

Appeal by Aviva Life and Pensions UK Ltd in respect of Land at Reading Station Park, Vastern Court, Vastern Way, Reading

Planning Inspectorate's References: APP/EO345/W/21/3289748

Opening Submissions on behalf of
Reading Borough Council
(Inquiry commencing 26/04/22)

1. Introduction

- 1.1 The appellant submitted an appeal against the failure of Reading Borough Council ("RBC") to determine the application (Ref 200328) amended in October 2021 for outline planning permission with details of access, appearance, landscaping, layout and scale reserved for later determination, a demolition and phased development, comprising a mix of residential, office, retail, takeaway and community and leisure uses with associated works and operations. A covering letter dated 8 October explained that the application was amended so that it was now for up to 90,850sq.m., that plots A-C would now be for residential use only, a use as hotel was omitted and that various amendments had been made to the parameter plans, schedule and illustrative masterplan accordingly. The application as amended can be found in the form of an amended outline planning application booklet ("Amended Booklet") at **CD1.34**.

- 1.2 The Council were still awaiting a response from a number of consultees when the appeal was lodged on 23 December 2021. A report was taken to the Council's Planning Applications Committee on 15 February 2022 (**CD3.1**) inviting members to confirm he

decision they would have made if they had been able to determine the application. The report and updated report are at **CD3.2** and **CD3.3**. The committee agreed with the recommendation of officers and resolved that they would have refused outline planning permission. There are a total of twelve putative reasons for refusal which you have indicated, Inspector (paragraph 11 of CMC note at **CD9.2**), will form the main issues. Since the CMC the parties have resolved the putative reason relating to wind and this forms part of a separate statement of common ground dated 12/4/22 (**CD12.3**). This leaves the following outstanding as issues:

(1) Whether the scale, height and massing of proposed plots with heights agreed to be in excess of Local Plan and RSAF height and massing guidance will result in unacceptable detrimental effects on the townscape, the surrounding area and the setting of public spaces, especially when considered in the context of cumulative effects with adjoining allocated, emerging and existing sites.

(2) Whether the siting, height and likely massing of proposed Tall Buildings within Plots A, B, C and D are bulky, harmful to the setting and the character of the surrounding area and public spaces and fail to achieve the high standard of design expected of a Tall Building.

(3) Whether the proposed siting, maximum heights, and likely massing of tall buildings within Plots C and D will appear bulky and over-dominant resulting in a detrimental impact on the skyline and harm to short and medium distance views including along Station Road, the setting of Station Square (North and South) and surrounding buildings and structures.

(4) Whether the development as proposed fails to demonstrate that a satisfactory direct alignment and high-quality design and form of north-south link can be provided in accordance with policy and guidance.

(5) Whether in the proposed maximum height and siting of Blocks C and D the proposal would result in a detrimental effect on the setting of and therefore, the significance of the Grade II listed Main building of Reading General Station, the Market Place/London Street Conservation Area and the Grade II* Town Council Chamber; and whether the

public benefits of the proposals outweigh the less than substantial harm caused to the significance of these designated heritage assets.

(6) Whether the proposed siting of development plots, the public realm and vehicular access arrangements at the interface of the Development with Vastern Road, Caversham Road, and the remainder of the CR11e Allocated Site Station, (including integration with the North Station Square) fail to maximise and secure high quality public realm and fail to make the most efficient use of the site, achieve effective permeability, and fail to adopt a comprehensive approach to the development of the Allocated Site.

(7) Whether the proposed development would result in unacceptable loss of daylight to existing residents at 17-51 Vastern Road, and whether it has been demonstrated that acceptable living conditions (daylight and sunlight) could be achieved for occupants in the new development. In addition, whether it has been adequately demonstrated how an acceptable level and quality of private and communal amenity space could be achieved for all future occupiers, whilst meeting appropriate levels of daylight and sunlight penetration and whether the submission includes an assessment of the cumulative impact on the adjoining RMG site and the loss of daylight sunlight to the SSE site.

(8) Whether the proposed layout, scale and quantum of development fails to demonstrate that satisfactory and required landscaping principles can be delivered along with appropriate protection and retention of protected trees, and consolidation, extension and/or enhancement of the 'Green Network'.

(9) Whether the proposed development fails to provide appropriate, well-designed public spaces of a flexible size and shape due to the location and alignment of development plots related to the Station Square North and the area of open space at the western end of the east-west link, and as a result fails to demonstrate that it is part of a comprehensive approach to its sub-area which contributes towards the provision of policy requirements for open space that benefit the whole area.

(10) Whether the application fails to demonstrate a sufficiently robust strategy in terms of minimising carbon dioxide emissions, meeting the predicted residential and commercial energy targets and whether it demonstrates that the most appropriate on-site renewable energy technologies have been selected.

- 1.3 The parties are in the process of completing a S106 to put before you inspector which should address the final reason for refusal.

Approach

- 1.4 It is agreed that the Council can demonstrate a 5 year housing land supply and therefore the appeal should be determined in accordance with the provisions of the Development Plan. This reflects the fundamental need to ensure that development should be plan-led, something which 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 and 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 (2012), 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.”

- 1.5 This analysis respects the dicta of Lord Carnwath at paragraph [55] of *Suffolk Coastal DC v Hopkins Homes and another [2017] UKSC 37 (CDK5)*. The fact that the provisions of the Development Plan taken as a whole are breached puts this development squarely at odds with the core principle that planning for the future should be genuinely plan led. To use the words of Lord Carnwath 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.”

1.6 These words resonate in Reading and in respect of this site which benefits from a Site-Specific policy within the Reading Borough Local Plan (which was adopted in November 2019). The site sits within the Station/River Major Opportunity Area which is described as *“a flagship scheme”*. Policy CR11 requires at (v) *“a direct landscaped link between the station and the river Thames”*. Policy CR11e, North of the Station, covers the appeal site and requires that: *“A high quality route incorporating a green link should be provided through to the Thames.”* The overarching Policy CR11 also stipulates (at (ii)) the need to facilitate greater pedestrian and cycle permeability, particularly on the key movement corridors, emphasising that north-south links through the area centred on the new Station, including across the IDR, are of particular importance. Furthermore, (vi) requires that careful consideration be given *“to the areas of transition to low and medium density residential”* and that development must *“conserve and where possible, enhance listed buildings, conservation areas and historic gardens and their settings”*. The need for development to demonstrate that *“it is part of a comprehensive approach to its sub-area”*, *“which contributes towards the provision of policy requirements that benefit the whole area, such as open space”* is emphasised at (vii).

1.7 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 (meaning straight) link was developed over the following decades and Mr Doyle assisted the Council in the preparation of the Reading Station Area Framework (“RSAF”) which was adopted in December 2010. This document is described in the supporting text to Policy CR11 as providing the detailed guidance in developing this area. Within the RSAF the Kennet-Thames spine is described 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 underlined by its inclusion as the Major Path in the Framework for Development at figure 8.2 (page 46). The RSAF requires the opening up of new views and 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.”*

- 1.8 It has been determined that development within Central Reading, within which the appeal site sits, should be 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”*. Policy CR3 deals with the quality of public realm in the central area, and this requires development to provide new open spaces of a size and shape to be flexible enough to accommodate imaginative uses (CR3()) whilst noting the need to *“conserve and enhance the historic environment of the centre and the significance of heritage assets”* (CR3(v)). The need for development on the site to form part of a station cluster, as opposed to a string of tall buildings is emphasised within the RSAF and LP (CR10, figure 5.2). These documents along with the RTBS emphasise the need for the tallest buildings to be located adjacent to the station at the centre of the cluster and to reduce in height across the site grading back into the established heights in the surrounding area at the fringes.
- 1.9 The gravamen of 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. It requires development which will play its part in delivering key strategic objectives to make this important area of Reading a place of the highest quality. It reflects more than 20 years of consideration of how this should be achieved. 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.

2. The Case for the Council

2.1 The evidence will demonstrate, Inspector, that in an attempt to make good the submission that the appeal proposals comply with the provisions of the Development Plan, the Appellant is forced into a series of untenable assertions on each of the main issues upon which you have to decide:

- It is suggested that a string of buildings in which the buildings on Block A actually rise to a greater height than those on Block B, despite their being on the very edge of area CR11e, will read as part of a cluster of development focussing attention on the station, whereas Mr Doyle will demonstrate the reality which is that such a pattern of development distracts from the station and is fundamentally in conflict with the pattern of development envisaged by the LP and other relevant policy;
- It is suggested that a direct route through the site does not mean a straight route, and that a direct line of sight from the station into the consented SSE scheme is not required in the face of the clear stipulation within the RSAF and LP that the route should be direct;
- It is suggested that the proposed scheme will cause only a low order of harm to the significance of the Reading Station, despite the station drawing much of its significance from the prominence of the clock tower in views from station square and the approach to the station, and despite the proposed development appearing dominant immediately behind the clock tower greatly reducing that prominence from those locations should it be permitted;
- Although he initially suggested that harm to the Conservation Area and Grade 11* listed Town Hall should be categorised as “negligible”, in his proof of evidence the Appellant’s heritage witness now accepts that this should be categorised as “low” thus (as with harm to the station’s significance), engaging the need for a decision maker to place “considerable importance and weight” on such harm in accordance with the decision of the Court of Appeal in *Barnwell Manor Wind Energy Limited v (1) East Northamptonshire District Council (2) English Heritage (3) National*

Trust (4) SSCLG [2014] EWCA Civ 137 which emphasises that, in enacting s.66(1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration (in the procedural sense) by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

- It is suggested that the development would not give rise to unacceptable impacts in relation to sunlight and daylight, in spite of the evidence of Dr Paul Littlefair (author of the BRE Guidance at **CD7.18**) demonstrating both that unacceptable impacts would occur in respect of existing and proposed development should it proceed, and that necessary information has still not been provided addressing the extent of cumulative effects with other schemes;
- It is suggested that the development is able to demonstrate a reduction in carbon emissions in accordance with policy compliant targets despite the lack of any analysis within supporting documentation of orientation, prevailing wind and cooling effects, the contribution of existing or proposed landscaping, water, natural ventilation or daylight as a means of reducing energy demand, which lack represents a fundamental conflict with the requirements of fabric energy efficiency as laid down in policy.

Conflict with the Development Plan

2.2 The Council will demonstrate that the development proposed in this appeal is contrary to a whole raft of Local Plan policies relating both to development within the Central Area of Reading in general, and the North of Station Major Opportunity Area with its specific sub-area Policy CR11e in particular.

2.3 Mr Doyle will demonstrate that the proposed development fails to provide a high quality north-south link through the site, indeed he will demonstrate that the Appellant has misunderstood the effect of the recent decision of the Inspector determining the 55

Vastern Road scheme (**CD5.1**) as meaning that the provision of such a link is no longer required in conflict with the objects of policy.

- 2.4 Mr Doyle will also demonstrate that the development, with buildings heights often more than double the RSAF Benchmark scattered across the appeal site, located within the parameters described in the parameter plans, will harm the surrounding area, skyline and views and that the Appellant's assertion that there are factors which justify such an increase, is misconceived.
- 2.5 Mr Bridgland will demonstrate that the proposed development would cause moderate harm to the significance of the station as well as a lesser degree of harm to the Conservation Area and Grade 11* listed Town Hall. All of which must be given considerable importance and weight in the planning balance.
- 2.6 Mr Littlefair will demonstrate that the proposed development will give rise to unacceptable impacts in relation to daylight and sunlight, and Ms Hanson and Ms Jenkins will demonstrate that should development be permitted in accordance with the amended parameter plans, ultimately development would come forward which failed to provide the necessary large canopy trees, open space and contribution towards the Green Network.
- 2.7 Mr Crawshaw will demonstrate that the application fails to demonstrate a robust strategy in terms of minimising carbon dioxide emissions because of the lack of any assessment of factors which are fundamental to reducing such emissions through passive measures and fabric energy efficiency. He will also demonstrate that the potential for solar PV has not been integral to the design process and is limited in terms of generation potential, rather it has been added as a bolt-on measure which fails to comply with the requirements of policy.

Planning Balance

- 2.8 This is a site allocated for development with its own bespoke policy. The Council can demonstrate a 5 year housing land supply and is entitled to expect that development is

brought forward which meets the requirements of the Development Plan ensuring Reading's future is genuinely plan led and giving effect to local determination, whereas it will be demonstrated that the proposed development is in fundamental conflict with the Development Plan. Very significant weight should be afforded to this harm. There are no material considerations of sufficient weight to outweigh this conflict. The NPPF (paragraph 134) confirms that development which is not well designed should be refused, especially where it fails to reflect local design guides and government guidance on design as is the case with this scheme.

David Lintott

Cornerstone Barristers

25/04/22