Appeal by Berkeley Homes (Oxford and Chiltern) Ltd in respect of Land at 55 Vastern Road, Reading, RG1 8BU

Planning Inspectorate’s References: APP/EO345/W/21/3276463

**Closing Submissions on behalf of**

**Reading Borough Council**

(Inquiry commencing 26/10/21)

**1. Introduction**

* 1. The appellant submitted an appeal against the decision of Reading Borough Council (“RBC”) to refuse permission for the demolition of existing structures and erection of a series of buildings ranging in height from 1 to 11 storeys, including residential dwellings (C3 use class) and retail floorspace (A3 use class), together with a new north-south pedestrian link, connecting Christchurch Bridge to Vastern Road, dated 9 April 2021.
	2. During the course of this inquiry, Inspector, the Appellant has submitted further plans addressing two technical aspects of the scheme which demonstrate:
1. That in respect of the towpath the scheme should be amended to enable access both by cyclists and those suffering with a disability in compliance with relevant guidance, with the effect that the part of the reason for refusal relating to that element of the scheme falls away (3rd Addendum SoCG), further plans have also been provided which address the Council’s concerns as to the need to reverse over the pedestrian/ cycleway (2nd Addendum SoCG); and
2. That in respect of noise the scheme should be further amended to enable ventilation to Block BC to be brought in from the roof of that block, and that this in conjunction with the provision of an improved thicker specification of glazing will safeguard adequately the amenity of those living in all blocks, with the effect that the reason for refusal for that element of the scheme also falls away (5th Addendum SoCG).
	1. Given that this site is allocated as part of site CR11g, itself allocated as part of the wider site CR11, it was always anticipated by the Council that technical noise issues and access to the towpath could be addressed. However, as you have heard over the course of this appeal, Inspector, there are a number of fundamental flaws in the design of the appeal scheme which it, is submitted, strike at the core of the Council’s spatial strategy and policy framework for the appeal site, and it is your determination of these issues which will determine the outcome of the appeal.

1.4 It follows that these submissions will address the following core issues:

1. The effect of the proposed development in design terms with particular reference to the quality and effectiveness of the proposed north-south link through the site;
2. The effect of the development in design terms with reference to the setting and character of the River Thames and the Thames Path;
3. Whether it has been demonstrated that the proposal would be part of a comprehensive approach to the development of the Riverside sub-area of the Station/River Major Opportunity Area;
4. The effect of the proposed development on 55 Vastern Road, a non-designated heritage asset; and
5. The effect of the proposed development on the natural environment with particular reference to marginal habitats and large canopy trees.

1.5 Prior to addressing these issues in detail, I will address the consequence of the parties’ agreement that Reading is able to demonstrate a 5 year housing land supply and therefore the appeal should be determined in accordance with the provisions of the Development Plan. In the next section I will provide you with the policy framework for your determination: how the relevant policies of the Development Plan interact with the Reading Station Area Framework (the “RSAF”) to enable you to determine the appeal.

1.6 At the outset, however, it should be noted Inspector that the gravamen of the evidence at this inquiry has demonstrated that the proposed development is fundamentally incompatible with the substance of what Policy CR11, in combination with other relevant policies within the Development Plan and the RSAF, seeks to achieve. Should this appeal be allowed, it would result in a north-south link which is of poor quality, which fails to provide a direct route to the Christchurch Bridge, fails to provide views through the scheme to the river and which would therefore be unsuccessful in enabling the area to the north of the station, within which the appeal scheme sits, to be successfully integrated into the central area in accordance with the Council’s spatial strategy for the area.

1.7 That this would result is unsurprising because, as you have heard, the requirement for the appeal development to split the site into separate areas by deflecting vistas was built into the core design principles of the scheme.

1.8 Furthermore, the design of Blocks D and E are based on a fundamental misunderstanding of what the Development Plan read in conjunction with RSAF require. It has become clear throughout the appeal not only that there is no adequate justification for doubling the benchmark heights at Blocks D and E, but that the design of the scheme was in truth never intended to provide such a justification.

1.8 In respect of heritage, it has become clear that not only does the Appellant accept that the locally listed building could be retained within a redesigned scheme from a structural perspective, as relevant policy demands, but that the DAS included cross sections showing water coming out of the windows which are now accepted by the Appellant to be factually inaccurate. In respect of the assertion that a retained building would look out of place, it became clear that these assertions were just that – assertions – which were themselves inconsistent with what is shown to be possible by the Vastern Road elevation of Block B.

**2. The Plan led system and the framework for determination of the Appeal**

2.1 A central tenet of planning law is that development should come forward in a planned way. This means that, where any development is to be located within a local authority area, 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 Framework at paragraphs 15-20 of NPPF 2019 which explain that strategic policies should set out a strategy for where sufficient housing should be located.

2.2 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."*

(My emphasis)

2.3 The fact that the appeal development proposals are in conflict with the provisions of the Development Plan taken as a whole puts them squarely at odds with the core principle that planning for the future should be genuinely plan led. To use the words of Lord Carnwath in *Suffolk Coastal DC v Hopkins Homes and another [2017] UKSC 37* at [21] the Framework:

*“…cannot and does not purport to displace the primacy given by statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme.”*

2.4 These words have a particular resonance in Reading. The detailed policy relating to the core issues identified in section 1 above will be discussed later, but at this stage it is important to set out that the Reading Borough Local Plan (recently adopted in November 2019) is founded upon a spatial strategy which has a particular overarching goal in relation to development within Central Reading, the area within which the appeal site sits. Development within this area is required to demonstrate fundamental key attributes in terms of design, the first of which in CR2(a) requires development to “*build on and respect the existing grid layout structure of the central area*”, in particular the supporting text at 5.3.8 makes clear that one of the “*key themes*” is that new development should “*build on and extend*” “*the urban grid*”. The need for development to respect and build on the spatial objectives contained within the Development Plan is fundamental and has been recently emphasised as such within the National Design Guide (CD6.1 paragraph 14).

2.5 Another key spatial objective running through the Development Plan and given a particular importance within the Central Reading area is addressed within Policy CR3 which deals with the quality of public realm in the central area. This requires development to “*enhance the appearance of watercourses*” and provide “*active elevations facing watercourses*” (CR3(iv)) The distinct character of the Thames which (in contrast to the Kennet) “*retains its sense of tranquillity*” is noted to be a distinct character which “*has informed the local plan*” (5.3.12). The need for development to make positive contributions to the distinct, largely natural, character of the Thames is also emphasised in policy EN11 to which CR3 cross refers and policy EN13 which (as accepted by Mr Clark in xx) in conjunction with the provisions of the NCA (110 Chilterns SEO4, page 27 Appended to the TVIA) requires the natural character of the Thames to be the subject of significant enhancement. This requirement for development to significantly enhance the natural character of the Thames represents a strategic objective which, since its adoption in 2019, has underpinned the Development Plan.

2.6 Also running through the Development Plan, and given a particular importance within the central area, is the need to “conserve and enhance the historic environment of the centre and the significance of heritage assets” (CR3(v)). This wording reflects the objectives of Policy EN4 which emphasises the need to preserve non-designated assets. In particular the supporting text at 4.2.20 is clear that these buildings should be reused as part of development proposals “where possible”. Following xx of Mr Taylor, it is no longer suggested that it is not possible to include the locally listed building within a redesigned appeal scheme.

A Site Specific Policy

 2.7 The appeal site benefits from a Site-Specific policy within the Reading Borough Local Plan as it sits within the Station/River Major Opportunity Area, itself described as “*a flagship scheme*”. Policy CR11 requires at (v) “*a direct landscaped link between the station and the river Thames*”. Policy CR11g, Riverside, covers the appeal site and requires that development within it continue “*the high quality route including a green link”* across that part of the North South link which starts at the Station and finishes at the Christchurch Bridge.

*The Reading Station Area Framework (“RSAF”)*

2.8 As Mr Doyle makes clear, a route from the Station to the River connecting through to a new footbridge across the Thames was first proposed at least 20 years ago in a detailed study by Gibbs and the success of this route is central to this flagship scheme. It was developed in detail in the Initial Development Framework of 2002 which Mr Doyle drafted. The concept of a direct link was developed over the following decades and Mr Doyle incorporated this into the RSAF, of which he was the principal author, and which was adopted in December 2010.

2.9 The status of this document is described in the supporting text to Policy CR11 (paragraph 5.4.9) as providing the detailed guidance in developing this area. The detail of the RSAF will be discussed later in these submissions under the core issues, but at this stage it is important to note that the RSAF underlines the strategic importance of the North South link described in outline in policy CR11. The RSAF variously describes the Kennet-Thames spine as “*A major “city spine*”” and “*a direct pedestrian route*”, which is based on the north-south link and “*which is the most significant movement corridor in the RCAAP, and is vital to the success of development in this area*” (paragraph 5.9). The strategic importance of this north-south link is also underlined by its inclusion as the Major Path in the Framework for Development at figure 8.2 (page 45). Woven into the RSAF is the requirement to open up new views, in respect of which it states that “*Of particular significance are views along the north-south link, between the Station and the Thames, where there should be an unbroken line of sight*.” This provides the detail on what the development site must do in order to comply with the spatial requirement in CR2 and extend the urban grid.

2.10 In her evidence Ms Cohen accepted that supplementary planning documents provide policy which can guide planning decisions but not where they are inconsistent with the Local Plan (Regulation 8(3) of the 2012 Regulations). However, in xx the only paragraph in which she felt she could even attempt to identify any inconsistency was 7.10 and in respect of this paragraph she accepted the following:

* That the RSAF giving more weight to views did not render it inconsistent with the Local Plan;
* That the RSAF affording significance to views did not make it inconsistent with the LP;
* The mere fact that the RSAF predates the LP does not make it inconsistent particularly where paragraph 5.4.9 provides that it provides more detailed guidance without qualification;
* That in respect of specificity:

*“(Ms Cohen) Inconsistency goes to specificity of the requirement of views.*

*(DL) Specificity of views is a matter of detail not consistency*

*(Ms Cohen) Less than consistent*

*(DL) Specificity is about details it doesn’t follow that it is inconsistent*

*(Ms Cohen) That is true”*

2.11 In rx it was suggested to her that because the RSAF suggests that views were mandatory this made it inconsistent with paragraph 5.4.6 which says, “if visual links are provided”, however this answer does not stand up to scrutiny. From her xx, it is clear that Ms Cohen appreciates that paragraph 5.4.6 contemplates the potential to provide visual links and that the RSAF provides the detail on where new views will be created. As Ms Cohen accepted in xx the fact that the RSAF provides the detail of where a view is to be created does not render it inconsistent with the DP, particularly where it is to the RSAF that we are told we must look for that detail. Ms Cohen accepted that 5.4.6 applies to the whole CR11 site, of which only CR11g and CR11e are identified in the RSAF as having a requirement to provide new views. Although Ms Cohen said that paragraph 5.4.6 could have included text specifying both that the Riverside site should achieve the north-south link as the main priority and it should provide views, it is not necessary to provide these words. The potential for views is already addressed and the detail can be found in the RSAF. The fact that paragraph 5.4.6 does not provide additional words does not render the RSAF inconsistent with it – to suggest it does is a strained interpretation which smacks of desperation.

2.12 The RSAF is not inconsistent with the DP, rather it provides the necessary detail not provided in the Plan, just as indicated in paragraph 5.4.9.

*Key Strategic Objectives*

2.13 It follows from the above that in substance, policy within the Local Plan, supported by the detail to be found within the RSAF, and in particular that policy relating to the Central Area in general and the appeal site in particular, does not simply require a betterment on the existing situation; rather it requires development to play its part in delivering key strategic objectives to make this important area of Reading a place of the highest quality. The key strategic objectives which are engaged by the appeal proposal include:

- the requirement to extend the urban grid through the appeal site in a manner consistent with the foremost priority - to provide a direct north-south route with direct views through to the river to stitch the townscape together;

- the requirement that development should make positive contributions to the distinct rural character of the Thames and significantly improve upon this character, particularly in this location where the central area meets the Thames and there is less remaining of that rural character. New development should seek to maintain and enhance the natural beauty and visual amenity of the Thames;

- the requirement that any remaining historic assets, including non-designated heritage assets, are conserved and reused where possible to provide a link to Reading’s historic past and keep this alive; and

- the urgent need to protect and enhance biodiversity in a manner appropriate to the development location, in particular the need to amend development proposals to avoid or mitigate harmful impacts as a first priority.

2.14 The Development Plan is the culmination of more than 20 years of consideration of how these strategic objectives should be achieved. These objectives feed into the Site specific policy CR11 with the requirement that development should be of high quality. This was rightly agreed by Mr Taylor to be of the foremost importance. In particular, Inspector, the policy is clear that development quantum is indicative only and subordinate to the need for high quality development. In that regard and even more so given the ability of the Council not just to demonstrate a 5 year supply but to demonstrate housing throughout the development plan period, a failure to give non-compliance with this policy framework anything less than determinative weight in this appeal would entail a failure to respect the primacy of the development plan and would distort or displace the statutory scheme. It cannot be emphasised strongly enough that this is not an appeal in which the development plan requirements can be diluted by an asserted overwhelming need for housing (as the Appellant appears to suggest), this local authority has planned well for the necessary housing, reflecting upon and acting upon government guidance. Reading BC is entitled to insist upon a high quality of development on the appeal site as stipulated in the Local Plan, the RSAF and national guidance.

*The Importance of Good Design*

2.15 As discussed with Ms Cohen in xx recent changes to the NPPF have served to underline the importance of development being well designed and complying with local design policies and government guidance on design. NPPF paragraph 134 provides:

“*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes*.”

2.16 The National Design Guide (CD6.1) is specifically identified within the NPPF as being government guidance on design. It provides (paragraph 14) that the strategic priorities of the LPA should be central to the design process of the development and should “*form the basis for the design characteristics of the development*”.

2.17 Ms Cohen accepted that policy CR2 was a local design policy and therefore the wording that development which is not well designed should be refused “*especially where it fails to reflect local design policies and government guidance*” applies to both it and to the Design Guide. She went on to answer as follows:

*“(DL) What does paragraph 134 mean then? Can be well designed and not reflect local design or you can approve poorly designed schemes.*

*(Ms Cohen) Should take account local design policies but would suggest applying planning balance.*

*(DL) We are not looking at the “taking into taking into account” part. Design is considered of such importance that we should refuse for poor design especially where it fails to reflect local design policies*

*(Ms Cohen) Yes, should refuse for poor design. Yes*”

2.18 In rx Ms Cohen suggested that you needed to read all policy together, but this does not assist her. The strategic policies require the existing grid layout system to be extended, both to achieve a high quality design of development on the appeal site and to achieve a high quality north south link. These are key themes of fundamental importance not just to the appeal site but to the whole of the central area. I will come on to look in more detail about whether this is achieved in the next section, but if it is not, it is plain from her answer that Ms Cohen is of the view that permission should be refused. And with respect she is right to be of that view as any other view would deprive paragraph 134 of the NPPF and paragraph 14 of the National Design Guide of all meaning. The suggestion in rx that the wording “should demonstrate” within CR2 is not an absolute requirement, given the mandatory nature of the expression and the supporting text at 5.3.8 is simply nonsensical.

**3. The Failure of the Development to provide a High Quality North-South Link**

3.1 Policy requires that a high quality north-south link should be provided across the site. The provision of this link is the foremost priority for the site but, should the appeal be allowed, this would not be provided. The reasons why the development would not provide a high quality link can be summarised as follow:

1. Policy requires a direct route and attaches great importance to a direct line of sight between the station and the river, whereas the development is predicated upon a design philosophy which deflects vistas and cuts the site into separate pieces; the Appellant asserts that a direct route is not possible, but this is to misunderstand what a direct route requires;
2. Policy requires a direct route on which the user does not feel as if he is having to double back upon himself, whereas the development introduces a switchback arrangement which forces the user to turn back on himself and proceed in the opposite direction to that which he wants to go;
3. Policy requires a route which reflects the importance of the North South route as a section of the major path and pedestrian link through the central area, whereas the development would feel narrow and cramped.

The importance of the Link

3.2 The Appellant seeks to downplay the importance of the north south link, for example in her PoE Mrs Cohen states that “*at no point in either the Local Plan or the RSAF is the north-south link specified as a “strategic” link*” (paragraph 4.4). This is simply incorrect. As Mr Doyle explained (SoC paragraph 2.10.3) the strategic purposes of the north-south link are to connect high density residential districts to open spaces, reconnect Reading’s two rivers through the town centre and the station and provide the major path and pedestrian link through the central area (RSAF fig. 8.2). A high quality north-south link is identified in the Local Plan (at 5.4.6) as “*one of the key principles for the spatial strategy of the centre*” and in respect of that section which runs through the Riverside site it is stated that “*this north-south link is the main priority for the site*”.

3.3 In xx Mr Taylor accepted that achieving a high quality north-south link was strategic because it was part of the spatial strategy and the main priority for the site, he also accepted that development quantum figures were indicative only and subordinate to the importance of a high quality link. As paragraph 5.4.5 states development figures for each of the sub-areas of CR11 including CR11g can vary in order to achieve the aim of greatest importance – the creation of high quality development. Within paragraph 7.46 of the Statement of Common Ground it is agreed that “*The site would deliver a route through the site which forms part of a* ***strategic link*** *between Christchurch Bridge and Reading Station.*” (My highlighting)

3.4 However, the Appellant’s actual approach to designing the appeal site development does not reflect the need to achieve a high quality strategic link as a matter of “*the greatest importance*”. Where the need for a high quality link conflicts with the Appellant’s development figures, it is in truth made subordinate to those figures. To justify this approach the Appellant seeks to downplay the strategic importance of the link – but as just demonstrated that is not a tenable position. The Appellant also seeks to suggest that a direct link is not possible and that is the next issue.

A Direct Link and the grid layout within the central area

3.5 How does one determine whether the link is high quality? The Appellant sought to suggest that the fact that CR11g defined the origin of this part of the north-south link as being the station and the destination as being the Christchurch Bridge (“*from the north of the station to the Christchurch Bridge*”) in some way justifies a route which is not straight. However, as Mr Taylor accepted in xx, it is not sufficient that a route be provided which starts at the station and finishes at the Bridge, the route must be of high quality. Furthermore, as he also accepted, it is the RSAF which provides the “detailed guidance” as to how this route should be designed to achieve that high quality (LP 5.4.9). In addition, Mr Taylor accepted the need for the link to comply with the requirements contained within the design policies for central Reading.

3.6 In that regard, Mr Taylor accepted that the strategic priorities of Reading Borough Council should be central to the design process of the development and should “*form the basis for the design characteristics of the development*” (see the National Design Guide – CD6.1 paragraph 14). As he also accepted, it is of fundamental importance that the right choice is made for the layout of a scheme in order to achieve a well-designed place (National Design Guide paragraph 21). Furthermore, the National Design Code (CD6.2 – Part 2, guidance notes, p.7 paragraphs 18-19) discusses the fact that the well- connected street is direct: “*Direct routes make walking and cycling more attractive*”.

3.7 It follows that in order to achieve high quality development in accordance with the Local Plan, the right design choice must be made which accords with the strategic priorities of the Council as laid down in policy. The substantive problem which Mr Taylor faces is that at the heart of the DAS is design principle 11 “*Use of Buildings to deflect vistas and define the public route through the site*” (page 55). This design principle has not come about through accident - it is part of a design philosophy which is apparent from Mr Clark’s SoC (App. 16 to the Appellant’s main SoC).

3.8 Mr Clark at his 7.8 discusses “The Concise Townscape” where Gordon Cullen explains the principle of “*closure*” as “*cutting up the linear town system*”. In the quote Mr Clark provides at 7.9 he relies upon the author’s description of how closure is affected:

“*Closure is affected by some irregularity or asymmetry of layout whereby the path from the source to goal is* ***not*** *automatically and inevitably revealed to the eye* ***as in the gridiron plan***.” (my emphasis)

As Mr Clark accepted in xx this quote demonstrates that closure is intended to do the opposite of the gridiron plan, which seeks to provide direct, as in straight, routes and lines of sight. This is also made clear by the following paragraph (7.10) which discusses the Thames Path as a route which frequently turns and does not rely on long distance views. This is an example of closure, not an example of the gridiron plan.

3.9 But it is the urban grid system, not closure, which has been afforded primacy within CR2 as the “*first criterion*” and “*one of the key themes*”. CR2 (page 130 of the LP) requires development in central Reading to “*build on and respect the existing grid layout structure of the central area*”. Paragraph 5.3.8 discusses “*the urban grid*” as a key theme and requires “*development should build on and extend this pattern*”.

3.10 In his rebuttal proof Mr Clark (although he had taken no photos along the key horizontal roads within that grid) described the grid as “*distorted*”, but he accepted in xx both that it was a grid, and that policy requires its extension. His justification for the development not providing a direct route in accordance with the gridiron system and policy was that he claimed it not to be possible. However, this assertion simply does not stand up when confronted by Mr Doyle’s figure 34. That is because Mr Taylor accepted in xx that figure 34 does show a direct route. Whereas, as Mr Doyle demonstrated in his figure 33, the appeal site does not provide a direct route. Furthermore, it is clear from Mr Clark and Mr Taylors’ evidence that the appeal scheme was not intended to provide a direct route. On the contrary, it seeks to make a virtue out of providing a route which is closed off. This is not what policy requires.

3.11 That the appeal scheme is seeking to close off the vistas in the north-south route is evident from a closer examination of the buildings as represented in the DAS. At pages 77 and 78 the Coal Office building is shown terminating the view of those heading north. As Mr Doyle explained, the fact that the building has been designed to close off the view is apparent from the way in which the building presents its gable end to the path. A similar design approach has been taken in respect of the route as it travels south from the Bridge: Mr Taylor’s Ap.9 (at R41) shows the gable end of Block D terminating the view as one crosses into the site (view 2), and as one proceeds further into the site the view is terminated by the gable end of Block C and the positioning of the oak tree (view 3). The fact that views are terminated in this way is the opposite of the direct route and views required by the grid system and by the RSAF, but it is to be expected from the design principles espoused in the DAS.

3.12 The real reason why Mr Taylor asserts in his written evidence that a direct route cannot be provided is because he has taken the need to provide a route which has its origin as the station and its destination as the Christchurch Bridge as being inconsistent with the provision of a straight path. However, as Mr Doyle has demonstrated in figure 34, and as Mr Taylor accepted in xx, a kinked path can move about within a direct street. Figure 34 does show a direct street. That street broadens at the river to enable a path to go to the Bridge and another path to run to the river towpath. Figure 34 differs from Figure 33 because it contains a direct street linking the station and the river, in which the path runs up to the Bridge. Figure 33 in contrast shows a street that is not direct. It is not direct because it has been blocked by buildings – which was the design philosophy in the DAS.

3.13 The reality, Inspector, is that, as both Mr Taylor and Mr Clark ultimately accepted, Figure 34 demonstrates that a direct street is possible. What is not possible is for a path to travel from the station to the Christchurch Bridge without kinking, but policy doesn’t require the path to do so. Policy requires a high quality direct route which starts at the station and terminates at the bridge and includes a clear line of sight from the station to the river. Mr Doyle’s figure 34 provides the direct route, the appeal site does not. The next question is whether the appeal site provides the direct line of site required.

A Direct Line of Sight

3.14 Although Mr Taylor and Mr Clark both began by suggesting that the RSAF did not require a view from the station to the river, they both accepted:

(1) Paragraph 7.10 describes the only new views to be created: 62 (Station square north looking north) and 63 (New public space on Thames looking south);

(2) This paragraph requires that between the Station and the Thames there should be an unbroken line of sight;

(3) This unbroken line of sight is “of particular significance”; and

(4) The need for an unbroken line of sight between station and river is not reflected in the appeal scheme.

3.15 Mr Clark also accepted that a grid layout seeks to deliver unbroken views whereas closure seeks to close views off.

3.16 It follows that the Appeal scheme does not deliver on the requirement for an unbroken line of sight between station and river, which is stated to be of particular significance. The importance of this view is re-emphasised in the local plan at 5.4.6. Paragraph 5.4.6 speaks of visual links helping to “*change the perception of the area north of the station as a separate entity*”. As Mr Doyle explained, the provision of the unbroken view between station and river would do this. Closing off views as per the DAS and the appeal scheme would achieve the opposite effect, “cutting up” the linear town system and placing gable ends of buildings in the view. As already discussed, although it was suggested by Ms Cohen that because paragraph 5.4.6 says “if visual links are provided” this makes such a view optional, such an interpretation does not sit with the detail provided in the RSAF. In reality paragraph 5.4.6 addresses the entirety of the CR11 site (as both Ms Cohen and Mr Clark agreed) and of the four areas north of the river only areas CR11g and CR11e are required by the RSAF to create new views. In those circumstances the “if” merely serves to apply the wording to the place where visual links are to be provided – through the appeal site between the station and the river.

3.17 In his written evidence Mr Taylor suggests that an unbroken line of sight between station and river is not possible. However, in an attempt to demonstrate this he adds in the need for the view to be between “nodes” and a requirement for the viewer to be able to see the water in the river, which he claims cannot be achieved due to a change in levels. Neither of these requirements are to be found in policy. The reference within CR11g to the route including a link “from the north of the station to the Christchurch Bridge” describes the beginning and end of the route (as Mr Taylor confirmed in xx), it does not require a view from the station to the Bridge. It is that unwarranted gloss which caused Mr Taylor to claim that the view required in the RSAF was not achievable. What the RSAF requires is views along the north-south link, between the station and the Thames (7.10) which is demonstrated to be possible by Mr Doyle’s figure 34.

3.18 In terms of whether the viewer will be able to see the water in the river at the end of the view corridor, that is again something that is not required either in the plan or the RSAF. There should be an unbroken line of sight between Station and the Thames (7.10 RSAF) “*along the direct north-south link*” (also 7.10) which should be “*a direct landscaped link between the station and the River Thames*” (CR11(v)). But the requirement is that the view reach the river, not that the water in the river is visible. In his rebuttal proof at Figure 3 Mr Doyle demonstrates that along Lynmouth Road it is possible to see the greenery on Fry’s island at the end of the street and a boat moored on the river (although Mr Taylor questioned this, he didn’t suggest that Mr Doyle was being disingenuous, and you will hopefully see the boat in your Image inspector). Mr Doyle’s figure 34 demonstrates that similar views of Fry’s island could be achieved through the appeal site. It is submitted (although not agreed) that views of the surface of the river would be available from the station concourse due to its elevation. Whether and at what point the water in the river would be visible to one walking down the direct street shown in Mr Doyle’s figure 34 towards the Thames is largely irrelevant and not something prescribed by policy. What is clear is that figure 34 provides a direct route with a view along it between the station and Thames which would help change the perception of the area north of the station as a separate entity. The appeal scheme does not.

The Role of Wayfaring

3.19 In his PoE (Paragraph 3.32) Mr Taylor accepts that:

 *‘Of course, a straight route would be easier to navigate than a curved or angled route for instance’*.

3.20 However, Mr Taylor’s rehearsal at para. 3.32 of the wayfinding features of the Appeal Scheme (A route anchored by landmarks at either end, subtle changes in direction noted through deflected views, aided by public art, material choices, changes in character, additional signage and stud markers within paving) simply serve to demonstrate that he is trying very hard to compensate for the fact that a straight route is simply easier to navigate - with little or no need for wayfinding measures.

3.21 It is submitted that Mr Doyle is correct to contrast two competing scenarios where a visitor unfamiliar with Reading arrives at the northern station square and asks the way to the river (rebuttal 3.2.62):

“Appeal Scheme

*‘If you look down there, you can see Vastern Road and a tall warehouse building. Cross the road, and you will see an artwork and studs in the pavement that carry you around the corner between warehouses. If you look ahead down the tree-lined path, you will see a warehouse-type building at an angle. Walk towards that building, cross the access road, and you will see a ramp at an angle to the path you are on. If you look towards the top of the ramp, between the railings and the café, you will see the top of the bridge over the Thames. Go to the top of the ramp towards the café terrace for a view of the river. You will need to swerve sharply right up two further ramps or take the stairs beside the cafe to reach the bridge. Alternatively, you can go straight down the ramp towards the riverside path. There are plenty of signs to help you along the way if you feel a bit lost.*

Direct link and direct line of sight

*‘If you go to the corner of the square and look straight down the path on your right, you can see trees and boats and may just be able to catch a glimpse of the water- that’s the Thames.’”*

3.22 Mr Doyle’s view is to be preferred that “*the second route description is clear, simple, and more attractive. It is superior in design and wayfinding terms and accords with policy and guidance.*” The importance of views and an unbroken line of sight accords with what Mr Taylor himself accepts - that a straight route is easier to navigate. It also accords with the National Design Code which notes that direct routes make cycling and walking more attractive, the National Design Guide which emphasises the importance of the strategic priorities of the Council and the grid system as laid down in policy CR2, Policy CR11 and the RSAF.

The Switchback

3.23 When considering the respective evidence on the switchback arrangement in the appeal scheme, Inspector, it is submitted that, where they differ, you should prefer the evidence of Mr Cook over Mr Witchalls. The single most significant piece of guidance on the acceptability of a switch back arrangement is to be found in LTN1/20 (CD6.16). Mr Witchalls accepted that this document is structured such that the Core Design Principles at figure 1.1 (page 8) are translated into summary principles (page 9) to be put into practice. He accepted that the summary principles form an “integral part of the guidance” and that these principles are intended to enable high quality infrastructure to be provided. Core principle 18 provides:

 *“****18) Cycle routes must flow, feeling direct and logical****.*

 *Users should not feel as if they are having to double back on themselves, turn unnecessarily, or go the long way round.”*

3.24 But in spite of this, Mr Witchalls did not mention this guidance in his statement of case. His explanation was that (1) he was sure this guidance would come out during the course of the appeal and that (2) he had noted within his PoE that riders would not feel as if they were doubling back. However, his PoE was submitted in response to the SoC of Mr Cook who quoted principle 18 on page 13 (paragraph 4.13.1). At the time when Mr Witchalls submitted his SoC he did not know whether the appeal would proceed to an inquiry – this was the stated purpose of submitting a substantial SoC in the first place.

3.25 It is submitted that the fact that Mr Witchalls made no mention of this important guidance, even though he gave evidence both that he was aware of it and that it was integral, substantially undermines the credibility of what he had to say on it. Had Mr Cook not referred to the guidance, you would not be aware of it, Inspector.

*A Feeling of doubling back, turning unnecessarily or going the long way around*

3.26 Both Mr Doyle and Mr Cook gave evidence that the inevitable consequence of a user having to turn through almost 180 degrees (Mr Doyle said 170) and proceed in the opposite direction of that in which he desired to go, before having to turn again would make the user feel as if he was having to double back, turn unnecessarily or go the long way around. This evidence should be preferred to Mr Witchall’s suggestion to the contrary. Moreover, it is submitted that it is obvious that users would feel as if they were doubling back on themselves because they would actually be physically doubling back (as Mr Taylor fairly accepted in xx). The cycle route should feel direct and logical – but the switch back prevents it from so feeling.

*Guidance in the LCWIP*

3.27 Mr Witchalls relied upon an assessment which he had carried out using the tool within the LCWIP to determine how the appeal scheme route would score when compared to the closest applicable vehicular route. He noted it would score the maximum 5 points. However, Mr Cook demonstrated by means of his table 1 (Rebuttal proof page 4) that this provides you with no assistance on comparing the relative directness of routes through the appeal site. All the Council’s alternative routes are shorter than the appeal scheme when compared to the vehicular route. Indeed, Mr Cook explained that the LCWIP tool did not measure factors such as whether cycle routes feel direct and logical in the manner discussed in principle 18. Any route which ended up being shorter than the vehicular route would score maximum points, even should that route be designed to proceed around the entire perimeter of the site in a huge circle. Mr Cook explained orally and by reference to his rebuttal that the LCWIP assessment carried out by Mr Witchalls merely demonstrates that any route across the appeal site would score maximum marks in comparison with the vehicular route, provided it was shorter. Given that all the Council’s routes as listed in Mr Cook’s table 1 are shorter still they are preferable. But in reality, the main difference between the switchback route and a route which does not involve a switchback is in the feeling which the switchback would engender in the user – the frustration at having to double back.

*The alternative to the switchback*

3.28 During their evidence in chief, both Mr Taylor and Mr Witchalls made reference to a sketch plan and commentary about the switchback in which the Council had said it was not ideal, but it could be retained as the best route of those possible (referred to at page 32 of Mr Taylor’s SoC). The suggestion being that this in some way justifies the switch back now. In reality, Inspector, this commentary from December 2020 was based upon the Council’s understanding of what was possible before retaining Mr Doyle. Mr Doyle in his evidence has demonstrated that there is no need for the switch back arrangement. Indeed, his Appendix RA demonstrates that a ramp that bends at a less than 90 degree angle enabling the user to maintain forward momentum facing the direction of travel at all times is not only possible, but can be achieved at a 4m width. Such an arrangement would have the advantage of feeling direct and logical and avoid both actually doubling back and the feeling of doing so.

3.29 Mr Witchalls suggested in chief that the ramp shown at Mr Doyle’s RA was dangerous, not because it contained a bend but because it contained a number of bends close together – this was not something which guidance said was permissible he said. The obvious retort given by Mr Cook was that nowhere did guidance preclude such an arrangement as dangerous. Indeed, Mr Cook explained, given that CD353 (Cook rebuttal App. 5 page 15, paragraph 5.12) specifies when alignment changes are required and for what gradients, if there was evidence that a number of bends caused safety concerns this would have been the subject of guidance. Mr Witchalls agreed that he provided no evidence to the contrary in any case.

3.30 Furthermore, as Mr Doyle and Mr Cook explained, the Appellant’s design requires the north-south route to climb over the podium parking beneath Block D after crossing the Christchurch Bridge - this increases the height from which the ramp needs to descend. Mr Doyle has designed his path at Appendix RA to take an initial bend to the right after crossing the bridge to avoid this rise, but as Mr Cook explained, in the absence of the need to rise above the podium the route could continue straight onward after crossing the Bridge and the need for the initial bend to the right would be avoided. In rx Mr Witchalls stated that the Council had not identified an alternative location for any parking lost, but this is of no consequence for the following reasons:

* the need for any such parking is predicated on the quantum of development provided by the appeal scheme being unchanged. As we have seen, Inspector, CR11 makes the indicative quantum of development subsidiary to the need for a high quality design;
* The site is located within an area that is fully restricted through parking enforcement with the development already proposing a reduced parking provision from that identified within the Council’s Parking standards and Design SPD, something which is accepted by the Highway Authority (see the Planning Committee Report at CD2 2.1, Paragraphs 4.13.81-4.13.83)
* There is no reason to believe any further reduction would not be accepted by the Highway Authority (although this was not put to Mr Cook) given the close proximity to alternative modes of travel i.e. Reading Station, the on site car club to be secured through the S106 Agreement (Part 5 of Schedule 3, pages 16-17), the surrounding parking restrictions as also referenced within the Planning Committee Report (Paragraph 4.13.83) and the condition removing entitlement to resident parking restrictions.

3.31 In a last attempt to identify some kind of safety issue with Mr Doyle’s ramp, and in answer to your questions Inspector, Mr Witchalls referred to LTN 1/20 figure 5.3 and paragraphs 5.7.2 and 5.9.3, raising the concern that objects should not be sited close to a cycle track which may obscure the view of a recumbent cyclist. It is notable that Mr Witchalls provided no written evidence specifying that any proposed parapet / guard railing required as part of the Councils alternative layout would create an obstruction to visibility. This is not even included within Section 5.5 of the Appellants Transport Proof of Evidence entitled Mr Doyle’s Alternative Scheme Options – Review, in which the Appellant identified what they believe to be design flaws. There are three points which need to be made on this:

* On reading 5.9.3 you will note that the objects identified include “*walls, fences and trees*” which may “*potentially affect the visibility*”. There is no reference to railings which contain gaps between the rails and a high probability of being provided along a footway / cycleway.
* Furthermore, the switchback arrangements on alternative routes identified by Mr Witchalls and critiqued by Mr Cook in his rebuttal evidence at pages 5-9 themselves have railings (e.g. the Kennet walk footbridge pictured at page 9). Furthermore, Christchurch Bridge itself has an open parapet on the bridge providing sufficient visibility and a more enclosed parapet as you travel down the ramp or the stairs. Where these two parapets meet there is a restrictive visibility splay on a 90 degree bend, (see Figure 6.10 on Page 66 of Mr Taylors Statement of Case where this is highlighted), but the Highway Authority and the appellant are not aware of any conflicts or issues at this location.
* If there were a safety issue with railings and visibility one would expect it to be addressed explicitly in guidance or in these examples. But to the contrary Figure 10.49 of LTN 1/20 provides an example of a pedestrian / cycle route where a parapet is provided on a 90 degree bend, and this clearly identifies that visibility through the structure can be provided. It follows that such an arrangement is good practice in relation to the design of a bend along a pedestrian / cycle route. It should also be noted that CD 353 Design criteria for footbridges (Mr Cook Rebuttal Appendix 5, page 17) identifies at Paragraph 6.6 that glass parapets can also be provided, which again would provide for visibility along the route.

*The need for a switchback?*

3.32 In the face of Mr Doyle’s demonstration that a switchback is not required and Mr Cook’s evidence that it has the effect of making users feel as if they are doubling back on themselves – rendering the route indirect for that reason alone - Mr Witchalls claimed that the arrangement was required to slow cyclists down. He relied upon a combination of paragraphs 6.5.9 and 8.2.11/12 for this proposition. However, paragraph 6.5.9 explains that cyclists alter their behaviour according to the density of pedestrians – cyclists tend to ride more slowly as flows rise and so “*it should therefore rarely be necessary to provide physical calming features to slow cyclists down on shared routes*”. Although 8.2.11 does note that it may be necessary to encourage cyclists to slow at certain points, 8.2.12 notes that any measures “*should be used sparingly and only in response to site-specific problems that cannot be addressed in another way*”.

3.33 Mr Cook explained in rx that there is no evidence of site specific problems here and so the switch back design is unnecessary. It would slow cyclists down. But should there be a need to slow down, cyclists would slow anyway. Mr Witchalls claimed that the appeal site differed from a busier town centre location and may not always have such a high density of pedestrians, implying that cycles may be able to travel faster in those circumstances. But this argument is circular: as pedestrian numbers rise the guidance in 6.5.9 (LTN1/90) indicates cycles will naturally slow, there is certainly no evidence of a site-specific problem which requires the switchback. In any event, as we have seen, this pedestrian cycle way is the only main path identified at figure 8.2 of the RSAF and hence could be expected to be equally as busy as the other locations to which Mr Witchalls referred.

*A route hierarchy*

3.34 Mr Witchalls pointed to pedestrians having an alternative route by virtue of the inclusion of stairs within the scheme. But as Mr Doyle explained, the stairs offer a “*premium route for some but an inferior arrangement for many*”. He explained in cx that “*If only some can use it (the stairs) this represents a hierarchy which excludes the rest of the route users: cyclists, the disabled, those pushing buggies*.” He explained that the switchback arrangement is the wrong design solution, it is simply not necessary and creates a two tier undemocratic route.

*Conclusion on switchback*

3.35 The Reading Cycle Campaign have made written submissions both to the committee and at the appeal stage which sum up the poor quality of the route from a cyclist perspective:

 Committee (CD2.1, paragraph 4.25.7)

 *“This is a once-only opportunity to create a good quality cycle link from north Reading to the town centre by construction of a new southern ramp to Christchurch Bridge. Berkeley has proposed a new ramp with two 180 degree switchbacks, one of which is in the area of a proposed café where people are likely to congregate. 180 degree turns are not easy to effect on a bicycle and the switchbacks will create poor forward visibility of oncoming bridge users exacerbated by the proposed landscaping and change in levels on the ramp.”*

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 *“Development of the site involves a once in a generation opportunity to provide a key active travel link for Reading at a time when the government is committed to encouraging active travel. The proposals from Berkely involve two 180 degree switchbacks, poor sight lines and weak linkages to Vastern Road that do not provide the quality cycle route demanded.”*

3.36 To conclude on the switchback ramp, Inspector, the evidence demonstrates that its inclusion within the scheme is unnecessary and of itself results in a route which is indirect and makes users feel as if they are doubling back on themselves. As Mr Doyle explained, his alternative arrangement keeps users pointing in the direction of travel, is demonstrably more direct, and frees up more public space.

Width

3.37 The National Model Design Code (CD6.2) is clear that the width of a street relates to its place in the street hierarchy (page 43). The National Design Guide notes that “*Wider, more generous spaces are well-suited to busier streets*” (CD6.1 page 23). The RSAF (paragraph 5.9 page 26) describes the Kennet-Thames Spine as “*a Major City Spine*” and “*the most significant movement corridor in the RCAAP*”. Figure 8.2 identifies the north-south route as the highest level in the route hierarchy.

3.38 In that context, Mr Doyle is correct to criticise the 3m width of the path which is the minimum which could be provided. Although in his oral evidence Mr Taylor noted that the path runs through a street which is wider than the path, he accepted that it had to navigate a pinch point created where the Good’s Office (Block C) meets the vehicular access which comes in from Lynmouth Road. At this point there is parking on either side of the carriageway and only room for a metre of landscaping between the path, itself restricted to 3 metres, and the front of Block C. It is submitted that Mr Doyle is correct to assert that the route will feel narrow and constrained because it lacks a generosity of width compatible with the route’s strategic role.

3.39 Mr Doyle explained by reference to the RSAF (Figure 8.2 on page 45) how the north-south route has been improved in line with its status and the objectives of that document. In particular he explained how:

- pavements along the west side of station road have been widened and the carriageway narrowed;

- the road passing in front of the southern station building has been closed, the bus station moved, and a major new urban square created;

- a wide subway has been reopened under the railway replacing a narrow overbridge;

 - a new northern station entrance and square has been created with a wide ramp;

 - new 5 metre wide crossings have been introduced across Vastern Road;

 - Christchurch Bridge has been built with an open and spacious character as it crosses the Thames (see riverside character photographs 11 and 12 appended to Mr Clark’s PoE)

3.40 Mr Taylor’s response to this evidence was to suggest that these spaces were not directly comparable to the appeal scheme. But Mr Doyle didn’t suggest they were. What he suggested, and it is submitted that he was correct to do so, is that these examples demonstrate the generous approach taken to providing the north-south route a width commensurate with its importance in the street hierarchy, along the rest of its route. By way of contrast the cramped nature of the route suggested in the appeal scheme (as illustrated in the masterplan) as it passes the Good’s Office is a further indication of poor quality rather than the high quality design policy requires.

3.41 In your questions Inspector you asked Mr Doyle about how effective the RSAF had been in creating the high quality development within the RSAF area. Mr Doyle answered that:

“*The £1 billion station investment came about from winning the argument within the RSAF and this opened the door to a crescent of regeneration where all the elements came together. The framework has acted as an encouragement to reset the ambition for town centre living*.”

 He continued that the success so far included the provision of the Christchurch Bridge to enable people to get to the meadows from the centre and that this had been “*Really heart-warming*”. It is essential that the people travelling to the meadows in the future can do so along a direct north-south link with clear views through to the river along it, which draws people towards the river and properly reflects the north-south route’s role as the most significant movement corridor in the RSAF area, stitching the station area to the meadows and preventing the area to the north of the station from being perceived as a separate entity. In short it is essential that the appeal site is developed in accordance with a design based around Mr Doyle’s Figure 34 and not the appeal scheme at his Figure 33.

**4. The failure of the Development to respect the Thames Character**

4.1 Running through the Appellant’s evidence on this issue is a misunderstanding of two factors:

1. What the RSAF requires in relation to benchmark heights and when it is permissible to exceed these; and
2. What policy requires in relation to the need to protect the Thames Character.

4.2 In respect of the first issue, it has been demonstrated that benchmark heights in the RSAF can be modified, but only under specified circumstances. In xx Mr Taylor correctly accepted that exceeding the benchmark heights was an exception, properly so called, because if those circumstances were met increasing the benchmark heights represented an exception to the normal benchmark heights.

4.3 In respect of the second issue, it is important to understand that the need to design the development to maintain and enhance the natural character of the Thames does apply in this location even though this is where the Thames meets the edge of the town centre. In xx Mr Clark explained that local plan policy when read in the context of the national character area statement of environmental opportunity 4 (Appendix 2, p.27 to the TVIA) does require development to significantly strengthen that natural character:

*“DL: So you agree that the inspector has to judge whether the appeal scheme significantly strengthens the natural character of the Thames?*

*Mr Clark: Yes, see a significant strengthening of natural character ‘*

*DL: Go to EN13 4.2.65: it’s important that development protects and enhances natural beauty of Thames*

*Mr Clark: Yes, does enhance it but in context of where Thames meets the former electric (works?)*

*DL: even more important then to protect the natural character;*

*Mr Clark: Yes, and the development produces a range of natural landscaping*.”

Exceeding the Benchmark Heights

4.4 Detailed guidance is provided in the RSAF on benchmark heights within Figure 6.9 (page 37). The benchmark heights for plot references N1 and N2 which cover the appeal site are 4 and 6 storeys respectively. At paragraph 6.23 the RSAF explains that Benchmark heights “*may be modified upwards in order to realise certain design or other major planning benefits, or where applicants have demonstrated convincingly that the potential impact of higher buildings on the surroundings can be mitigated*.” As Mr Taylor accepted 6.23 describes the circumstances where an exception to the normal rule on benchmark heights may be appropriate. To bring development within this exception a developer will need to demonstrate justification in the form of design or other major planning benefits or convincingly demonstrate that the impact of the higher buildings on the surroundings can be mitigated.

*A Power Station typology*

4.5 Although Mr Taylor denied that the appeal scheme sought to justify the height and massing of Block D by reference to architectural precedent, it is submitted that when the DAS is examined it does in fact seek to use architectural precedent to justify a type of building which draws on Victorian power stations such as Battersea and Bankside. This is the way into understanding why the DAS claims that a building of the size of Block D is justified in spite of the fact that it doubles the benchmark height:

*“On the Eastern side will sit a grand brick built power station inspired building, taking cues from the iconic Victorian power stations located along the river Thames. Subtle brick details and large cathedral-esque glazed apertures define this building as a key landmark along the journey to and from the town centre.”*

(DAS page 80 paragraph 3.6.2)

4.6 Mr Taylor pointed to the latter half of the paragraph claiming that it was only intended to utilise the precedent of iconic Victorian power stations insofar as the subtle brick detailing and glazing was concerned. However, it is submitted that Mr Doyle was correct to point to the first half of the paragraph in xx as demonstrating that the justification for such a grand and imposing building is said to be drawn from the Victorian power stations and therefore, in reality, the “Architectural Precedent” to which the paragraph applies related to the height and massing as well as the detailing.

4.7 The importance he placed upon the power station typology is further emphasised in Mr Taylor’s PoE where he notes at paragraph 3.78 that if the building were to be set back further from the river as shown in his figure 3.30 then:

*“This would produce a building which is square, rather than rectilinear, in plan and would result in a loss to the power station typology.”*

 At paragraph 6.75 of his SoC (Appendix. 14) he notes:

*“This would prevent this building being expressed in a power station typology, and result in a loss to the historic former use.”*

4.8 Although in xx Mr Taylor pointed to the reference to a rectilinear plan rather than the height of the building, it is submitted that these paragraphs demonstrate the importance Mr Taylor attaches not just to the detailing of the building taking its precedent from the power station typology, but the form of the building also. This helps to understand why it is that the Appellant maintains that an exception can be made to the benchmark heights, Block D is intended to represent a design benefit in that it takes its precedent from the power station typology.

4.9 However, as Mr Doyle explains in his Rebuttal PoE at p.60 power station buildings are characterised by proportions of long low buildings with a slender chimney. All the examples on page 60 follow this form including the Reading power station which was previously on the site. In fact, as Mr Doyle explained by reference to his figure 19 (rebuttal p.62) the original buildings on the site would have been within the benchmark heights in the RSAF. Mr Doyle is correct to observe (rebuttal 3.3.47) that because the height to width ratio of Block D is so different from the power station buildings shown in Figure 37, (in evidence he described it as being just as high as it was wide), it doesn’t represent as being a power station building at all.

4.10 It is submitted that in reality Mr Taylor did see the power station typology as being an important justification for the Block D building in spite of its height and this is why he speaks of the harm which would be done to the power station typology by the setting back of Block D, producing a square rather than rectilinear building. This is integral to the DAS because (as noted on p.15 of the DAS) benchmark building heights in the RSAF are either 4 or 6 storeys. However, a true analysis of the power station typology does not justify a building above the benchmark heights and in this respect the design process in the DAS is flawed.

Gateway Buildings

4.11 Mr Doyle explained in his cx the justification for the taller buildings within the RSAF which appear in the appeal site location at figure 6.5. He explained that the Christchurch Bridge is the gateway and that the difficulty with the appeal scheme is that it results in congestion at the point where the Bridge meets the café in close proximity to Blocks D and E which in turn draws the focus away from the bridge. He explained that “*Figure 20* (Mr Doyle’s rebuttal page 64 showing Mr Taylor’s image of Block D set back) *is the way to go*” because the set back of Block D releases you from the visual congestion caused by the close proximity of Blocks D and E, the café and the Bridge, all of which distract the viewer from the true gateway – the Christchurch Bridge itself.

4.12 To further demonstrate his point he explained by reference to page 52 of his rebuttal the way the Bridge would be affected by the presence of the appeal site development behind it. His Figure 12 assessment of Mr Taylor’s Figure 3.6 demonstrates that the appeal buildings do not frame the Bridge rather:

“*The mast is taller, but as the eye travels lower down to the bridge deck, there is no sense of the gatepost buildings properly framing the view or the balanced relationship with the bridge as a whole.”*

(Rebuttal 3.3.26)

4.13 It is for that reason that Mr Doyle concludes at 3.3.27 that the appeal development would detract from the bridge harming it not framing it. Orally he elaborated:

*“The sense of a gateway is largely dissolved because the scheme below is a horseshoe. It wraps around the Bridge and lacks clarity.”*

*RSAF illustrative proposals*

4.14 The Appellant seeks to suggest that the Appeal proposals are not so different from what is shown in the RSAF illustrative proposals in chapter 14, but in truth and as Mr Doyle explained a comparison with chapter 14 merely serves to underline what is wrong with the appeal proposal. As Mr Doyle explained in cx:

*“One doesn’t have (in the appeal proposals) slender buildings. Both blocks (D and E) extend deeply back into the site. In the case of Block D the building keeps on going. I would describe it as a slab block. It is not a slender building.”*

4.15 Mr Doyle took us to View P6A in the TVIA (page 45, Appendix 3A) to demonstrate how Block D would harm the Thames natural riverside character. This image clearly shows how Block D would extend deeply back into the site. As Mr Taylor explained in his PoE (3.78) and repeated in xx, Block D is intended to have a rectilinear form and as such it is very different from the slender gate posts Mr Doyle has included within the RSAF illustration. CD1.68 shows the view (albeit in wire frame) from the Lynmouth Road side, and again Blocks D and E are shown extending deeply into the appeal site in stark contrast to the elegant gateways in the RSAF.

4.16 It follows that, far from justifying the Development heights as an exception to the benchmark heights, Blocks D and E would not confer the planning benefit of framing the Bridge, rather they would detract from the Bridge, extending deeply into the site and causing the Bridge to become lost in visual congestion.

*Built Form at Bridges*

4.17 In his SoC at page 10 Mr Clark seeks to justify comparable built form to that of Blocks D and E by reference to other crossings, although all these are described as “*vehicular crossings*” (2.22) which for that reason alone will have a very different character to the appeal site. Indeed, the TVIA itself recognises this at paragraph 2.9 (page 3):

*“More substantial built form, primarily of office usage, is located in the vicinity of the linkages between Reading and Caversham via Caversham Bridge to the north-west of the appeal site and Reading Bridge to the east. These bridges are vehicle dominated routes of three and four lanes.”*

4.18 In Appendix RC Mr Doyle takes each example in turn and explains that none of the examples discussed provide any justification for taller buildings on the appeal site, he also discussed these in cx:

- Caversham Bridge has no taller buildings, all the buildings there would sit below RSAF benchmark heights, and the hotel is set back;

- Reading Bridge is on a major road crossing and an arterial route, the buildings shown are outside the RSAF and Reading Bridge House is set back further, the character of this crossing contrasts strongly with the Christchurch Bridge;

- Figure 6 is Forbury Road a major junction on the IDR, a motorway at this point, it is included within the Eastern cluster in the Tall buildings strategy and the relationship is with the urban canalised river Kennet rather than the rural Thames;

- Figure 7 is King Street, a major arterial route also in the Eastern Cluster, and on the River Kennet not the Thames;

- Figure 8 is Duke Street bounded in the main by historic buildings of only two to four storeys;

- Figure 9 is Bridge Street which responds to a roundabout turning its back on the canalised channel and responding to a vehicular route of an entirely different scale to the Caversham Bridge, blocks rise to seven residential storeys;

- Figure 10 is Gasworks Road and is notable for the fact that even though it is a road bridge a decision has been taken not to build higher next to the bridge with those buildings next to the bridge at two or four storeys.

4.19 In oral evidence Mr Clark sought to suggest that he relied upon these examples to justify substantial built form rather than tall built form, but this is not reflected in his text which speaks of “*buildings of substantial massing and/or height*” (2.24) and “*a legible rhythm of taller built form at bridging points*” (2.25). The real significance of these examples, Inspector, is that they show the type of development and setting which the Appellant thinks is appropriate to draw on to justify the appeal site development, yet they show crossings of a totally different character to the appeal site. Vehicular crossings, for the most part on major arterial routes and often with the relevant water course being the Kennet and in a canalised form. These examples demonstrate that the Appellant is seeking to recreate a similar relationship between built form and the Christchurch Bridge. But the Christchurch Bridge is a pedestrian/ cycle way adjacent to the meadows on the Thames with the requirement that any development make positive contributions to its distinct rural largely natural character (EN11). The Thames valley is a major landscape feature in respect of which the urban context means the natural features should be preserved as a backdrop of particular importance, with a requirement that new development should maintain and enhance that natural beauty and visual amenity (EN13 paragraph 4.2.65).

*Mr Taylor’s heights and set backs table (page 57 of Mr Doyle’s rebuttal)*

4.20 Mr Taylor produced a table in an attempt to show that the relationship blocks D and E would have with the Thames would be acceptable. In cx he discussed the table as amended in Mr Doyle’s evidence on page 57 and it is to that which I refer for ease of reference. He was taken through the figures and his essential point was that Blocks D and E come within the range of figures there set out. However, in xx he accepted that Block D would be the tallest building of them all, save for Reading Bridge House which he accepted was set back nearly half again as far again from the river as block D would be. The Christchurch Wharf (Block E) would be taller where it fronts the river than all save Clearwater Court and Reading Bridge House.

4.21 These heights must be put into the context of the very different character of crossing which Reading Bridge House and Clearwater Court address: a major road crossing and an arterial route which meets a major roundabout behind those buildings. Something recognised in the TVIA. In truth these buildings provide no justification for a comparable height and mass of building at the appeal site, and if Reading Bridge is excluded the true incongruity of the appeal site development heights on the river is exposed. Block D would be more than twice as high as those examples in the table to the west, almost twice as tall as Thames Court (immediately to the east) and a third taller than Norman Place (the next building to the east).

4.22 In that context, it is submitted that Mr Doyle is correct to say (3.3.40-41):

*“Mr Taylor has still not addressed my main point – I can see no examples of a pair of tall Thameside Buildings with wide built frontages and a narrow gap between, so close to the riverbank associated with so small a riverside open space.*

*The relationship of the appeal buildings D and E – tall Thameside buildings (twice the RSAF indication) with wide built frontages and narrow gaps between so close to the riverbank – is not replicated elsewhere along this stretch of river. This is harmful to the river setting as a whole – because it does not respond to the sensitive context of the meadows and the remainder of the riverside strip – where no major change is planned.”*

4.23 In terms of the need for the development to be set back 10 metres from the top of the back of the river (CR11g and EN11), Mr Taylor now accepts that this requirement is not met. Although he said in cx that “on average” the development was set back 10 metres, he accepted in xx that the policy in CR11g is not qualified and so there is a breach, it is only a question of the weight to be attached to it. In respect of EN11 he does not suggest that it is not practical or appropriate to set the development 10 metres back.

*“A Utilitarian Void”*

4.24 An insight into how Mr Clark has approached the question of whether the appeal proposals in truth will harm the setting and character of the River Thames can be gleaned from scrutiny of the TVIA. When assessing the baseline in section 3 (p.27, paragraph 3.5) he uses the phrase “*The character of the site is of a utilitarian void in the townscape*”. When assessing the effects on townscape character Mr Clark doesn’t even assess the effect on the listed building (it is not mentioned under features on page 42 or anywhere else) and when assessing townscape character he repeatedly uses the same phrase under each receptor “*The proposed Development would replace the existing utilitarian void in the townscape*” (6.23, 6.36 and 6.38). Mr Doyle is correct in his view that Mr Clark is effectively saying that replacing the existing “void” is sufficient, but although this may represent an improvement it doesn’t connote high quality.

*The Thames Character*

4.25 The NPPF reinforces the need to determine applications in accordance with the Development Plan (2.16-19 above). Paragraph 134 emphasises the importance of design and the need to refuse permission for development that is not well designed especially where it fails to reflect local design policies and government guidance. The National Design Guide emphasises (at paragraph 14) that the strategic priorities of the local authority should determine the most relevant characteristics of the design. The strategic priorities of the local authority include the manner in which the character of the Thames is addressed by development.

4.26 CR3 addresses the public realm in Central Reading it provides at iv that:

*“The design of developments adjacent to a watercourse…will be required to enhance the appearance of watercourses…”*

4.27 The supporting text provides that:

“*Reading’s water courses are also major assets which need to be built into the strategy, and their distinct character respected. The Kennet generally runs through more urban higher-density areas, whilst the Thames retains its sense of tranquillity. These distinct characters have informed the Local Plan*.”

4.28 So, the need to respect the distinct character of the Thames is a strategic priority, and the fact that the Thames has a character which retains its sense of tranquillity has informed the Local Plan. Policy EN11 states that to be acceptable development in the vicinity of watercourses will:

 “*Make positive contributions to the distinct character…of the watercourses*.”

4.29 The supporting text at 4.2.46 provides that the Kennet and the Thames each has “*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*”. After noting the stronger integration the Kennet has with the town centre the paragraph concludes “*It is important that development recognises and builds on these distinct characters*.”

4.30 So, the Thames character is contrasted with the Kennet and described as remaining largely natural. Although it is noted that the Thames meets the edge of the town centre, the supporting text does not conclude that this fact affects the largely natural character of the Thames or how that character should be treated. This is made absolutely clear in policy EN13 which deals with Major Landscape Features including the Thames valley. This policy provides that permission will not be granted for any development which would detract from the character or appearance of such a feature and the supporting text states (paragraph 4.2.65):

*“Reading is primarily an urban area, but it benefits from a number of natural features which have remained largely undeveloped.* ***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.”*

(my highlighting)

4.31 It follows that, as emphasised by Mr Markwell in his evidence on Wednesday, the urban context - the fact that this is where the Thames meets the town centre - makes it more important not less to preserve the natural features of the Thames, it is all the more important in this location that development should maintain and enhance the natural beauty and visual amenity of the Thames.

4.32 Mr Clark in xx reminded us that these policies need to be read in the context of the National Character Area 110 appended to the TVIA. On page 27 of that document he placed particular reliance on statement of environmental opportunity 4, second bullet point and the need to “*significantly strengthen landscape character*”. In xx Mr Clark accepted that in this location it was particularly important that development protect the natural character of the Thames and that that character should be strengthened (paragraph 4.3 above). His view was that the development did this through landscaping, but the reality is that the landscaping will not have the affect he suggests, and Mr Doyle’s view should be preferred on this point.

4.33 When looking at the development in the context of the Thames from the East we have the benefit of View P6A in the TVIA (Appendix 3. Page 45). As Mr Doyle explained this shows:

- Blocks D and E to be set forward of the line of poplars on the eastern boundary and appearing to come right up to the Thames;

- The close proximity of block D prevents the planting of wide canopy trees between it and the Thames, restricting the trees to the fastigiate urban forms of trees shown in Mr Taylor’s Rebuttal Ap.17;

- Blocks D and E are intended to be and are urban in character, they are and appear to be significantly taller than the surrounding buildings;

- Blocks D and E extend deeply back into the appeal site at height in contrast to the other buildings which front onto the Thames.

4.34 It cannot sensibly be suggested that development of this kind significantly strengthens landscape character or that it maintains and enhances the natural beauty of the Thames. Although there is no similar view provided from the west, it can be seen from CD1.68 that the development would have a similar effect on the natural character of the Thames from that side also, extending at height deeply back into the appeal site. The effect that the development would have is clear from P6A - it would have a strong urbanising effect on this stretch of the Thames. The very stretch where most people will experience it and where policy dictates that the natural features are of particular importance because of the urban context. The very fact that the strategic objectives of the Plan are to facilitate movement along the north south link through the appeal site to the Thames at this point underscores the importance of having natural character, natural beauty and visual amenity for those people to appreciate. The development fails to do this.

4.36 This chimes with the recent amendments to the NPPF relating to beauty and the accompanying Building Better Building Beautiful Commission text from Mr Clark’s PoE paragraph 2.3. Paragraph 126 of the NPPF now provides that:

*“The creation of high quality, beautiful…buildings and places is fundamental to what the planning and development process should achieve.”*

4.37 The Commission text provides:

*“What people want is buildings that reflect the history, character and identity of their community and that belong in their surroundings, somewhere, not anywhere.”*

4.38 This means one should have the right building in the right place. As Ms Cohen accepted in xx:

*(DL) Para 126 – the creation of high quality beautiful and sustainable places is fundamental*

*(Ms Cohen) Yes*

*(DL) What is meant to be beautiful – Mr Clarke’s narrative is helpful (see his POE – page 3 para 2.3 4th line down) “Buildings that reflect the history, character and identity of their community and that belong in their surroundings”* and below that, *“somewhere not anywhere”*

*(Ms Cohen) Yes*

*(DL) Blocks D and E - part of their surroundings is the Thames Riverside character*

*(Ms Cohen) Yes*

4.39 Although in re-examination Ms Cohen described Mr Taylor’s quote from the Building Better Building Beautiful Commission (at his paragraph 2.6) as being more holistic because it refers to beauty as not just being a visual characteristic, this in no way detracts from the force of her concession in respect of the need to have the right building in the right place for the Thames Riverside character. Landscape character differs from visuals in any event (see for example the emphasis on assessing character and views separately in GLVIA 3 (CD 6.29 paragraph 2.21) and the discussion with Mr Clark about the importance of assessing landscape effects by reference to the table at Figure 5.1 on page 71). But the essential point is that both from a landscape character and a visual standpoint Block D in combination with Block E is development in the wrong place, it does not strengthen, maintain and enhance the natural beauty and character of the Thames.

*The RSAF figure 6.5 and Illustration 14*

4.35 On one level it seems that the Appellant appreciates this difficulty, because (although he does not mention figure 6.5 or chapter 14 in his PoE or SoC, nor does he mention benchmark heights) Mr Taylor leant heavily in his cx on the presence of two buildings which are shown in these figures, and which exceed the benchmark heights, as justifying the appeal development. His difficulty in doing so was twofold:

1. By the time Mr Taylor gave his evidence Mr Doyle had already addressed these two buildings as an example of why the appeal proposals do not provide justification to exceed the benchmark heights. Having explained that the appeal development would wrap around the Bridge in a horseshoe (by reference to his rebuttal page 52) he invited comparison with the RSAF:

*“Look at my image (the last on page 52). Look at the grey areas. The gateway is dissolved by the form of the scheme. The sense of a gateway is largely dissolved because the scheme below is a horseshoe which will wrap around and lacks clarity…You don’t have the clarity of figure 6.5* (RSAF). *Development is below the benchmark height in 6.5 with the exception of the slender curved rotundas which act as a contrast…*

*Compare* (the development) *with RSAF Figure 6.5. You don’t have the slender buildings, both blocks extend deeply back into the site. In the case of Block D the building keeps on going. I observe it as a slab block. Not a slender building, such as one taking its reference from a chimney. It is a slab block*.”

1. The RSAF Figures 6.5 and illustration 14 do not have to address the impact on the river in the light of Policies CR3, EN11 and EN13 as it predates these policies, for example there was no requirement for a 10 metre set back or the need to enhance the natural beauty and visual amenity of the Thames as a major landscape feature as part of the strategic objects of the Plan.

4.36 Although Mr Taylor suggested in his evidence that Block D would not read as a slab block because of the articulation in the elevations, it is submitted that Mr Doyle’s view is to be preferred. Albeit residential development, View P6A demonstrates that Block D in conjunction with Block E in the appeal scheme would wholly urbanise this stretch of the Thames to the detriment of its natural character (compare View 6A existing with proposed).

4.37 Mr Taylor also suggested that from certain angles the appeal development would not extend as far into the site as P6A and CD1.68 suggest. However, it is suggested that ultimately Mr Doyle and Mr Markwell’s evidence to the contrary was compelling. Mr Markwell compared the appeal buildings with the width of 7-12 Lynmouth Court as follows:

*“Firstly, they are significantly more slender than the appeal proposals – e.g. the eastern building of the two is the same width on 14.1 as the width of the 3-storey No’s 7-12 Lynmouth Court block that continues the Lynmouth Rd terrace – whereas in comparison, as shown in CD 1.68 – the Lynmouth Road context elevation, the appeal buildings go far deeper into the appeal site – again using the 3 storey No’s 7-12 Lynmouth Court building at the end of the Lynmouth Rd massing as a marker for width. As such, the mass of the appeal proposals is far greater than that envisaged within the RSAF.*

*Secondly, there are differences in how the buildings will appear when approaching from Christchurch Bridge, with the angled orientation reducing the bulk and buildings beyond being set behind them, whereas in comparison the appeal proposals address the river more prominently and the blocks further into the site form a horseshoe of development, as seen at Mr Doyle’s PoE figure 33 (page 18 of Appendix part 2 of 3)*

*These orientation and slenderness differences also means the appeal proposals, with their deeper footprints, would appear far bulkier from other viewpoints, such as from Reading Bridge to the east for example.*

*The two blocks also have a different relationship with one another – e.g. greater space between buildings than as per the appeal proposals, with the starting point of the width being more as it is based on the whole CR11g allocation, allowing better spacing between the buildings.”*

4.38 Mr Doyle explained in cx (under his 5th issue public realm) by reference to his rebuttal proof (page 64) that the harm to the river character and towpath in respect of Block D could be avoided by setting the building back in the manner shown in Mr Taylor’s figure 3.30 (Mr Doyle’s figure 20 in the rebuttal). He noted in cx that:

*“Setting the building back further creates a more generous, green open space. There is the potential for the footway to turn up to the left of the café. People could come directly into the scheme with more of a flow of people coming up the front of Block D. There would be a wider gap between the café and block D. this releases and loosens the knot of congestion…The building would not be a slab; it would start to have more of the proportions of the base of the chimney of Battersea power station. It would open up the East face of Block E, you would have a yin and yang, one closer one further back…Block D would become closer to the rotunda building in the RSAF…*

*If Block D were set back (Figure 20) that allows a clearer view of the public space (from the west and viewpoint 6A direction). You would get a much better sense of importance space. At present there is a key moment where the building sticks out beyond the trees. If set back the tree line would be continuous. You could have large canopy trees. Block D would be less of a slab similar to RSAF figure 6.5 occupying less of the skyline and the relationship with the riverside would be improved…*

*The setback allows a screen of planting to provide a foil. If too close you do not have the foil of tree screening…look at Norman Place. The tree screen acts as a foil. It acts as a softening…The Application does not pull it off because it is set too close to the river.”*

4.39 It is submitted that this careful analysis by the author of the RSAF is to be preferred to that of Mr Taylor and Mr Clark. Construction of the RSAF is a matter of law. But Mr Doyle has an intimate knowledge of what he has demonstrated in the document and his careful explanation of the logic and justification for what is shown there is compelling.

*The Towpath*

4.40 In addition to the harm caused to the setting and character of the Thames Mr Doyle explained the way in which there would be additional harm to the towpath. CR3(iv) provides that development must provide active elevations facing watercourse and developments which turn their back on watercourses and result in blank or mundane elevations facing watercourses will not be permitted. CR11 (iii) requires developments to “*front onto and provide visual interest to…pedestrian routes and open spaces*”. In his rebuttal evidence Mr Taylor provided an additional figure showing the towpath (Ap.17). This was an attempt to address Mr Doyle’s concern at the lack of any representation of how this space would appear, given the lack of any active frontage on the ground floor of Block D due to the provision of podium parking on this level.

4.41 However, in his cx Mr Doyle explained that Ap.17 did not address his concerns. In particular he drew attention to the way in which the towpath level is dominated by the combination of the podium parking comprising metal grilles, the layout and height of Blocks D and E, the oversailing bridge and projecting café terrace, the bridge approach ramps, and stairs and the solidity of the weathering steel screens. He pointed to the area under the footbridge having no surveillance and the development making a “*1960s error of grade separation with parking below*.” Mr Taylor pointed to the presence of flats above the parking and surveillance from a higher level, but Mr Doyle maintained the view that this was not an effective substitute for an active elevation on the towpath level.

4.42 It is submitted that this issue comes down once again to quality. Mr Taylor accepted that CR11 has as its object of greatest importance the “*creation of a high quality, well designed mixed use destination*”. As Mr Doyle described the Towpath may be carrying people from as far afield as London approaching the main north-south corridor into Reading. But this route is treated as “*Secondary. This is a gateway into Reading, but it is subordinate and not clearly signalled. There is the side of a café. The two buildings* (Blocks D and E) *do not perform that role. The space is constricted.*”

*Conclusion on Thames Character Impact*

4.43 The evidence has demonstrated, Inspector, that the proposed development at Blocks D and E extends to almost double the benchmark height in the RSAF but provides no justification for any such exception. The consequence is that the riverside natural character of the Thames, an identified major Landscape feature, and the towpath would be harmed by the height and proximity of these blocks. This is contrary to the strategic aim contained within the Plan to preserve the natural features of the Thames, and maintain and enhance its natural beauty and visual amenity.

**5. The Development would not conserve the significance of the Locally Listed Building and any benefits would fail to significantly outweigh its significance**

Introduction

5.1 The substantive difference between the parties in relation to heritage relates to the level of significance which the locally listed building should be afforded. It is this factor which governs whether permission should be refused on this ground alone, or whether harm to significance is a factor to be added into the planning balance.

5.2 At the time of exchange of proofs the Appellant’s witness on heritage matters felt able to assert that, in absolute terms, the weight that should be afforded to the asset must be “relatively low”. This is because whether an asset is worthy of statutory listing depends on the level of (principally) architectural and historic significance it has. It follows that if it is accepted that a locally listed building cannot meet the criteria for statutory listing, then it cannot have any greater significance than that of a statutory listed building at the lower end of that scale. However, the Council has now applied to have the locally listed building placed on the statutory list and it has done so because Mr Edgar feels that the level of relative significance the building possesses is not “relatively low” but high.

5.3 Mr Edgar is the conservation and urban design officer employed by the Council. He is a full member of the IHBC, a corporate member of the Planning Institute of Australia, a member of ICOMOS (the International Council on Monuments and Sites – UK). He has extensive experience as a Senior Urban Designer for the Prince’s Foundation for the Built Environment (2006-9) and policy advisor for English Partnerships. His impressive CV includes 13 years as a Specialist Planner Architect, Heritage Branch, NSW Department of Planning where he was involved in writing guidelines and advice on heritage planning and practice (amongst other matters) and work as a conservation and design officer in the UK for a wide range of local authorities in the London area. It is his considered opinion that this asset benefits from a high level of significance, and accordingly he has applied to have it listed. In those circumstances he has urged you Inspector to agree that the asset has a high level of significance for the reasons set out below and to frame your decision accordingly. It is no longer possible for Mr Weeks to assert that Mr Edgar’s stance is inconsistent with the approach he has taken in respect of this heritage asset.

Policy

5.4 Following xx of Ms Cohen, how you, Inspector, should approach the relevant policy relating to the locally listed building is agreed:

1. First you should decide whether it is possible to grant planning permission under paragraph 2 of EN4. This provides that it can “*only*” be granted “*where it can be demonstrated that the benefits of the development significantly outweigh the asset’s significance*.” Ms Cohen agrees that if the benefits outweigh the significance permission may be granted, but initially took issue with the significantly reference (which is addressed below);
2. If you decide that the benefits do not outweigh the significance or do not significantly outweigh the significance you should refuse permission, this reflects the need in policy EN1 to avoid harm in the first instance;
3. If you decide that the benefits do significantly outweigh the significance you weigh the harm caused by virtue of the failure of the development to conserve the assert’s significance in the planning balance with the other factors;
4. It is relevant that paragraph 4.2.20 states that buildings on the local list should be “*re-used, where possible*”, and both Ms Cohen and Mr Taylor accepted that the development proposal breaches this requirement. Accordingly, the harm described in paragraph 1 of EN4 in this case includes the total loss of the asset.

5.5 In respect of the word “significantly” Mr Markwell explained both orally (cx) and in his written evidence that the NPPF paragraph 203 simply provides for a balanced judgment in determining applications, taking into account significance and the scale of loss. In the case of local policy EN4 that makes more specific provisions as to how the balance between benefits and significance is to be weighed. The fact that the DP provides that extra detail is not inconsistent with national policy. Policy EN4 was judged to be sound and consistent with national policy prior to being formally adopted in 2019. Set against the background of national policy, which is unchanged in all material respects, local policy is not inconsistent with national policy. Accordingly, given the importance of the plan-led system, the benefits of the development should be required to significantly outweigh the harm caused to the significance of the locally listed building.

5.6 In xx Ms Cohen conceded the point as follows:

*(DL) We have agreed the part of the test you take issue with is the “significant” part. Significance is a measure by which something outweighs something else. The NPPF is silent on that.*

*(Ms Cohen) It’s not there – slightly different. Imply silent therefore different.*

*(DL) Different does not mean inconsistent - we agreed*

*(Ms Cohen) Yes*

5.7 So, the parties are agreed Inspector that you should refuse permission if the benefits do not significantly outweigh the asset’s significance. Otherwise, you weigh the harm caused to the significance in the balance. The parties are not agreed on what that level of significance is: Mr Edgar says high, Mr Weeks relatively low. But before I come on to that, the importance of the concession that it is possible to reuse the building and that harm should be avoided in the first instance needs to be examined.

*Policy harm arising from the failure to reuse the asset*

5.8 Following the submission of Mr Rumbold’s evidence and xx of Mr Taylor and Ms Cohen, it is now common ground that technically it is possible to retain and re-use the existing building. It is possible for the building to be incorporated in some form in a future proposal, which would in the first instance assist in avoiding harm as both policy EN1 and EN4 require. Indeed, it is submitted that CD1.89 (the Vastern Road frontage elevation) demonstrates that the appeal development fronting onto Vastern Road could be stepped down in the vicinity of the listed building just as it is currently stepped down on the other side of the Block B frontage. If the locally listed building were increased to four storeys Mr Doyle explained that it could be made to relate to the appeal development in an acceptable way in design terms. He pointed to the different treatment of the first two storeys on CD1.89 which he noted demonstrated that a design could be devised to successfully relate the listed building frontage to the rest of the scheme. Although Mr Taylor questioned whether it would be reasonable to expect people to walk to the lift from the locally listed building side (Rebuttal Figure Ap.18), the core could simply be moved so that it was on the locally listed building side of the frontage. In any event it is clearly not impossible to reuse the building as Mr Taylor conceded.

5.9 Furthermore, it is submitted that Mr Markwell was correct to note in cx that:

“*The Appellant has not followed a conservation-led approach, nor taken the locally listed building as a legitimate site constraint which informed their design. The proposal has not been driven by a serious commitment to the retention of this building or even part, or parts, of it.*”

given:

(1) The errors in the DAS such as section A-A (DAS page 41) showing water coming out of the windows;

(2) The lack of detailed consideration shown in the building retention/ demolition analysis (DAS page 40 in which the building façade is simply superimposed upon the scheme with no detailed treatment further adaptation or scheme development) and

(3) The listing of a series of “cons” under option 3 on page 37 of the DAS which Mr Taylor accepted could be addressed (1,2, 5 and 6 by providing the main north-south link through the appeal site, 3 and 4 not actually being necessarily harmful, the final “con” being a reduction in homes against a policy allocation which is indicative and subordinate to good design in any event);

5.10 The appeal proposal, therefore, offends the strategic objective (identified in paragraph 2.14 above) that any remaining historic assets, including non-designated heritage assets, are conserved and reused where possible to provide a link to Reading’s historic past and keep this alive. Accordingly it is submitted that, even should you find the significance of the asset to be relatively low (and find that those benefits exist which significantly outweigh that relatively low significance) you should still afford the total loss of the heritage asset significant weight in the planning balance.

Significance of the asset

5.11 During the round table discussion, Inspector, you asked for evidence from both Mr Edgar and Mr Weeks on why they held their respective views. Mr Weeks principally expressed himself with reference to his representation against statutory listing running through the headings there set out in particular the architectural and historic significance which form the basis for listing. It is convenient to summarise what he read and provide Mr Edgar’s response:

 (1) Architectural significance:

- Mr Weeks - 55 Vastern Road is of some aesthetic interest through its relatively high-quality design and workmanship and materials. The front elevation is high quality but derivative. The aesthetic interest is compromised. The internal features are of minor aesthetic and historical interest illustrating the role as a site-manager’s dwelling. It is not of sufficient architectural interest to warrant statutory listing.

- Mr Edgar – Rebuttal Appendix 1 Listing application page 8 – the construction is characteristic of Reading, the stone use suggests a high quality building and the string work, porticoes, headers and pillars give the building a grandeur beyond its size. The interior is significant because it retains the Edwardian windows looking out onto the carriage entrance and original cornice is retained. The building has a noteworthy quality of workmanship and materials.

(2) Historic significance

- Mr Weeks – 55 Vastern Road only reflects local not national history, the building fabric is not illustrative of the arrival of electricity in Reading, F.W Albury is of local interest only.

- Mr Edgar – (from your questions in the Friday round table) – the building is the only remaining example of a FW Albury building on an industrial site in Reading; FW Albury is an important Architect of this period, he was a fellow of RIBA (rare then) and as a Director on the Board of the Reading Electric Power Co. he would have taken a personal interest in this building being of high quality; this is one of only two locally listed historic commercial/industrial buildings left in Reading north of the Railway; this building is the last remnant of the historic site from pre-WW1 and entrance gateways to sites of this period are rare (other Electric power plants, such as the Generator in Bristol c.1900 were in large multi-storey warehouse type buildings); this entrance building could not be for a dairy or school - it reflects its former use as the entrance to an industrial site.

5.12 Ultimately, whether the building is listed is for others to decide but it is for you, Inspector, for the purposes of this appeal to weigh up the round table evidence and determine the level of significance you feel the building has. It is submitted that, on balance, Mr Edgar’s evidence should be preferred that the building has a high level of significance.

Whether public benefits significantly outweigh the significance

5.13 Mr Markwell addresses the public benefits (from paragraph 3.186 of Ms Cohen’s SoC) at paragraphs 6.70 – 6.72 of his Statement of Case. In summary, he does not agree the value of these benefits, with a number simply reflecting other shortcomings of the proposals reflected in separate reasons for refusal.

5.14 Accordingly, it is submitted, even if you find the significance of the heritage asset to be relatively low the benefits do not significantly outweigh that significance and permission should be refused on that basis

5.15 Should you find that the benefits do significantly outweigh the significance, it is submitted that, given the policy harm caused by the failure of the appeal scheme to reuse the asset and avoid harm in the first instance, in the face of the clear policy directive to do so, and in the light of a concession that it is possible to reuse the asset, you should give this harm significant weight in the planning balance.

**6. The development will have a harmful effect on marginal vegetation and not provide the required space for the required large canopy trees**

***Ecology***

*Introduction*

6.1 It is common ground between the parties that the amount of marginal vegetation (“MV”) adjacent to the south-east of the appeal site is 70 square metres (“MVA1”).[[1]](#footnote-1) This is the remaining area of surviving MV which was planted or colonised in or around 2015, at the time that Christchurch Bridge was built. It comprises 15 square metres of MV in coir roll and 55 square metres on the bank.[[2]](#footnote-2) It is also agreed between the parties that, in terms of significance, MVA1 is either of “borough” significance or if of local significance it is still significant.[[3]](#footnote-3)

6.2 As Mr Sutton explains in his proof, this is because the River Thames is a UK Priority Habitat; there is very little MV on the Thames in Reading; and the MV is an important steppingstone for wildlife in the Thames.[[4]](#footnote-4) The fact that the Thames, including its MV, is an important wildlife corridor through Reading is agreed between the parties.[[5]](#footnote-5)

6.3 In policy terms (and as accepted by the Appellant) there is a focus on the protection and enhancement of both this water space (which forms part of Reading’s Green Network) as well as its biodiversity: see, in particular, EN11, EN12, EN14.[[6]](#footnote-6) Paragraph 4.2.58 of the local plan, for e.g., emphasises the importance of the Green Network that allows wildlife to move between sites, and the Appellant accepts that the MV contributes to this particular function.[[7]](#footnote-7)

6.4 Three overarching issues were identified as being in dispute between the parties in the SoCG. In essence:

* 1. The appropriate use of the Mitigation Hierarchy;
	2. Whether there will be any material impact on MVA1; and
	3. The adequacy and suitability of the proposed off-site compensation.

6.5 Each is addressed in turn below. However, at the outset it is worth noting that while Mr Corbyn, for the Appellant, makes a number of strong assertions in respect of his case, these are not necessarily backed up by evidence and, where they differ, suggest that the evidence of Mr Sutton is more robust. For example, no information was provided in respect of where he had taken certain photographs (his POE, Appendix L) (albeit it is accepted that these are now due to be provided). He has also failed to provide a full set of DEFRA 3.0 metric calculations to show how he has reached his conclusions. By way of further example, during live evidence, he positively maintained that tall ruderal vegetation predominantly nettle and thistle (which would likely replace any failed MV on the bank and then - as per Mr Sutton’s evidence in examination - be cut and managed by the council as modified grassland, a “low distinctiveness” habitat) had “high distinctiveness” and therefore it would likely have the same Habitat Unit score as the lost MV. However, he had to accept in cross-examination, when he was taken through the detailed metric methodology, that tall ruderal is in fact ascribed “medium distinctiveness”.

Mitigation Hierarchy

6.6 By virtue of NPPF paragraph 180(a), local planning authorities in determining planning applications are required to follow the Mitigation Hierarchy. In essence, this requires (a) avoiding significant harm to biodiversity resulting from a development (through locating on an alternative site with less harmful impacts); (b) adequately mitigating such harm; or (c) and as a last resort, compensating for such harm. The Mitigation Hierarchy is also required to be followed by local plan policy EN12 which requires any biodiversity impacts to be avoided, mitigated, or compensated, or, as a last resort, compensated off-site.

6.7 Mr Corbyn accepted in cross-examination that the aim of the Mitigation Hierarchy is to “*obviously … avoid any harm*”. He further accepted that it is irrelevant for present purposes if the harm to the MV/River is of “borough” or “neighbourhood” significance. Therefore, if the Inspector concludes that the development will cause harm to MVA1, then on either party’s case the Mitigation Hierarchy requires, in the first instance, the avoidance of such harm. Mr Taylor has indicated that harm can be avoided by setting Block D further back (his figure 3.30) and this proposal is accordingly in breach of the Mitigation Hierarchy. Although in her oral evidence Ms Cohen referred to “the housing crisis context” and paragraph 3.79 page 42 of Mr Taylor’s proof in which he speaks of the positive enclosure Block D provides, neither of these factors mean that the ecological harm cannot be avoided. As Mr Worringham makes clear, the Council is on course to provide a figure even further in excess of the required housing figure over the DP period than had originally been thought; the figures in CR11 are indicative and expressly subject to the need for well-designed development, and Mr Doyle explained at length why the positioning of Block D is harmful rather than providing a positive sense of enclosure.

Material Impact on MVA1

6.8 The Council maintains that the development, by virtue of shading, will have a material impact on MVA1 and will likely lead to its failure.[[8]](#footnote-8) Mr Corbyn accepted, in general terms, that MV will fail where it is “*seriously shaded*”. He disputes that there will be such shading post-development.

6.9 However, Mr Corbyn’s own evidence supports the Council’s case. In particular, the Council relies on the following factors:

(1) Mr Corbyn’s Sunlight Amenity Assessments[[9]](#footnote-9) provide overwhelming evidence as to the likely failure of MVA1 post-development.

* + 1. From his Existing Scenario, it can be seen that the sections of MV at the southern and northern ends which receive 0-4 sunlight hours have failed. These failed sections can be seen in Mr Corbyn’s POE at Appendices H-I. This also supports Mr Corbyn’s own admission that serious shading will cause MV to fail.
		2. When considering his Proposed Scenario, it is immediately evident that the majority of MVA1 will go from 6+ hours of sunlight exposure to 0 to, at the very most, 3-4 hours. This is precisely the kind of serious shading that caused the southern end of MV to fail.
		3. In this regard, it is also instructive to note that “6+” hours on the scale corresponds to a much higher number in reality. In May-July, for example, there is currently over 13 hours of sunlight exposure.[[10]](#footnote-10) There will therefore be a “*significant drop*” from 13+ hours to between 0-3 (or at most, 4) hours post-development, as accepted by Mr Corbyn.

(2) Mr Corbyn’s evidence in chief further supports the Council’s case. He maintained that the failed part of MVA1 was attributable to shading from the railing of the ramp, the tall ruderal and/or poplar trees. However, his own Sunlight Amenity Assessments show that post-development, the buildings will cast a similar amount of shade. In light of that objective evidence, Mr Corbyn cannot credibly dispute that the constant shading from the buildings will not have the same impact (if not worse) as that from the existing railings, tall vegetation or trees.

i. The Ellenberg value[[11]](#footnote-11) for this MV is 7, which corresponds to “*generally in well-lit places, but also occurring in partial shade*”. Mr Corbyn’s Sunlight Amenity Assessment shows that post-development around half the area of MVA1 will only have up to 2 hours of sunlight exposure, while much of the rest will have up to 3 or (at most) 4 hours. On his own evidence, again, this cannot be classified as “well lit” or “partial shade”, with the natural inference that MVA1 will not likely survive in these conditions.

ii. Mr Corbyn stated that it was necessary to account for the skylight that MVA1 will continue to receive post-development. However, he accepted in cross-examination that this was “*too difficult to attempt to model*”. There is therefore no evidence of how and to what extent, if at all, skylight might counteract the post-development shading. Moreover, the Dawson and Haslam article[[12]](#footnote-12) which does mention the relevance of skylight,[[13]](#footnote-13) does so in the different context of shaded conditions at the centre (not margins) of a watercourse.

*The Precautionary Principle*

6.10 It is against this backdrop that the Council further submits that the well-established Precautionary Principle is engaged. As summarised in the Ecological Impact Assessment guidelines,[[14]](#footnote-14) it requires the following approach:

*“5.35 The evaluation of significant effects should always be based on the best available scientific evidence. If sufficient information is not available further survey or additional research may be required. In cases of* ***reasonable doubt****, where it is* ***not possible to robustly justify*** *a conclusion of no significant effect, a significant effect should be assumed. Where uncertainty exists, it must be acknowledged in the EcIA.*” (Emphasis added)

6.11 Mr Corbyn confirmed in cross-examination that he did not consider the Precautionary Principle because he did not believe it be engaged. This is unsurprising given his evidence on this topic, which revealed a complete misapplication of the principle. He maintained that he did not need to consider the principle because there was “*no evidence that [MVA1] will fail*”. That approach turns the Precautionary Principle on its head.

6.12 The Appellant has indicated it intends to rely on two authorities on the Precautionary Principle. The Council takes no issue with the general proposition set out in *R (Kenyon) v SSHCLG [2020] EWCA Civ 302*, namely, that the principle will only apply if there is “*a reasonable doubt in the mind of the primary decision-maker*” (§66). That is entirely consistent with the more detailed guidance provided above in respect of EcIAs. As further explained in Kenyon, in the separate context of whether an Environmental Impact Assessment (“EIA”) was necessary, the Court stated that the precautionary principle would require an EIA in circumstances in which the primary decision-maker “*may not know whether an EIA is necessary or not*” (§69). The Council submits that, even taking the Appellant’s evidence on ecological impacts at its highest, there is precisely such a reasonable doubt and that it is not therefore possible for the Inspector to “know” the extent of the impact.

6.13 The Appellant’s second authority, *Preston New Road Action Group v SSCLG [2018] EWCA Civ 9*, adds nothing of relevance to the present appeal. It does not add anything in terms of general legal principles. It is also decided in an entirely different context, in which an inspector had fully assessed the likely effects on the environment and human health and had rationally and lawfully concluded that the relevant regulatory control would operate effectively to prevent any harm to the environment and to human health, where such harm lay beyond the reach of the statutory planning regime.

6.14 The Precautionary Principle is engaged on the facts of this case. There is reasonable doubt as to the effects of the development and it has not been possible to robustly rule out the failure of MVA1. This is plain from the evidence that is before this inquiry, namely:

* 1. Mr Sutton’s assessment that MVA1 will likely fail in its entirety.
	2. The Environment Agency’s assessment[[15]](#footnote-15) (following the Appellant’s sunlight assessments) that the reduced sunlight exposure “*to between 2 and 3 hours*” is “*likely to reduce the vigour of this planting and may result in the loss of some species*”.
	3. Mr Corbyn’s Sunlight Amenity Assessments (as explained above).
	4. Mr Corbyn’s own evidence that post-development shading will result “*in a degree of reduced vigour*”[[16]](#footnote-16) and that *“[t]he degree by which the vegetation will be affected is difficult to assess*”.[[17]](#footnote-17) This is not the robust evidence ruling out significant effect that is envisaged by the Precautionary Principle.

6.15 In these circumstances, the Precautionary Principle applies and a significant effect on MVA1 must therefore be assumed.

6.16 As a final point in relation to shading, Mr Corbyn suggests that if the Appellant were to plant the large canopy trees (as required by the Council), the shade from such trees “*could be greater than that caused by the proposed buildings*”.[[18]](#footnote-18) However, this assertion is not borne out by his own evidence. For e.g. the BRE guide[[19]](#footnote-19) states that trees and shrubs should not normally be factored into calculations because “*the dappled shade of a tree is more pleasant than the deep shadow of a building (this applies especially to deciduous trees)*”. Further, Mr Corbyn accepted in cross-examination that his statement also fails to account for the wider buffer zone that the Council states is required for the planting of such large canopy trees.

Off-site Compensation

6.17 It is common ground that the proposed mitigation comprises 34.2 square metres at ‘MVA2’.[[20]](#footnote-20)

6.18 Local plan policy EN12 requires that the provision of any off-site compensation “*shall be calculated in accordance with nationally or locally recognised guidance and metrics*” and that it should not replace existing alternative habitats. Mr Corbyn accepted in cross-examination that the adequacy of the proposed compensation must therefore be calculated in accordance with the DEFRA 3.0 metric (“Metric”).

6.19 Mr Sutton has demonstrated that if the Metric is followed, the amount of required replacement MV ranges from a minimum 80 square metres to a possible maximum of 542 square metres. Both ecologists agree that the Metric involves some subjective evaluation, when comparators need to be used as precise factors are not available for input. It is for exactly this reason that Mr Sutton has set out an extensive set of calculations that accounts for a number of these subjective assumptions, which favour either the Council or the Appellant, and which lead to his ‘best’ and ‘worst’ case scenarios in terms of his range.

6.20 Importantly, this is the only set of full Metric calculations that has been provided as evidence to this inquiry. While Mr Corbyn may seek to critique it (and these criticisms go nowhere, for the reasons set out below), Mr Corbyn himself had to accept in cross-examination that he does not provide a full set of calculations. The following omissions are of particular relevance:

(1) Mr Corbyn fails to account for 55 of the 70 square metres of MVA1 when calculating the change of biodiversity.[[21]](#footnote-21) It is a remarkable omission, given that at no stage in his written evidence has he differentiated between the likely impacts on the MV in the coir roll and that on the bank. To the contrary, his entire case is premised on the fact that MVA1 will not fail. Yet, when he comes to calculate the appropriate compensation – which is necessarily premised on the decline or failure of MVA1 – he simply ignores the substantial part of MVA1, without any explanation whatsoever. For this reason alone, he had to accept that if the Inspector prefers the Council’s case on impact (above), then she will not be assisted on the appropriate level of compensation because he has not provided this evidence.

(2) He does not appear, on his written evidence, to use the full list of factors that must be used as per the Metric.[[22]](#footnote-22) For pre-intervention calculations, one must consider the strategic significance in addition to the factors that appear in Mr Corbyn’s Tables 2-3 (Rebuttal). For post-intervention, one must consider strategic significance and three further factors. None of these features in Mr Corbyn’s Tables. In cross-examination, he stated that he had in fact used them, but it is not possible to verify precisely how those factors have been applied.

6.21 As for Mr Corbyn’s criticisms of Mr Sutton calculations, these do not advance the Appellant’s case in any way:

(1) Mr Corbyn critiqued Mr Sutton for assessing the existing MV at MVA1 as being in “good” condition, but as he accepted in cross-examination, Mr Sutton’s rebuttal in fact provides calculations on both good and moderate bases[[23]](#footnote-23).

(2) Mr Corbyn critiqued Mr Sutton for assessing the new MV at MVA2 as being in “moderate” condition, but as he accepted in cross-examination, Mr Sutton’s rebuttal in fact states that the MV is in good condition[[24]](#footnote-24)

(3) Mr Corbyn critiqued Mr Sutton for assessing the open river water as being in “good” condition. He accepted however that Mr Sutton’s rebuttal assesses the Thames as being in moderate condition,[[25]](#footnote-25) which Mr Corbyn further accepted was in accordance with the Water Framework Directive’s assessment of this stretch of the River.[[26]](#footnote-26)

(4) Mr Corbyn critiqued Mr Sutton’s classification of the River Thames. He said it should properly be classified as an ‘Ornamental Lake or Pond’, while Mr Sutton considers it should be classified as a ‘Reservoir’. Again, Mr Sutton in fact provides calculations on both bases.[[27]](#footnote-27)

(5) Mr Corbyn critiqued Mr Sutton for deducting the loss of the open river when calculating the post-intervention HU score. This criticism was based on Table 8-7 of the Metric User Guide[[28]](#footnote-28) which states that interventions such as coir rolls that are included to improve the condition of the river should be excluded from such in-watercourse encroachment multipliers (i.e. the loss of the water course should not be factored into calculations). However, this methodology specifically applies only to linear habitat biodiversity calculations (dealt with in Section 8 of the Guide) and the encroachment multiplier in any case refers to encroachment into the water corridor by development. Both experts in this case are instead using the area habitat biodiversity calculations, covered by Section 7 of the Guide. Mr Corbyn’s criticism in this regard is therefore unfounded as Section 8 is not applicable to the present case.

(6) Finally, Mr Sutton was criticised in cross-examination for effectively ascribing only half the value to the new MV at MVA2 as he had to existing MV at MVA1. However, as accepted by Mr Corbyn, this is in fact the end result of properly working through the Metric, including taking into account the three additional factors that do not need to be assessed in respect of existing vegetation. In fact, for one of these additional factors, i.e. the time to establish the MV, Mr Sutton has in fact reduced the indicated 12 years to 5 years, to account for the relative speed with which MVA2 was established.

6.22 The only full set of Metric calculations before this inquiry is that provided by Mr Sutton, and the criticisms levelled at his methodology simply do not stand up to scrutiny. Using Mr Sutton’s calculations, and taking the best case scenario – from the Appellant’s perspective – this requires at least 80 square metres of new planting at MVA2. The Appellant’s proposed 34 square metres is less than half of the required mitigation and is therefore in breach of local plan policies (in particular EN12) as well as the Mitigation Hierarchy.

6.23 In addition to the significant shortfall in the required off-site compensation, the Council also highlights two further issues with the proposed compensation:

(1) The proposal to replace the 8m of coir roll at the eastern end of MVA2 is where the MVA2 has previously failed due to boat wash (according to Mr Corbyn). There is at least a risk, therefore, that any new MV here will face similar issues.

(2) The Inspector will need to ensure that the ‘additionality principle’ is being adhered to in respect of the proposed MV (as required by policy EN12). Mr Sutton has shown that the MV at MVA2 already extends into the River where the fence has collapsed.[[29]](#footnote-29) To the extent that the MV here is likely to colonise new areas into the River in any event, new planting here would not necessarily provide any new habitat as required by policy.

Conclusion on Ecology issue

6.24 In light of the evidence, it is likely that the proposed development will significantly impact on MVA1, and therefore the River Thames.[[30]](#footnote-30) This is also the only lawful conclusion to be reached in light of the proper application of the Precautionary Principle. Moreover, the proposed off-site mitigation is not even close to that required by policy. Accordingly, the proposal is in breach of local plan policies EN11, EN12, EN13, EN14, CC7, CR2, CR3, CR4 and CR11. The proposal further conflicts with paragraphs 174(d) and 180 of the NPPF and the objectives of the Biodiversity Action Plan (2021).

***Trees***

6.25 The Council submits that the proposal fails to provide a sufficiently wide riverside buffer so as to accommodate the large canopy trees that are required in this location. The height of the Appellant’s case in this regard appears to be that no policy stipulates that large canopy trees must be planted along the riverside buffer.[[31]](#footnote-31) That does not however provide an answer. Whereas there are no specific references within policy to which specific trees must be provided in which specific location, this is entirely unsurprising as one would not expect policies to be drafted in those terms. However, when DP policies and other material documents are read in their proper context, there is a clear requirement for large canopy trees within the riverside buffer. Furthermore, the NPPF now provides at paragraph 131:

*“Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places.”*

Policy requirement for large canopy trees

6.26 The Council’s requirement for large canopy trees within the riverside buffer is fully supported by policies EN11, EN13, EN14, CR3, CR11 and CC7, as well the SPD on Sustainable Design and Construction. As explained by Ms Hanson, 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 that the River plays as an important landscape feature and wildlife corridor. The aims of the adopted Tree Strategy further support these policy requirements. In particular:

(1) There is a policy emphasis[[32]](#footnote-32) on the need to both maintain and enhance the character and appearance of the area in which the development is located. The riverside character is intrinsically natural, as is specified in para.4.2.26 (supporting text to policy EN11). While it is acknowledged that the River meets the edge of the town centre at this location, para.4.2.26 reiterates the need for development to recognise and build on its distinct character. Moreover, para.4.2.65 (supporting text to policy EN13) emphasises that the urban context makes it particularly important to preserve the natural features and that new development should seek to maintain and enhance the natural beauty of Major Landscape Features.

(2) As accepted by Mr Clark in cross-examination, the appeal scheme has sought to significantly strengthen the “*natural character*” on the south bank of the River. This acceptance of the riverside character being natural, not urban, is also reflected in his written evidence – he states that the single canopy tree is being proposed “*where legibility is most relevant and where it reflects distinctive local character*”.[[33]](#footnote-33)

(3) Policy EN14 further specifically requires the improvement of tree coverage in the borough to maintain and enhance the character of the area. As explained by Ms Hanson,[[34]](#footnote-34) extending the vegetation coverage in the borough, including on priority sites like this location; “enhancing” the quality of waterside vegetation; and enhancing the natural “character of the area” is in fact required by policy. This will be achieved through the planting of larger canopy trees rather than narrow, more architectural form trees proposed by the Appellant.

(4) Policy EN 11 requires development to be setback at least 10m from the watercourse, with a positive contribution to the distinct character of the watercourses as important landscape features. As Ms Hanson explained,[[35]](#footnote-35) large canopy trees would be the appropriate response to the scale of the River and its natural character, of which large trees form a distinctive and visually important aspect.

(5) As for EN13, the use of urban style trees would detract from the character of the Thames as a Major Landscape Feature.[[36]](#footnote-36)

(6) The same conclusion is derived from a proper application of CR3 and CR11g – in particular CR3 (iv) requires development adjacent to a watercourse to enhance the appearance of the watercourses.[[37]](#footnote-37)

(7) The Sustainable Design and Construction SPD specifies the preference, where possible, to use large canopy species that provide more benefits for climate adaptation.[[38]](#footnote-38)

(8) The aims of the Tree Strategy also support the need for large canopy trees wherever feasible.[[39]](#footnote-39)

(9) Policy CR11 requires as being of greatest importance “the creation of a high quality, well designed mixed use destination” (5.4.5), in the relevant policy context a well-designed high quality scheme should include large canopy trees, the right trees in the right place.

6.27 Taken together, there is a clear interplay between policies with an overriding emphasis on a more natural frontage along the riverside which protects, maintains and enhances the special qualities and character of the Thames.

6.28 By contrast, and as demonstrated by Ms Hanson (by reference to relevant figures[[40]](#footnote-40)) the proposed narrow form trees do not meet the above policy requirements. The figures show very fastigiate trees of an architectural or urban form, not appropriate to the natural setting and character of the Thames. The proposed cultivars[[41]](#footnote-41) are smaller in terms of overall stature (in addition to spread), which further adds to Ms Hanson’s concern.[[42]](#footnote-42)

6.29 The proposal 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.

Future conflict

6.30 As identified in this reason for refusal, a wider buffer than that currently provided is required to allow for the long-term successful integration of the canopy trees, in order to avoid future conflict with the proposed buildings. The Appellant does not consider this element of the case, given its (mistaken) position on the absence of any policy requirements for large canopy trees.

6.31 The policy imperative to avoid future conflict was set out by Ms Hanson – in particular: para.131 NPPF; the National Model Design Code;[[43]](#footnote-43) CR11g; EN11; and the Tree Strategy. Ms Hanson also relied on BS 5837:2012 on Trees in Relation to Design, Demolition and Construction;[[44]](#footnote-44) the Arboriculture Advisory Note;[[45]](#footnote-45) and relevant planning appeal decisions.[[46]](#footnote-46)

6.32 Ms Hanson further explained why large canopy trees could not be provided within the current proposals due to the insufficiently wide buffer and the need, therefore, for future pruning to address the conflict with the buildings. The trees would not be able to grow to their full potential, and would not provide the associated visual and environmental benefits.

Conclusion on Trees

6.33 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. The failure to provide a sufficient buffer and large canopy trees along the riverside is therefore in conflict with the abovementioned policies.

**7. The development has failed to demonstrate that it is part of a comprehensive approach and would not place an unreasonable burden on the retained SSE site**

7.1 The importance of the development being able to demonstrate that it is part of a comprehensive approach to developing its sub-area and that it doesn’t frustrate the development of adjoining sites, is of central importance to the delivery of the strategic aims of not just the Station/ River Major Opportunity Area (CR11), but the entire central area (CR2(f)). At the outset it is instructive to note how the DAS treats this issue. On page 105 a single sketch layout is provided noting (at paragraph 3.9) that “*for completeness a comprehensive plan has been developed*”. The entirety of the accompanying text amounts to some 14 lines of text, and the first sentence notes that the existing SSE equipment is not planned to be removed in the near future. It is submitted at the outset that this underlying assumption has caused the Appellant to set aside any meaningful or substantive consideration of this issue.

7.2 Mr Taylor remarked that he does not need to provide a fully worked up scheme, rather he simply needs to show that the appeal scheme can be part of a comprehensive approach which will not prevent the SSE site from fulfilling the aspirations of policy (CR11(viii)) or put an unreasonable burden on the SSE site (CR2(f)). In reality, the evidence has demonstrated that his sketch does the opposite to what he intends – it demonstrates exactly how the appeal site would place an unreasonable burden on the SSE retained site and essentially, if permitted, would ensure it will never be developed.

7.3 Within his written and oral evidence Mr Markwell explained that this matter has been considered afresh by Mr Doyle on behalf of the Council at the appeal stage and a wide range of concerns have been raised. Over the course of the inquiry Mr Markwell has considered the evidence presented and concluded that he now agrees with the committee and considers the reason for refusal to be robust. Both Mr Markwell and Mr Doyle accordingly speak with a single voice on this issue.

7.4. Mr Markwell explains in his written and oral evidence that he is persuaded by Mr Doyle’s PoE figure 20, together with commentary at page 28 (paragraphs 5.5.7 to 5.5.26 and pages 63-8 of Mr Doyle’s rebuttal).

*The importance of riverside frontage*

7.5 As Mr Markwell noted in his evidence (and at paragraph 6.76 of his SoC), the SSE site would not enjoy any immediate river frontage, resulting in the full value of the riverside frontage being ‘captured’ by the appeal scheme, to the detriment of the future economic development of the SSE site. The importance of this issue has been given additional emphasis by Inquiry Document 2, the Cushman and Wakefield representations on behalf of SSE from the local plan consultation in 2017:

*“This location* (the riverside) *is the most desirable residential position on the site and will generate the highest values which will make the relocation of the central transformers viable”*

(Page 3 3rd paragraph)

7.6 Ms Cohen accepted that this letter indicates that it is the access to riverside development which will generate the values which will make it viable to relocate the transformers. It must follow therefore that without access to the riverside the SSE site transformers will not be relocated, thus effectively blocking the site. She also accepted that the letter from SSE directly to the Inspector during the appeal itself does not refer to the importance of the riverside location or address the significance of its being denied the SSE site.

7.7 In rx she was taken to the author of the recent SSE letter at ID14 and the front cover of ID2, following which she confirmed that the Cushman Wakefield response was copied to the author, and he did refer to it within ID14. However, she did not and could not say that he grappled with the significance of the loss of riverside development potential because there is no indication he did. It is submitted that ID14 gives the strong impression that the SSE are proceeding on the basis that they will never be moving from the retained site and (in reality) this is the basis on which the Appellant is operating also. The sketch at DAS 105 is simply a token exercise of no substance. As Mr Markwell noted in cx:

*“In short, the letter from SSE only reinforces the Council’s view that the Appellant has failed to adequately demonstrate that* (the appeal development) *is part of comprehensive approach, and moreover, that they never really believed they needed to design a scheme which anticipates the SSE site coming forward; this is not what the policies at CR11viii or CR2f require.*

*In addition, the letter does not appear to appreciate the key message from the Cushman & Wakefield representations on behalf of SSE in 2017 that the commercial reality is that the riverside is where the value will be created to enable the site to be redeveloped.*

*The appeal proposal, with its 10 storey Turbine Hall building close to the boundary with the remaining SSE, and including habitable room windows in the east side elevation facing the SSE site at the closest part of the site to the riverside, places an unreasonable burden on the neighbouring site, contrary to policy.”*

7.8 Given that the riverside is the most valuable part of the site which is needed to realise development on the SSE site, the fact that the appeal scheme prevents this, places it in conflict with CR2(f) and CR11(viii).

*Other concerns raised*

7.9 Of the issues raised by Mr Doyle in his Figure 20 Mr Markwell also raised in his SoC and oral evidence as being of particular concern were the following:

(1) That two of the blocks would need to be single aspect to address blank walls on the appeal site. The furthest north block has a particularly small footprint, meaning a small number of units per floor and disproportionately high construction costs (e.g. lifts and stairs), leading to a less efficient form of development.

(2) The east facing windows within blocks B and D on the appeal site limit not just the potential for riverside development, but also for development on Vastern Road too, where only a small proportion of the remaining frontage is developable.

(3) The fact that there is a lack of opportunity for a vehicular route which would align with the vehicular access point at the appeal site and allow a more efficient circulation route. This means that more than half of the Vastern Road frontage is taken up by access with knock on effects on the blocks along the Eastern boundary and site layout.

7.10 When these factors are considered alongside the lack of riverside development and the other issues raised in Mr Doyle’s figure 20, it is submitted that Mr Markwell and Mr Doyle are correct to consider that the appeal proposal unreasonably constrains the future development of the SSE site and limits the possibility of it being integrated as part of the appeal scheme. Indeed, as Mr Doyle notes, Mr Taylor now seems to think it appropriate to suggest that there may be alternatives to what is shown on Figure 20 -alternatives for which he has even now not provided any sketch (see Mr Doyle’s Point 6, rebuttal page 65). In respect of the issue raised relating to blank frontages, it appears that Mr Taylor now contemplates deleting the link across the SSE site as a means of resolving this issue, but as Mr Doyle notes “*It is incumbent on the applicant to demonstrate that a comprehensive approach can be achieved*”. In the absence of plans demonstrating that any remaining issues can be resolved this has not been done.

7.11 A further Statement of Common Ground confirms that Mr Taylor agrees amendments to the layout of Block D described in drawings prepared by Mr Doyle could unlock the future development of the SSE river frontage with no reduction in Block D dwelling numbers.

*Conclusion on comprehensive development*

7.12 Should the appeal site be developed as proposed the SSE site would enjoy no immediate riverside frontage, with development instead having to be set back, owing to the footprint and nature of buildings at Block D of the appeal site. The Cushman and Wakefield representations on behalf of SSE in respect of the local plan consultation from 2017 (inquiry document 2) specified that the riverside is the most valuable part of the site which will make it viable to move the transformers. For that reason alone, if permitted, the development on the appeal site would unreasonably constrain the future development of the SSE site and limit the possibility of it being integrated as part of the appeal scheme, contrary to the policy requirements of CR11viii, CR11g and CR2f. The other factors identified by Mr Doyle in his Figure 20 demonstrate that the sketch at page 105 of the DAS was very much done for completeness and falls far short of demonstrating that the proposed development is part of a comprehensive approach or that the SSE site will not be placed under an unreasonable burden.

7.13 As Mr Markwell noted, (particularly given the likelihood of changes in the way electricity is delivered moving forward) this site should, as policy requires, be capable of development when the time comes. But it is clear that the development value would be trapped owing to these proposals and the entire CR11g site would be incapable of delivery in the manner policy envisages. The submission of the recent SSE letter at this late junction should be treated with a degree of caution, and only underlines that the appellant has not shown that the development proposal is part of a comprehensive approach.

**8. Housing Land Supply**

8.1 It is common ground between the parties that the Council has a housing land supply (“HLS”) in excess of five years, based on the latest Annual Monitoring Report published in December 2020. The key remaining issues between the parties on HLS, prior to the Round Table Discussion (“RTD”), were as follows:

(1) The relevance of the standard methodology for calculating housing need;

(2) The validity of assumptions underpinning the Council’s windfall allowance;

(3) Site specific supply matters; and

(4) Whether the contribution of the appeal scheme to housing supply across the wider plan period should weigh in favour of the proposal.

*Relevance of the standard methodology*

8.2 The Appellant’s original evidence was that the revised standard methodology was of “significant” relevance to the appeal. It was accepted during RTD that there is no policy basis for applying the standard methodology on the facts of this case. The reasons why the standard methodology is of no relevance for present purposes is set out in full in Mr Worringham’s Rebuttal at section 2.1. Ms Cohen agrees with that approach.

8.3 However, Ms Cohen stated that the standard methodology provides an “*indicative point*” or “*direction of travel*”, which is “*unlikely to change*”. In response, Mr Worringham explained why there was “*more than a usual amount of uncertainty*” at present, in particular, the White Paper indication that the methodology is likely to change and the census in early 2023. Therefore, the standard methodology figures (which would change each year in any event) could not assist in present circumstances.

*Windfall allowance*

8.4 The Council’s position in respect of its windfall allowance assumptions is set out in full at section 2.2 of Mr Worringham’s Rebuttal. Ms Cohen did not dispute Mr Worringham’s evidence on this point, but simply noted that the windfall figure had only been met in 3 of 7 years so it should be treated with caution. This point is addressed in Mr Worringham’s Rebuttal (paragraph 2.2.4), in particular, that housebuilding in Reading was affected by the recession until at least 2014 and, more recently, by the pandemic. Further, the Inspector for the Local Plan examination found the housing trajectory figures to be “realistic”, and the Council’s assumptions to be “robust”.

*Site specific supply matters*

8.5 The Council’s detailed arguments in respect of site specific supply matters are set out at section 2.3 of Mr Worringham’s Rebuttal. Ms Cohen did not take any issue with the specific points made by Mr Worringham. Her only caveat at the RTD was a “*broader*” one, namely “*frailty of figures*” and that fact that there is “*lots of uncertainty in general*”. This does not detract in any way from the robust evidence provided by Mr Worringham on this issue.

*Contribution of the appeal scheme to housing supply across the wider plan period*

8.6 Finally, and as summarised in the RTD, the Council acknowledges that this site is an allocated site. Ms Cohen contended that this reason, and the scheme’s contribution to the Council’s housing supply, should “*weigh heavily in its favour*”. However, for the reasons given in Mr Worringham’s Rebuttal, the Council submits that the scheme’s contribution purely in terms of housing supply across the wider plan period does not weigh in favour of the appeal scheme. As is also evident from Mr Markwell’s evidence (SoC paragraph 6.6), the appeal site does not need to be developed for the Council to meet its plan requirements. Indeed, as Mr Worringham demonstrated the exceedance of plan targets is likely to be even higher than Mr Markwell sets out, at **1275** dwellings in **above** the plan requirements over the plan period (rebuttal 2.4.3).

*Conclusion on Housing Land Supply*

8.7 At the RTD it was apparent that the Appellant did not in fact take issue with Mr Worringham’s Rebuttal or any of the underlying figures. There do not appear to be any key issues on which the parties are apart – barring issue (4) i.e. the matter of what weight should be afforded to the appeal scheme’s contribution to the housing supply. Given (1) that the Appellant does not take issue with the Council’s underlying figures, (2) that it is evident from those figures that this site does not need to be developed to meet the Council’s plan requirements, and (3) the Council is on course to deliver 1275 dwellings above plan requirements over the plan period, the Appellant’s position on the appropriate weight is not credible.

8.8 Furthermore, given that policy CR11, as agreed by the Appellant’s witnesses, expressly makes any housing numbers indicative and subject to the creation of a high quality well designed scheme as being the consideration of greatest importance, the fact that Mr Taylor has demonstrated that units may need to be lost if changes are made to the scheme is of no consequence in your determinations, Inspector.

**9. A decision in accordance with the Development Plan**

9.1 As set out above, development should come forward in a planned way. It should be the subject of local determination by way of the Development Plan process.

9.2 Set within this context, the harmful impacts of the proposals are clear and substantial and set the appeal proposal in substantial and fundamental conflict with the policies in the Development plan taken as a whole and read together with the RSAF, the NPPF and other national guidance.

9.3 More specifically, the failure of the proposal to achieve the high quality north-south link through the site is of very great concern, particularly considering this is identified as being the main priority for the site. It is contrary to policies CR11g, CR11, CR2 and 3, EN11, CC7 and the RSAF. This factor should be given substantial weight and Mr Markwell is correct to give it the greatest possible weight in the planning balance.

9.4 The height and proximity of the proposed Blocks D & E to the Thames / Thames Path would cause harm to the setting and character of the river and harming the quality of public realm and the Thames as an identified Major Landscape feature and this factor is in conflict with a raft of policies including CR2, 3 and 4, CC7, EN11 and EN13, CR11 and CR11g, and the RSAF. Mr Markwell is correct to give this factor significant weight.

9.5 The development’s inability to demonstrate that it is part of a comprehensive approach and that it would not cause unreasonable burdens on the retained SSE site is a matter of significant weight.

9.6 The complete demolition of the locally listed building on the site with the total loss of any significance it has, in the face of the policy requirement to reuse the asset and avoid harm in the first instance is a consideration of significant weight.

9.7 The impact on marginal habitats and lack of space for large canopy trees along the riverside buffer are also considerations of significant weight.

9.8 Although benefits are identified, Mr Markwell is plainly correct to assess these as common to many housing proposals which could be achieved in an appropriately amended scheme which addressed the Council’s reasons for refusal of the application, and to attribute limited weight to these. In particular, the Council’s healthy housing land supply means it could continue to meet its housing targets if a reduced number of dwellings were provided on the site thus addressing the reasons for refusal. Any social benefit in respect of housing provision is therefore a general one, is not specific to the appeal proposal, and should be afforded limited weight in the planning balance.

9.9 The development proposals are contrary to the provisions of the development plan taken as a whole. There are no material considerations of sufficient weight to indicate any approach other than to determine the appeal in accordance with the Development Plan. The Inspector is therefore respectfully requested to dismiss the appeal.

**David Lintott**

Ruchi Parekh

Cornerstone Barristers

19/11/21

1. SoCG 4th addendum, para.2.4. [↑](#footnote-ref-1)
2. SoCG 4th addendum, para.2.4. [↑](#footnote-ref-2)
3. Mr Sutton POE, para.4.1.5; Mr Corbyn Rebuttal, para.3.3. [↑](#footnote-ref-3)
4. Mr Sutton POE, para.4.1.5. [↑](#footnote-ref-4)
5. Mr Corbyn SOC, para.3.29. [↑](#footnote-ref-5)
6. As accepted by Mr Corbyn in cross-examination. [↑](#footnote-ref-6)
7. As accepted by Mr Corbyn in cross-examination. [↑](#footnote-ref-7)
8. See for e.g. Mr Sutton Rebuttal, paras. 8.1.4-8.1.5. [↑](#footnote-ref-8)
9. Mr Corbyn SOC, Appendix C, pp.32-33; also reproduced in Mr Sutton’s Rebuttal at pp.7-8. [↑](#footnote-ref-9)
10. Mr Corbyn Rebuttal, Table 1, p.3. [↑](#footnote-ref-10)
11. Mr Sutton Rebuttal, Appendix 1. [↑](#footnote-ref-11)
12. Mr Sutton POE, Appendix 3. [↑](#footnote-ref-12)
13. Mr Sutton POE, Appendix 3, p.161. [↑](#footnote-ref-13)
14. Mr Sutton POE, Appendix 1. [↑](#footnote-ref-14)
15. Mr Corbyn SOC, Appendix D, p.32. [↑](#footnote-ref-15)
16. Mr Corbyn SOC, para.3.25. [↑](#footnote-ref-16)
17. Mr Corbyn SOC, para.3.30. [↑](#footnote-ref-17)
18. Mr Corbyn POE, para.5.5 [↑](#footnote-ref-18)
19. Mr Corbyn Rebuttal, Appendix 1. [↑](#footnote-ref-19)
20. SoCG 4th addendum, para.2.5. [↑](#footnote-ref-20)
21. See his Tables 2-3 in his Rebuttal. [↑](#footnote-ref-21)
22. See Mr Sutton POE, Appendix 7: DEFRA 3.0 User Guide p.12. [↑](#footnote-ref-22)
23. Mr Sutton Rebuttal, paras.7.5.10-7.5.11. [↑](#footnote-ref-23)
24. Mr Sutton Rebuttal, para.7.9.3. [↑](#footnote-ref-24)
25. Mr Sutton Rebuttal, paras.7.8.12-7.8.13. [↑](#footnote-ref-25)
26. As noted in his examination in chief, and further confirmed in cross-examination. [↑](#footnote-ref-26)
27. Mr Sutton Rebuttal, paras.7.8.12-7.8.13; 7.9.7-7.9.8. [↑](#footnote-ref-27)
28. Mr Sutton POE, Appendix 7, p.85. [↑](#footnote-ref-28)
29. Mr Sutton Rebuttal, para.7.2.4 and the following photograph. [↑](#footnote-ref-29)
30. For the avoidance of doubt, any harm to the MV will also cause harm to the River, as accepted by Mr Corbyn in cross-examination. [↑](#footnote-ref-30)
31. Mrs Cohen POE, para.4.55. [↑](#footnote-ref-31)
32. In particular, EN11 and CC7. [↑](#footnote-ref-32)
33. Mr Clarke POE, para.3.95. [↑](#footnote-ref-33)
34. In chief; see also Ms Hanson Rebuttal, para.2.14. [↑](#footnote-ref-34)
35. In chief; see also Ms Hanson’s Rebuttal, paras.2.3-2.12. [↑](#footnote-ref-35)
36. Ms Hanson chief; see also Ms Hanson’s Rebuttal, paras.2.15-2.16. [↑](#footnote-ref-36)
37. Ms Hanson chief; see also para.5.3.12 of the Local Plan as referred to by Ms Hanson in chief. [↑](#footnote-ref-37)
38. SPD, para.5.4. [↑](#footnote-ref-38)
39. Ms Hanson chief. [↑](#footnote-ref-39)
40. Ms Hanson referred in particular to the Appellant’s Arboriculture SOC (figure 1, p.7) and Mr Taylor Rebuttal, p.44, Fig. Ap. 17. [↑](#footnote-ref-40)
41. CD1.75, Planting Framework Rev F. [↑](#footnote-ref-41)
42. As expressed in chief; see also Ms Hanson’s SOC para.4.18. [↑](#footnote-ref-42)
43. Ms Hanson SOC, para.2.1.3-2.1.4. [↑](#footnote-ref-43)
44. Ms Hanson SOC, para.2.3.2. [↑](#footnote-ref-44)
45. Ms Hanson POE, para.5.14. [↑](#footnote-ref-45)
46. Ms Hanson POE, para.5.15-5.18. [↑](#footnote-ref-46)