial contributions towards carbon offsetting will be secured through a S106 agreement. For clarity, carbon offsetting is therefore confirmed as being outside of the Council's Community Infrastructure Levy (CIL) Charging Schedule. In addition, the formula for establishing the S106 financial contribution is specified at paragraph 3.11, while paragraph 3.14 confirms contributions will be ring-fenced for projects which deliver a carbon saving in Reading, including energy-efficiency improvements or renewables projects. Section 5 of the IFS identifies carbon offsetting as one of three broad matters anticipated as a future priority for infrastructure contributions. Paragraph 5.19 of the IFS 2019-20 reiterates the SPD guidance that detailed decisions on spend have not yet been made, but a number of possible measures are identified. In addition, as paragraph 3.15 of the SPD details, there are also a number of wider benefits associated with future projects funded by this financial contribution:

Projects funded by the offset fund can also maximise co-benefits, such as alleviating fuel poverty, reducing energy bills, improving air quality, providing heat for vulnerable residents, increasing the efficiency of public sector buildings and reducing operations costs.

- 2.21 Set within this clear and recent policy and guidance context, given the proposal is not seeking to achieve zero carbon homes, a carbon-offsetting financial

contribution would be justifiably required to make the development acceptable in planning terms. Within RBC this is only secured via S106 Legal Agreement. Furthermore, it directly relates to the predominant residential component of the scheme and, on the basis of the established calculation for determining the contribution, would be fairly and reasonably related in scale and kind to the appeal development.

Off-site Ecological mitigation

- 2.22 Policy EN12 (Biodiversity and the Green Network) details the context whereby in certain circumstances new development will provide off-site compensation to ensure there would be “no net loss” of biodiversity. Without prejudice to the Council’s case that the appeal should be dismissed, if the Inspector is minded to allow the appeal then off-site ecological mitigation would be necessary to make the development acceptable in planning terms, in light of the proposals impact on the marginal vegetation and River Thames. Policy EN12 also details that the provision of off-site compensation would be calculated in accordance with nationally or locally recognised guidance and metrics, with the supporting text to the policy at paragraph 4.2.63 specifically referencing the DEFRA biodiversity offsetting guidance. As well as the Policy EN12 context, this obligation would be in accordance with Policies EN11 and CC9, with the latter specifying that measures to improve or enhance biodiversity will be amongst the matters given the highest priority when determining appropriate provisions. In addition, page 6 of the Planning Obligations SPD is explicit in stating that:

Section 106 will be used for ecological mitigation/ remediation required as a result of a specific development scheme, and providing for appropriate biodiversity mitigation and compensation.

- 2.23 Accordingly, the provision of off-site mitigation would be directly related to the development, and as per the DEFRA 3 Biodiversity metric (or its successor, if appropriate at the time - linking back to the paragraph 4.2.63 wording in support of Policy EN12) would be fairly and reasonably related in scale and kind to the appeal development.

2.24 In discussions with the Appellant in progressing the legal agreement, the Appellant has sought to include a fallback option of a financial contribution towards ecological mitigation. This would only be enacted in the scenario the off-site proposals (referenced as the Ecological Works Scheme) not coming to fruition. This may occur owing to a number of potential unknowns and constraints, such as the Appellant not separately gaining a licence from the Environment Agency for the works. The principle of such a fallback option is therefore welcomed in principle given this context. In practice, a financial contribution would be paid to the Council for the purposes of providing equivalent ecological improvements elsewhere in the Borough. The financial contribution discussed when progressing the legal agreement would be equal to the cost of the Ecological Works Scheme which would have been carried out by the Appellant. An exact figure cannot therefore be specified at this time. The methodology for this fallback option is considered to be suitable in principle and any such financial contribution would be compliant with the Regulation 122 tests.

3.0 CONCLUSION

- 3.1 Without prejudice to the Council's case that the appeal should be dismissed, if the Inspector is minded to allow the appeal then the obligations detailed above are agreed between the Council and Appellant as being required. On the basis of the reasons set out above, each of the planning obligations sought are evidenced as being compliant with the Regulation 122 tests.