Appeal by Aviva Life and Pensions UK Ltd

Vastern Court, Vastern Way Reading

APP/EO345/W/21/3289748

Reading Borough Council's Closing Submissions

(references to evidence are as follow: **cx** – examination in chief;
xx – cross examination; **rx** – re-examination; **PoE** – Proof of Evidence;
ID – Inquiry Document; **CD**- Core Document)

1. Introduction

1. These Closing Submissions are made on behalf of the Council in respect of a non-determination appeal of an outline application for a major mixed-use scheme of residential and office accommodation. The application was amended in October 2021 to be up to 90,850 sqm with various changes to the Parameter Plans, schedule and illustrative masterplan (see the "Amended Booklet" at **CD1.34**). The scheme has been further amended to be up to 87,002 sqm during the course of the appeal and the finally amended parameters schedule is at **ID61 Revision A**.

2. The structure of these submissions following this introduction is to address the framework for your determination, Inspector, including a discussion of the Council's spatial strategy for the area and how this would be impacted by the development. The impact of the scheme on heritage, townscape and the natural

environment, amenity and sustainability considerations, will then be addressed, followed by the planning balance.

3. This appeal revolves at its heart around a single central consideration – the need for development to come forward in this "*flagship*" town centre location in a manner which has been demonstrated, by principles established within the design and access statement accompanying the application, to be of excellent urban design and architecture (**CD4.55**, paragraph 5.3.51). The design of the scheme is governed by the need to comply with the policy framework found within the Local Plan and in particular the Central Reading suite of policies which include a site specific policy governing the Appeal Site, which lies within the Station/ River Major Opportunity Area (**CD 4.56** policy CR11). This policy, and in particular figure 5.3, is described as providing the broad strategy for the area, with the Reading Station Area Framework providing "*more detailed guidance*" (paragraph 5.4.9).

4. There is a large degree of common ground between the parties which includes both the policy framework and what it requires. Furthermore, following the evidence it is agreed:

    i. That the single most important consideration in this appeal is whether the appellant has been able to demonstrate that, should the appeal be allowed, a "*high-quality, well-designed mixed use destination*" would result which complies with the relevant policy framework including the site specific policy CR11 (Mr Newton xx);
    ii. Policy CR11 (paragraph 5.4.5) makes development figures, which includes the amount of housing provided, subordinate to this primary requirement (Mr. Newton xx);
    iii. The relevant policy framework includes, as part of the consideration of whether the appeal scheme is of high-quality, the need to ensure that it has been "*carefully designed to avoid detriment to*" significant listed buildings in or adjoining the Major Opportunity Area including the historic Station building (Mr. Newton xx and Mr. Collado xx), but the constraints for development identified within the DAS do not include the Station, nor is there any other section within the DAS which

demonstrates that the scheme has been designed to avoid detriment to the Station (Mr. Collado xx);

iv. The RSAF (**CD7.1**) contains the detailed guidance on development of the area and within that guidance Benchmark heights of 6,7, and 8 storeys are given respectively for the Plots which correspond to Plots A, B and C of the appeal scheme. The Benchmark height for the Plot which corresponds to plot D is expressly qualified as being "*likely to be at least 10 storeys – refer to tall building policies and design guidance*", the principal such policy is CR10 which includes the need to "*conserve and, where possible, enhance the setting of conservation areas and listed buildings*" (Mr Newton xx).

v. A high quality north south link across the Appeal Site is one of the key principles for the spatial strategy for the area (LP 5.4.6) and yet the Design and Access Statement does not include within its constraints and opportunities any consideration of whether, and if so how, its route across the Appeal Site may need to change to reflect the change to the route necessitated by the 55 Vastern Road appeal being allowed (Mr. Collado xx);

vi. In terms of daylight/ sunlight impacts of the scheme, it is accepted (Mr Crowley xx) that there will be a detrimental impact in breach of policy CC8, it is just a question of the level of that impact; furthermore Mr Crowley accepted (xx) in relation to daylight impacts on neighbouring properties that "*There are a lot of major adverse impacts*", and, in respect of the percentage of all living/ kitchen/ diners considered in the proposed scheme which would meet the recommendation in the British Standard, that he "*couldn't think of a worse scheme*";

vii. The fact that the RSAF shows a particular arrangement and orientation of blocks of buildings within its section 14, does not obviate the need for the Design and Access Statement to demonstrate that that these factors have been considered as part of the requirement to demonstrate a robust strategy to minimise carbon dioxide emissions (Mr Newton xx).

5. Inspector, the evidence has demonstrated that 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. It is these flaws, which can be traced through the evolution of the scheme in the DAS, that mean that the scheme is not of the necessary high quality of design.

6. Two other factors should also be touched on at the outset. The first is that Reading has a five year supply of housing. Although, as in any case, significant weight is attached to the need for housing generally, in Reading this is done through the policy framework for determining the appeal. In particular Policy CR11 recognises the need for a high-density scheme and has an indicative potential for 640-960 dwellings on area CR11e which includes both the Appeal Site and the adjoining Hermes site at 80 Caversham Road. In those circumstances the need for housing could not possibly justify allowing a poor quality scheme which did not comply with policy CR11, and the Development Plan taken as a whole. Mr Newton did not suggest that it could in his evidence, and he was right not to do so.

7. Secondly, it has become apparent through the course of the appeal, that your instinctive view, communicated to the parties during the evidence of Mr Doyle, that one must judge the acceptability of the scheme by reference to the Parameter Plans is the correct approach to take. In particular, very little if any weight should be given to the Illustrative Scheme, or to any suggestion made by the Appellant that any final scheme would be limited to something similar to the Illustrative Scheme (as they do for example in **ID77**).

8. Such a suggestion is manifestly incorrect relying as it does on the suggestion that taller buildings would be precluded because they would have a materially greater impact in sunlight and daylight terms on the buildings along Vastern Road (paragraph 4.4 of ID77). The reasons why the Appellant's approach is incorrect are explored in section 3 of these submissions below.

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

9. 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.

10. 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)

11. 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."*

12. These words have a particular resonance in Reading. The Reading Borough Local Plan (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.

13. 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."*

14. The National Design Guide (**CD7.17** paragraph 14) 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*". It follows that the need for development to respect and build on the spatial objectives contained within the Development Plan is of central importance to the determination of this appeal.

15. The strategic priorities of the Council can be distilled from a consideration of the Central Reading suite of policies in conjunction with the RSAF.

16. The RSAF is a supplementary planning documents and provides policy which can guide planning decisions provided it is not inconsistent with the Local Plan (see Regulation 8(3) of the Town and Country Planning (Local Planning)(England) Regulations 2012). The Appellant accepts (Mr Chard xx and Mr Newton xx) that it is the RSAF which is referred to at both 5.3.39 and 5.4.9 of the LP. It follows that it has an elevated and important role to play when considering the acceptability of development within Central Reading and in particular within the Station/ River Major Opportunity Area of which area CR11e (within which the Appeal Site sits) forms a part. In particular:

    a. It is the RSAF which provides the "*masterplan or planning framework for the area*" which "*will provide further guidance on the relative heights, massing and spacing of the buildings, and the function and quality of public realm around them, along with the relationship with the major transport interchange improvements delivered at Reading Station*";
    b. And it is the RSAF which provides the "*more detailed guidance*" to put flesh on the bones of the "*broad strategy*" described in Policy CR11 and figure 5.3.

17. Of particular strategic importance when considering the Appeal Site sitting as it does within the Central Reading Area, the Tall Buildings area and the Station/ River Major Opportunity Area are the following:

        i. The need for any development to respect the setting of listed buildings in or adjoining the Major Opportunity Area and to be carefully designed to avoid detriment to them; alongside a need to conserve and where possible enhance listed buildings and their settings, with particular emphasis on the Station (CR10, CR11 and RSAF);
        ii. The need for development to form a transition zone towards adjacent areas (particularly in relation to historic buildings and residential areas) with heights stepping down so that they relate appropriately to

surrounding development and residential areas. Alongside the identification of areas to the west of Caversham Road and north of Vastern Road as being of particular sensitivity with the need to avoid significant negative impacts on outlook, daylight and sunlight of residential properties being identified (CR10(v) CR11 Figure 5.3 and RSAF figure 6.10);

iii. The need for development to form part of a new cluster of tall buildings with the Station at its heart, following a pattern where development steps down from the tallest buildings at the centre to lower buildings at the fringes, the mechanism described being one of Benchmark heights reducing as one moves west across the Appeal Site from plots D to A (CR10(ii) and RSAF Figure 6.9);

iv. The need for development to "build on and respect the existing grid layout structure of the central area", in particular LP paragraph 5.3.8 makes clear that one of the "key themes" is that new development should "*build on and extend*" "*the urban grid*" (CR2) and in the Station/ River Major Opportunity Area this involves including a direct and high quality route between the Station and the River Thames, of which area CR11e forms an integral part. LP 5.4.6 identifies this direct and high quality route as being "*one of the key principles for the spatial strategy of the centre*" with the aim of changing the perception of the area north of the Station as a separate entity.

18. 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 the 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.

19. 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 Newton 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 of housing, 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.

20. This local authority has planned well for the necessary housing, reflecting upon and acting upon government guidance. it is entitled to insist upon a high quality of development on the Appeal Site which respects its key strategic objectives as stipulated in the Local Plan, the RSAF and national guidance.

Heritage Impact

21. In relation to the weight to be attached to harm found to the significance of listed buildings by development within their setting the Court of Appeal decision of *Barnwell Manor Wind Energy Limited v (1) East Northamptonshire District Council (2) English Heritage (3) National Trust (4) SSCLG [2014] EWCA Civ 137* emphasises that, in enacting s.66(1) of the Listed Buildings Act 1990, 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 carried out the balancing exercise. This is the case whether the harm is substantial or less than substantial.

22. Paragraph 202 of the Framework provides:

> "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*"

23. Paragraph 200 requires that:

> "*Any harm to, or loss of, the significance of a designated heritage asset … should require clear and convincing justification*".

24. In this regard, justification is not simply a matter of the balancing of harm and benefit in paragraph 202 but also explaining why the harm is necessary in order to deliver the benefit.

25. It follows that, when carrying out the balance under paragraph 202, should the harm to heritage assets not be outweighed by any public benefits of the scheme, the appeal should be dismissed irrespective of whether it complies with the development plan.

26. That said, in the present case the need to protect and where possible enhance the setting of the designated assets is baked into the relevant sections of the Local Plan. The evidence has demonstrated that the appeal scheme was not designed with the Listed Station as a constraint. Furthermore, should the appeal be allowed, harm would be caused to the Station (as well as the Market Place and London Street Conservation Area and the Grade II* listed Town Council Chamber), harm which the evidence has demonstrated is simply not necessary to enable the Appeal Site to be developed in accordance with policy. These factors render the appeal scheme in substantial conflict with the Development Plan as a result of heritage considerations in any event, irrespective of where the balance falls under paragraph 202.

3. The Parameters for Development

27. The development is subject to three constraints which limit its extent: the amended development Parameter Plans (**CD 1.34.10**, **ID74** and **ID75**), the latest amended development parameters schedule (**ID61 Revision A**) and the latest version of the Design Code (**ID89**). There is also an Illustrative Scheme which is shown in the DAS, and which the Council has asked for details of, but of which no details have been provided further to what is shown in the DAS and discussed within the building heights and comparison document – the latest version of which is at **ID30**.

28. It is accepted by the Appellant that the Illustrative Scheme as shown in the DAS does not fit within the Parameter Plans, hence the deduction of a storey from Block B(iv) in the tables within **ID30**, reducing the height of the Illustrative Scheme from 6 to 5 storeys at that point. However, as Mr Doyle has demonstrated (Revised Table 2 to Supplementary Statement at **ID71**), the scheme as amended still does not fit within the Parameter Plans.

29. After an exchange of notes on this point it is now clear that the Illustrative Scheme would not fit within the parameter plan envelope in certain subplots. Although the figures are marginal Mr Doyle explained the need to take roofs into account. Mr Doyle has produced measured floor plans (ID82) to calculate the Illustrative Scheme floor areas. The Appellant has declined to provide equivalent information. The Appellant has not produced the 'Revit' model of the Illustrative Scheme to which they refer, and Mr Doyle has identified several inconsistencies between ID30 heights and the Design Code. In the circumstances, significant doubt exists in relation to the accuracy of the Appellant's Illustrative Scheme measurements, Inspector, and limited wight should be given to the Appellant's floorspace figures.

30. Usually where Parameter Plans are provided to delimit the extent of the development both parties would be content to test the acceptability of the development as shown in the maximum extent of the parameters. Indeed this is what Mr Chard explained

in his oral evidence (**cx** and **xx**) he had done when forming judgments on the acceptability of the appeal scheme.

31. However, this section of the Closing Submissions is necessary because the Appellant seeks to suggest that, should the appeal be allowed, the maximum extent of any final scheme could not differ to any great extent from that shown in the Illustrative Scheme. Therefore, they invite you, Inspector, to give the Illustrative Scheme significant weight when determining the appeal.

32. It is submitted that, in reality, this approach reflects a recognition by the Appellant that there is a difficulty with the appeal scheme, in particular arising from the relationship that the scheme would have with the Listed Station building. This difficulty is evident from the fact that the Appellant's heritage witness, Dr Miele, recognises that the scheme as described by the Parameter Plans would cause less than substantial harm to the Listed Station as well as less than substantial harm to the Town Hall and Conservation Area. In concluding that an acceptable scheme may come forward, he relies upon the certainty that any detailed scheme would fill less of the parameter plan envelope behind the Station. But he is wrong to do so.

33. The Appellant at **ID77** paragraph 4.4 relies upon two main factors as operating to ensure that any final scheme on the Appeal Site would not materially exceed the proportions of the Illustrative Scheme:

    i. That the **ID61 Revision A** parameter schedule places a limit on floorspace, such that each Plot A-D is capped in respect of residential floorspace at 16,294m, 19,324m, 23,071m and 20,568m respectively, Plot D having an alternative cap of 24,495m for office floorspace. Combined with a further cap of 9,000m floorspace for other uses, this gives a total floorspace cap of 87,002; and
    ii. That taller buildings (presumably what is meant here is taller than those shown in the Illustrative Scheme) would have a materially greater impact in sunlight/ daylight terms on the buildings along Vastern Road, which would conflict with the (amended) Design Code.

34. The Appellant's reliance on these factors is however misplaced. Mr Doyle has demonstrated that the parameter envelope for Plots D(i), (ii) and (iii) could be filled to its entirety by a real world scheme which takes its cue from increased floor-to-floor heights found on the Station Hill scheme (**ID71** paragraph 2.6). The consequences of this are shown in his figures 15-17 which show a greater depth of building appearing behind the Station clock tower filling out the parameter plan envelope in this location. Mr Doyle carried out a similar exercise (paragraph 2.6.8) in respect of Plot A and demonstrates that, there also, a building could come forward which would fill the entirety of the parameter plan envelope. The consequence of this in townscape terms is shown in **ID49** (final picture showing parameter plan outline of Plot A in red), its consequences for trees both existing and proposed are discussed in section 7 below.

35. In respect of the assertion that a taller building would have a materially greater impact in sunlight and daylight terms on the buildings along Vastern Road, there is no evidence before you capable of substantiating that claim. The Appellant seeks to derive support from the Design Code, amended to include the phrase under each Plot:

> "*Development of plots adjacent to Vastern Road, shall not, in isolation or in combination with other plots, result in materially worse daylight/ sunlight impacts on existing properties and those permitted under planning permission 200188/FUL on the northern side of Vastern Road, than those shown on the Daylight/ Sunlight Assessment provided by CHP Surveyors Ltd (dated 10th June 2022).*"

36. This "not materially worse" clause is then used to define what is meant by the words "*significantly affect daylight and sunlight levels*" in paragraph 5.6.2. ("significantly" added from the April 2022 version of the Design Code at **ID5** onwards)

37. It was established during the Inquiry that there was no CHP Surveyors assessment dated 10th June 2022 based on the Illustrative Scheme (the assessment within the June 2022 SoCG is based on the Parameter Plans), the Appellant had intended to refer to an assessment carried out in May 2022 (**ID56** now also at **ID89**) which had not been agreed by Dr Littlefair and had not been included within the Statement of

Common Ground at **CD12.6**. Dr Littlefair also explained in his "Note on Submission by the Appellant on sunlight and daylight issues" (**ID78)** at paragraph 2.6 that this assessment (that at **ID56**) could not be relied upon as no massing diagrams had been provided so it was impossible to verify what scheme was analysed. Furthermore, (paragraph 2.7) this analysis showed a significant impact on 64 of the 66 windows analysed at 17-51 Vastern Road in any event.

38. Mr Doyle gave evidence on the changes to the Design Code and parameters schedule on 4th October. He confirmed that it was not possible to rely upon a stipulation within the Design Code that daylight/ sunlight shouldn't be made "*materially worse*" for those on Vastern Road as limiting the height and volume of the blocks, because no assessment had been carried out to determine what extent of building could be built which would not have a "materially worse" effect, whatever was meant by "materially worse". Mr Jupp within his evidence (rx) said this:

> *"There is no evidence as to whether taller development on Plots A to D would create a materially worse position on Vastern Road."*

39. There are two fundamental flaws with the Appellant's reliance on the "not materially worse" clause in the Design Code.

40. Firstly, the use of the phrase "not materially worse" is incapable of delimiting the extent of any development to a greater extent than the Parameter Plans. This is because "materially" is likely to be interpreted as a 20% increase. The BRE guidelines (at paragraph 2.2.21 in the 2011 version at **CD7.20** and 2.2.23 in the 2022 version) state that the diffuse daylighting of the existing building will be adversely affected if either the VSC is less than 27% and less than 0.80 times its former value, or if the area which can receive direct skylight is reduced to less than 0.80 times its former value. Being reduced to 0.80 times former value corresponds to a 20% difference. Applying this 20% difference to the data for the Illustrative Scheme in the Appendix to the latest Design Code (originally provided at **ID56**) would result in vertical sky components being worse than those for the maximum parameters scheme for all windows in 17-51 Vastern Road.

41. This means that the Code as amended would allow development up to 20% worse than the results for the Illustrative Scheme. 20% worse is worse than the results for the maximum parameters shown in appendix A to the SoCG at **CD12.6** in any event. As an example, if one takes the ground floor to 47 Vastern Road, the VSC with the Illustrative Scheme would be 23.6%, 0.63 times the current value of 37.4%. If one takes a 'material' reduction as being 20% in relative terms, that would result in a VSC of 18.9%, just over half the current value. That is well below the 20.7% VSC with the maximum parameters scheme.

42. There are similar results for Average Daylight Factors (ADFs) in the proposed development at 55 Vastern Road. For example, room A-05 (the first one considered) would have an ADF of 1.7% with the existing retail park in place. This would meet the 1.5% minimum standard in BS 8206 Part 2. With the Illustrative Scheme this would drop to 1.4%, below the standard. A 20% reduction would result in an ADF of 1.12%, below the 1.3% with the maximum parameters scheme. All the affected living rooms show similar results with a 20% reduction on the Illustrative Scheme resulting in worse results than for the maximum parameters.

43. Therefore, the inclusion of the additional "not materially worse" clause in the Design Code would impose no limit on a developer wishing to build up to the maximum parameters on any or all of the plots.

44. Secondly, even assuming that the daylight/ sunlight position for Vastern Road described in Appendix A of **CD12.6** is "materially worse" than that at **ID56** (and therefore development to the full extent of the Parameter Plans across the development would be caught by the stipulation in the amended code not to make the position on Vastern Road "materially worse"), there is no evidence before you Inspector as to at what point the sunlight/ daylight position would be made "materially worse".

45. For example, a possible scheme may increase the height and mass of Block D in the manner shown by Mr Doyle in his supplementary statement, but provide for Blocks A, B and C at Illustrative Scheme heights. Whether such a scheme would have a daylight/sunlight impact on the Vastern Road properties worse than the Illustrative

Scheme, let alone “materially worse” is simply unknown. The same could be said for each of the Plots A, B and C.

46. The reality is that no weight should be given to the Illustrative Scheme as showing any sort of maximum volume of scheme which may come forward. This means that, as you originally intimated Inspector, and as Mr Chard has done, you must assess the impacts and acceptability of the scheme against the Parameter Plans. Had the Appellant wished, they could have amended the Parameter Plans to limit the height and mass of the appeal scheme to something which closely reflects that of the Illustrative Scheme. They could have limited the impact the scheme was capable of having on views of the clock tower to those which the Illustrative Scheme has. They have chosen not to do so.

47. Accordingly any approval of the Parameter Plans carries with it a green light to a future developer to bring forward a scheme which extends to the maximum point of the Parameter Plans at any location in each of the four Plots. In particular for Plots D and C this has ramifications for the way the development will be seen behind the Station clock tower. It also means that Dr Miele accepts that the appeal scheme should be assessed as causing less than substantial harm to the Listed Station building.

48. For plot A this has ramifications as to how the development will relate to neighbouring development at the Caversham Road roundabout.

4. Heritage

49. There is a large degree of common ground when it comes to heritage. The key differences are these:

    i. Although both Nick Bridgland for the Council, and Dr Miele for the Appellant identify less than substantial harm deriving from the Parameter Plans, there is a difference as to the degree of that harm, Mr Bridgland identifies a moderate degree of less than substantial harm whereas Dr Miele identifies a low level of less than substantial harm;

    ii. Dr Miele considers that a detailed design using the Design Code at reserved matters could reduce the harm to neutral or modestly beneficial as a result of 5 factors (PoE page 46 bullet 3): slenderness, width and proportion, articulation, use and windows/ palette; Mr Bridgland feels that the Design Code does not address heritage issues and cannot be relied upon at reserved matters to reduce the harm.

50. It follows, Inspector, that where the witnesses differ, you will have to decide which provides a more reliable determination of the level of harm. But at the outset it should be noted that, as discussed in section 2 above, the Parameter Plans read with the parameter schedule and Design Code will not operate so as to limit the scale, mass and proportions of the buildings on Blocks C and D to closely reflect the Illustrative Scheme. This has profound effects for Dr Miele's analysis because it is simply not possible to rely upon any detailed scheme being slender or reduced in width and proportion and articulated in such a way as to reduce any harm in the way Dr Miele suggests. In terms of use and windows/ palette it is evident from Mr Bridgland's rebuttal proof Figure 3.2 that in reality these factors would not operate to reduce any harmful effect in any meaningful way.

Level of Harm

51. In terms of gauging the level of harm judged against the Parameter Plans, it is submitted that, with the greatest of respect to him, Dr Miele's evidence was of an extremely poor standard. In xx he was taken through the built heritage sections of the Environmental Statement (**CD1.39-1.41** and **CD1.43)** to try and reconcile his suggestion of a "low" level of less than substantial harm (as opposed to the "moderate" level identified by Mr Bridgland) with what is found there. It is submitted that his answers betrayed a surprising lack of familiarity with the documentation which he accepted had been amended by his own team.

52. **CD1.43** (2A Built Heritage) considers the completed development effects at 2.67A and following. In respect of the Listed Station it concludes that the "sensitivity" is medium, and the "magnitude of impact" is medium. One might have thought that this would give rise to a medium or moderate "scale of effect" such as that arrived at by Mr Bridgland but a medium x a medium is said to give rise to a minor/moderate scale of effect. This is because in table 2.3A on page 2A-4 two mediums equate to minor/moderate. The table simply doesn't allow a scale of effect above minor/moderate unless either the magnitude of impact or the sensitivity of receptor is high.

53. However, as Dr Miele accepted (xx) in the text at 2.72A (added by his team) there is no assessment of the sensitivity of the Station. The magnitude of "effect" (agreed by Dr Miele to be an error which should be replaced with "impact") is given as medium resulting in a minor/moderate adverse effect. But there is no discussion of sensitivity either discursive or otherwise. Dr Miele accepted (xx) that the only place where significance is discussed is in the "statement of significance" at paragraphs 6.19-20 but this does not discuss the physical and functional relationship the Station has with the Station square and the prominence it has looking over this space (discussed by Mr Bridgland in his PoE at 3.9 and 5.3).

54. In reality, common sense indicates that a medium magnitude of impact and a medium sensitivity of receptor should give rise to a moderate impact (as Mr Bridgland has found). But even applying the ES methodology it is possible that the conclusion on sensitivity is tainted by a mistake. Table 2.1A on page 2A-4 addresses Receptor sensitivity. Under "High" Dr Miele accepted that his team had incorrectly included the words "*The receptor has a high ability to accommodate the specific proposed change*" when it should read that it has a "*low*" ability. The other bullet points under "*High*" impact – that the existing setting makes a positive contribution, and that factors such as distance, topography and intervening development allow a visual relationship with the proposed change – are obviously met. If one changes "*high*" to "*low*" then it is clear that the Station has a low ability to accommodate the proposed change for the reasons Mr Bridgland discusses, namely the prominence it currently has within the square and the fact that its status as the focal point, a factor of central importance to its significance, would be reduced by the presence of tall buildings behind it.

55. To conclude at this point, whatever approach is taken to the methodology in the ES, it is plain that the level of harm identified in the ES should be moderate, rather than minor/ moderate. This equates with Mr Bridgland's judgment, common sense and a proper reading of the criteria as corrected.

56. Dr Miele was reduced, ultimately (xx), to relying upon the text in 2.44A that the judgments are "*not absolute*" and the final judgment is the product of a further discursive analysis. His difficulty in that regard is that, absent any discursive analysis on sensitivity within the ES, to come to a different conclusion from that indicated in the tables simply amounts to setting them aside. He claimed that minor/moderate or moderate did not necessarily correlate with any particular harm on the less than substantial scale, but it is unclear how a moderate impact would equate to a "*low*" less than substantial impact for paragraph 202 of the NPPF purposes.

57. As Mr Bridgland explains (PoE 3.9), a large part of the significance of the Station is derived from the fact that it retains its status as the focal point of the public space. Recent development of the Station and Thames Tower has been carefully designed

to ensure that the historic Station building retains this status. The appeal scheme would reduce this prominence as shown in **ID24** figure 2 and figures 16-17 of Mr Doyle's supplementary statement (**ID71**). As Mr Bridgland explains in his rebuttal PoE at 3.8-3.10 the proposed development will be behind the clocktower for a large part of the area Dr Miele has concluded as having key views of the Station (Mr Bridgland's figure 3.1 refers). Mr Bridgland also demonstrates (figure 3.2) just how substantially the prominence of the clock tower is reduced with the presence of a large building behind it (even when built out with fenestration and palette).

58. All of which, Inspector, points to it being Mr Bridgland's view that the harm caused would be moderate rather than low which should be preferred.

Detailed Design

59. The second key issue of difference is the potential of detailed design to alleviate harm. In part of course these issues overlap - given that Mr Bridgland's view (that the development would cause a moderate degree of less than substantial harm) should be preferred, it follows that there is less potential for any detailed design to alleviate this higher level of harm.

60. But, in reality, Dr Miele's conclusions on this issue too are flawed. As explained above Dr Miele's view as expressed in his PoE is that slenderness, width and proportion, articulation, use and windows/ palette could operate to reduce the harm caused by the development. In answer to your questions, Inspector, Dr Miele explained that he could not take you to any place within the Design Code which relates to width and proportion, use or a slender design operating so as to reduce harm, and in respect of Block D there would be no courtyard form. Furthermore, any Design Code massing guidance has been expressly stripped away (Doyle **ID71** para 2.8.2).

61. Given that the Parameter Plans read with the parameter schedule and Design Code will not operate so as to limit the scale, mass and proportions of the buildings on Blocks C and D to closely reflect the Illustrative Scheme, it is only windows/ palette

(what Dr Miele referred to in **rx** as "tertiary scale" factors) which remain for consideration.

62. In relation to these factors, it is evident from Mr Bridgland's rebuttal proof Figure 3.2 that they would not operate to reduce any harmful effect. Figure 3.2 on page 8 of Mr Bridgland's rebuttal shows the impact of placing a large building behind the Station clock tower. As Mr Bridgland notes, design adjustments to the fenestration or materials (as might be envisaged in the Design Code) could not operate to change the impact in any meaningful way. The prominence of the Listed Station building melts away as the silhouette of the building is subsumed within the large building behind it. Mr Bridgland's view that this is comparable to the effect that the appeal scheme would have, appearing behind the Station clock tower in views from the south, is to be preferred.

63. It should be noted that Dr Miele accepted (**xx**) that the RSAF does not require a scheme in this location which causes harm to the setting of the Listed Station building. In particular he expressly conceded that the relationship the RSAF illustrative scheme has with the Listed Station building (as designed on plots N5 and N6 – equivalent to Plots C and D on the appeal scheme – and shown in **ID24**) is not in his view harmful. He recognised that the RSAF scheme had been specifically designed, as explained by Mr Doyle by reference to **ID24** figure 3, so that built form framed the Station on the approach to it rather than appearing behind it. It is of particular importance that when one enters the Station square, in the last image of **ID24** figure 3, the built form in the RSAF scheme drops down leaving the silhouette of the Station prominent. This is in marked contrast with the appeal scheme shown in figure 2 of **ID24** and figures 16 and 17 of Mr Doyle's Supplementary statement.

64. Dr Miele attempted to address this (in **rx**) by saying that he did not believe the RSAF was predicated on the need to avoid harm to the Listed Station. However, with respect to him this is not an accurate reflection of policy. CR10 and CR11 both emphasise the need to "*conserve and where possible enhance*" listed buildings and their settings. Indeed CR11 at paragraph 5.4.8 particularly emphasises the need for schemes to be "*carefully designed to avoid detriment*" to the Station building.

Similarly, Dr Miele's reliance (in **rx**) on the permitted 80 Cavendish Road scheme as causing a low degree of LTSH to the Station was misplaced. Each scheme turns on its own facts, the 80 Caversham scheme does not appear behind the Station from Station square south, and it is not known whether that scheme could have avoided harm, but Dr Miele's view was that the RSAF scheme on Plots C and D could avoid harm, whereas the appeal scheme does not.

65. Against that backdrop it is particularly damning that Mr Collado (xx) accepted that the DAS did not identify the Station building as a constraint. Indeed when asked to respond to the fact that nowhere within the DAS does he acknowledge that policy says harm to the Station should be avoided, his response was "*Perhaps we should have put something in on it*". It is submitted that this is symptomatic of the Appellant's approach to heritage matters. Given that they were not taken into account during the design process it is hardly surprising, indeed, it is to be expected, that the scheme arrived at is harmful to the Listed Station.

66. The contrast with the RSAF could not be more pronounced. The design process of the RSAF Illustrative Scheme included a careful analysis of the approach to the Station as part of its evidence base (Mr Doyle LF figure 15) and the new rail Station has been designed, in line with the RSAF to be set away from and frame the view of the Listed Station building from the south (Doyle Main Proof Figure 32).

67. In terms of how the RSAF treats the Listed Station building, it is notable that when looking at building heights for Plot N6 (equating to Plot D of the appeal scheme), figure 6.9 on page 37 (**CD7.1**) provides:

> *"Benchmark height likely to be at least 10 storeys – refer to tall building policies and design guidance."*

68. As Mr Newton agreed (xx) this refers back to CR10 (he said you must "*look at tall buildings policy to judge acceptability*" and that one must "*test the text in figure 6.9 against the policies in the plan.*"). The RSAF identifies the historic Station building as "*one of Reading's most prominent historic buildings*" (12.6), it notes the need to alter it to some degree, but nowhere does it countenance <u>harm</u> to its setting (12.8-9). It is simply not correct to say that either the CR suite of policies or the RSAF is

predicated on harm to the Station. The fact that Dr Miele appeared to believe the opposite undermines his evidence. The fact that Mr Collado failed to consider it as a constraint is damning.

69. The reality, Inspector, is that should permission be granted for this scheme it would countenance permanent and significant harm to the setting of one of Reading's most prominent historic buildings. Furthermore, it is harm which has been shown to be unnecessary to achieve the vision set out in the Central Reading suite of policies and the RSAF.

70. Given the way in which housing is addressed within policy CR11, where it is made expressly subject to the need for a high quality of design, it is simply unrealistic to assert that public benefits are capable of outweighing this harm when one applies the NPPF paragraph 202 balance, nor to assert that the harm has received "*clear and convincing justification*" in paragraph 200 terms. Similarly this harm alone puts the development squarely at odds with the Development Plan.

Other Heritage assets

71. The development would not only cause harm to the Listed Station. Following Dr Miele's concession (PoE para.3.10, 8.29 and 9.20) that one should read "Negligible adverse" within Table 2.6A of the ES (CD1.43, page 2A-7) as being a "low degree of less than substantial harm", it is common ground that harm would be caused to both the Grade II* listed Town Council Chamber and the Market place and London Street Conservation Area.

72. As explained in relation to the Listed Station building, the Design Code cannot be relied upon at reserved matters stage to reduce this harm in any meaningful way.

The Grade II Listed Town Hall*

73. In respect of the Town Hall Dr Miele states in his PoE (and confirmed in his oral evidence) that the development would cause a very low level of LTSH, but qualifies this by saying it is not "*materially harmful*" (paragraph 9.21 and following). Given the concession that LTSH would be caused, and given that the Design Code cannot be relied upon at reserved matters to reduce harm, the only difference between the parties is whether the harm caused is minor or very low.

74. In either case the harm must be given "*considerable importance and weight*" in the planning balance, must have "*clear and convincing justification*", and the presence of such harm renders the development in conflict with the Development Plan, requiring as it does that such development should "*conserve and, where possible, enhance*" the Grade II* listed Town Hall and its setting.

75. In seeking to downplay the importance of the harm to the Grade II* listed building, as Mr Bridgland explains, Dr Miele has failed to recognise the importance of the building (Rebuttal PoE at 3.25). Paragraph 199 of the NPPF explains that the more important the asset, the greater the weight to be placed on its conservation. Accordingly, Mr Bridgland's assessment of a minor degree of LTSH should be considered in the light of the Grade II* listing of the building. Furthermore, Mr Bridgland explains that Dr Miele's conclusion, that LTSH to a Grade II* listed building is "*not materially harmful*", fails to respect the need to give such harm considerable importance and weight, as emphasised in *Barnwell Manor*.

76. For completeness, Mr Bridgland addressed the 5 reasons why Dr Miele asserted the harm was "not materially harmful" (cx):

    i. "*impact is experienced over some distance"* – (NB) "*As set out in the HIA (Appendix 2 to Mr Bridgland's PoE) at 3.43 the Town Hall has an important function as the landmark building in the town. Built as the tallest building at the centre of the town, it is a clear intention that the building can be appreciated over some distance.*"
    ii. "*The town hall does not orient to the view line*" – (NB) "*The role of the town hall in views from Duke Street are different to those from Friar Street, but allow the town hall to be seen in the context of the core of the historic town.*"

iii. "*this is a partial view*" – (NB) "*Since the building has been designed to form part of the dense urban core, partial views should be expected and can add to appreciation by highlighting aspects of the building not apparent in other views*"

iv. "*the alleged impact will reduce materially as one walks forward into the scene and comes better to appreciate the architectural detailing*" – (NB) "*When one is close enough to appreciate the architectural detailing you may be too close to appreciate the Town Hall's visual and symbolic role in the historic town*"

v. As to Dr Miele's assertion that the view actually is not of value, even though he recognises that it is identified in the SPD as being of value, and that two closer views (54 and 55) do not identify harm, Mr Bridgland noted "*These other views (54 and 55) face away from the Town Hall.*" It follows that it is this view towards the Town Hall where one can appreciate its function within the town which is of significance.

77. It is submitted, for the above reasons, if and where the views of the experts on harm to the Town Hall differ, it is that of Mr Bridgland which should be preferred. The development would cause a minor degree of less than substantial harm to the grade II* listed Town Hall building.

The Market Place London Street Conservation Area

78. Again, both witnesses recognise that the development would cause a degree of LTSH to the Conservation Area, Dr Miele identifies this as "very low" (PoE 8.29), whereas Mr Bridgland classifies the harmful impact as minor. As with the Town Hall and Station this harm is not capable of being reduced at reserved matters.

79. It is hard to see that there is a meaningful difference between "very low" and minor. Mr Bridgland explains (Rebuttal PoE paragraph 3.21) that Dr Miele does not identify the cause of the harm which he considers to be a very low level and therefore

his reasoning is opaque. In part the ES is difficult to follow because it has been "*hampered by the failure to set out a clear understanding of the significance of the heritage assets*" (Mr Bridgland PoE 6.16). Mr Bridgland is correct to note that the statement of significance within the ES focuses on views, noting as it does that "*it is unlikely that development will be seen from within the Conservation Area*" (ES **CD1.39-1.41** statement of significance page 26, paragraph 6.41).

80. In contrast, Mr Bridgland (Rebuttal PoE 3.15-16) explains that the heritage asset here is the Conservation Area focused on the historic town. He further explained (cx) that:

i. The Market Place London Street Conservation Area Character Appraisal, in discussing the general character and plan form, is clear that Duke Street is at the core of the designation (**CD7.43** at paragraph 7.2); and

ii. The Report to Committee gives a full description of the view up Duke Street with a direct line of site possible as far as Market Square: "*the romantic Gothic roofscape of the former Town Council Chamber (Grade II* listed) appears over the intervening buildings to indicate the historic core of the town. Overall, this is a picturesque streetscape whose character reflects the long, evolved history of this part of Reading*." (**CD3.1** paragraph 8.138).

81. The GPA3 guidance on the setting of heritage assets (**CD7.42**) is discussed in Mr Bridgland's rebuttal PoE (3.15-16) which notes that a view may contribute to the significance of a heritage asset where "*the composition within the view was a fundamental aspect of the design or function of the heritage asset*". As Mr Bridgland explained (**rx**) the town hall is a part of the composition of the view which contributes to an understanding of it because it is an important part of the design and function:

> "*The way in the 1860s the town hall has been placed there is a mark of civic pride to be seen from the historic route coming into the town. It is both symbolic and aesthetic. It is definitely part of the function of that view. There is symbolic*

functioning as well. Church and state side by side. It is an important part of the function, but also deliberate design."

82. Mr Bridgland's evidence provides a careful analysis, consistent with and applying the guidance within GPA3, both as to why the view down Duke Street, far from being incidental, is integral to the Conservation Area and as to how the Town Hall was placed within that view to be seen as a mark of civic pride; Church and state side by side. His careful analysis is to be preferred to that of Dr Miele as demonstrating why the view contributes to the significance of the Conservation Area. The development would cause LTSH albeit of a minor nature to the Conservation Area because of the impact on this view.

83. As with the other heritage assets, this harm has not been justified in paragraph 200 NPPF terms. Along with the harm to the other assets it renders the development in breach of both national and local policy. It follows that the appeal should be dismissed on heritage grounds both because it is not clearly and convincingly justified in terms of paragraph 200, and because it fails the balance in paragraph 202.

84. Furthermore, the harm puts the development in substantive conflict with the Development Plan in particular EN1 and the CR suite of policies which include the tall building policy CR10 and the site specific policy CR11 in circumstances where;

i. it is accepted that a high quality of design which involves the need to carefully design a scheme to avoid detriment to listed buildings with particular emphasis on the Listed Station building, is of overriding importance;
ii. any development figures are indicative only, with potential to vary to achieve the primary aim; and in any event
iii. the indicative potential for the entire CR11e site (which includes 80 Caversham Road) is only 640-960 dwellings, 50,000-80,000 sq. m net gain of offices and 3,000-6,000 sq. m of retail and leisure.

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5. Design and Townscape

85. There are three fundamental problems with the way in which the Appellant has approached the design of the development which have resulted in a scheme which is substantively harmful and in breach of policy. The oral evidence given by Mr Chard provided clear evidence that the way in which Mr Collado has approached the design of the scheme has resulted in significant townscape concerns from a number of important viewpoints.

86. The way to unlock what is wrong with the scheme and why it has these harmful effects, Inspector, is to first consider the way in which the scheme has been designed, and then to consider what would be seen from key viewpoints should the scheme receive permission. In particular this section of the Closing Submissions will consider:

    i. How the scheme has addressed the need to protect important views of the Listed Station building from the south, in particular from the approach northwards along Station Road;
    ii. How the scheme has addressed height across Plots A-D in the context of the need to design a scheme which is focussed on the Station at its heart, and the need to satisfactorily address the relationship with surrounding development and residential occupiers by stepping down heights as one moves west across Plots D to A; and
    iii. How the scheme has addressed the need to provide, as part of the spatial strategy for the centre, a north-south link of high quality to change the perception of the area north of the Station as a separate entity.

87. In respect of the first two core issues, once the design elements have been considered, the consequence of that design in townscape terms will be addressed, from the corresponding viewpoints. As part of the consideration of these viewpoints the way in which harm has been assessed in the LVIA will be addressed and it will

be concluded that Mr Chard's analysis is tainted by errors, in particular he has failed to follow his own methodology in assessing the relevant viewpoints.

88. In reality the views as reproduced in a series of wire frames and montages, demonstrate that the scheme will have substantially harmful impacts in design and townscape terms. This is entirely predictable when one considers, as policy requires, the manner in which the DAS (**CD1.34**) addresses these issues and its failure to demonstrate that a careful design process has been followed, a process in which the key constraints should have been identified and addressed.

Strategic Priorities – the height and positioning of buildings on the Appeal Site

89. As discussed in Section 2 of these submissions, the National Design Guidance makes clear 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*". The strategic priorities of the Council can be distilled from a consideration of the Central Reading suite of policies in conjunction with the RSAF. The RSAF has an elevated and important role to play when considering the acceptability of development within Central Reading and in particular within the Station/ River Major Opportunity Area of which area CR11e (within which the Appeal Site sits) forms a part.

90. The RSAF provides the "*masterplan or planning framework for the area*" which "*will provide further guidance on the relative heights, massing and spacing of the buildings, and the function and quality of public realm around them, along with the relationship with the major transport interchange improvements delivered at Reading Station*" and it is the RSAF which provides the "*more detailed guidance*" to put flesh on the bones of the "*broad strategy*" described in Policy CR11 and figure 5.3 (LP paragraphs 5.3.39 and 5.4.9 refer)

91. Of particular strategic importance when considering the Appeal Site, sitting as it does within the Central Reading Area, the Tall Buildings area cluster (CR10a) and

the Station/ River Major Opportunity Area, is the need for development when considering the height, mass and siting of built form within Plots A-D, to fulfil three interlocking purposes: (1) to protect important views of the Station as well as conserving and where possible enhancing its setting, (2) to form a transition zone towards adjacent areas (particularly in relation to historic buildings and residential areas) with heights stepping down so that they relate appropriately to surrounding development and residential areas and (3) to enable the creation of a north-south route of the highest quality.

92. These submissions consider the need for the development to properly address the Listed Station first, because it is this consideration which dictates the extent of the height, scale and mass of built form on Plot D, as well as where within this Plot built form can be located, in such a way as to ensure that the setting and views of the Station are addressed in a policy compliant way. Given that there is a need for development to step down from Plot D to Plot A, it is necessary to determine from what height and where on Plot D height should be stepped down from. The location of built form on Plot D also has implications for the location of the north-south link through the site.

(i) The Station – Design and Townscape

93. Section 3 of these submissions considered the Station from a heritage standpoint. The Station also falls to be considered from a townscape perspective, although there is a degree of overlap. In particular, the flaws in the design process which have resulted in a scheme which causes a moderate degree of LTSH to the Station, have also resulted in harm to a kinetic sequence of views which include the Station from Station Road. It is necessary to consider how the RSAF and LP require the Station to be treated, in terms of the height and location of development surrounding it, and then consider how this has been addressed in the DAS.

Benchmark Heights

94. CR10(ii) describes the need for development on the Appeal Site to form part of a new cluster of tall buildings with the Station at its heart, following a pattern where development steps down from the tallest buildings at the centre to lower buildings at the fringes. Any scheme must also both contribute to high quality views (CR10(v)), and conserve and where possible enhance the setting of the Listed Station building (CR10(v) and CR11(vi)).

95. High quality views include significant views with a heritage interest which should not be harmed (EN5) – Mr Chard expressly conceded (xx) that RSAF view 58 (**CD7.1** at Figure 7.2) came within this policy as a view of acknowledged historical significance. He further agreed (xx) that Policy EN6 applied to the development as covering an area characterised by historic assets in which "*the historic environment will inform and shape new development*". In particular he agreed that the need for new development to make a positive contribution to the existing historic townscape in relation to vistas and views was applicable (EN6(a)). This was despite his acceptance that neither policy EN5 or EN6 had been considered within his TVIA (**CD1.42** Appendix 1.1a paragraphs 1.22-1.37), nor were they considered in the Built Heritage section of the ES (**CD1.39-41** Baseline Assessment page 18).

96. The detailed mechanism to ensure that harm is not caused to the setting of the Station or important views of it, is contained within the RSAF and is one of Benchmark heights reducing as one moves west across the Appeal Site from plots N6 (Appeal scheme D) to N3 (Appeal scheme A) (RSAF Figure 6.9).

97. Benchmark heights are given as 6, 7 and 8 storeys for N3-N5 (Plots A-C) and for N6 Figure 6.9 provides:

> *"Benchmark height likely to be at least 10 storeys – refer to tall buildings policies and design guidance."*

98. Mr Newton agreed (xx) that this is referring to CR10, and that the acceptability of any height of building on plot D should be tested against the policy requirements in

the LP. It follows that the Benchmark height for Plot D in the RSAF is expressly subject to the need to conserve and where possible enhance the setting of the Listed Station building (CR10(v) and CR11(vi)) and the need to avoid harm and where possible make a positive contribution to view 58 as a view of acknowledged historic significance (CR10(v), EN5 and EN6).

99. The RSAF gives further detail as to how this should be done:

i. Benchmark heights are set at 6,7,8 and * (see (iv) below) on Plot 10;
ii. Benchmark heights may be modified upwards but only where necessary to realise urban design or other major planning benefits or where there has been convincing demonstration that impacts can be mitigated;
iii. Heights should step down where needed to ensure that they relate appropriately to the historic core of the town (paragraph 6.29);
iv. In relation to Plot D, there is a rebuttable presumption that at least 10 stories will be appropriate, but this is subject to Policies in the LP which detail the need for development to conserve and where possible enhance the setting of the listed buildings and make a positive contribution to views, in particular CR10/ 11, EN1, EN5 and EN6 as discussed above.
v. View 58 (Figure 7.2 and paragraph 7.9, page 42 RSAF) is explicitly identified as a view of particular sensitivity where the "*emphasis will be on ensuring that, where development is visible, that it makes a positive contribution to the view*".

100. Further to this, Mr Doyle has provided the evidence base for the RSAF (LF figure 15), and so it is possible for you to see, Inspector, exactly how the RSAF Illustrative Scheme (section 14 of the RSAF and figure 14.4, page 81) was designed to take into account these specific considerations. In particular, the RSAF was supported by a study which modelled the approach down Station Road towards the Station in a series of kinetic views.

101. From this evidence base it is clear that the RSAF Illustrative Scheme was expressly designed to frame the Station clock tower as one approached along Station Road, and the built form on Plots N6 (D) and N5 (C) was designed to be at a height and in a location which would result in their dropping from view as one entered Station Square south. This was a calculated design response to enable the silhouette of the Listed Station building clock tower to retain its prominence from this important series of kinetic views. Moreover, Dr Miele has confirmed that from a heritage perspective this approach avoids harm to the setting of the Listed Station building.

102. Mr Doyle has also provided the storey heights of the RSAF Illustrative Scheme as calculated from the model (**ID50**). From this amended figure 2 it is clear that the height of built form on Plot D has been limited to 12 storeys. The location of the RSAF buildings on Plots N6 and N5 (corresponding to Appeal Plots D and C) is shown in Mr Doyle's rebuttal PoE figure B (page 64). From this figure it is apparent how the position and footprint of these RSAF buildings have also been tailored to preserve the views from Station Road and Station Square South. This can be contrasted with Figure 14 on page 31 which shows that the appeal scheme would appear to rise from immediately behind the clocktower, over a very large extent of the Station Square south, and from much of the approach along Station Road.

103. As already noted, it is entirely predictable that the appeal scheme causes harm to the view from Station Road, as well as to the setting of the Listed Station. This is because:

    i. In spite of the need to carefully design development in sub area CR11e to avoid detriment to the Station (LP 5.4.8), Mr Collado accepted that the DAS does not consider the Station as a constraint;
    ii. In spite of Mr Chard's acceptance that LP policies EN5 and EN6 apply to the development and consequently there is a policy requirement that the development should not harm and should where possible make a positive contribution to these views, these policies are not mentioned in the ES;

iii. The DAS at page 23 does not identify the view along Station road within the assessment of wider context, in spite of the view being identified as viewpoint 58 within the RSAF;

iv. In consequence (and as shown in the DAS at pages 59-60) there is simply none of the consideration required by both LP policy and the RSAF (whether equivalent to that in the RSAF evidence base or at all) of what height and location of building the parameters on Plots C and D could accommodate whilst protecting the setting of the Station and views of it.

View AVR10

104. The harm to views of the Station from Station Road is shown in a series of kinetic views produced by Mr Doyle at **ID24** as well as within the latest AVR10 image at **ID49**. The views are considered by Mr Chard within his TVIA (at **CD1.42** at 1.4a and 1.5a), but the same material can also be found within the appendices to Mr Chard's PoE at MDC-5b and MDC-5c. Wherever you view them, Inspector, the page numbering and heading on each page is the same - I will refer to these views under Appendix 1.5a page numbers where appropriate.

105. It should be noted from the outset that Mr Chard confirmed (in answer to your questions) that you are able to use his methodology and tables to arrive at your own determination of the significance of effect of any views described in the TVIA. This is important because Mr Chard has made a series of errors both of fact and in the application of his own methodology, which invalidate his conclusions on the harm the development would cause to the views he has considered.

106. AVR10 is assessed by Mr Chard at page 32 of Appendix 1.5a. He agreed (xx) that significance of effect is calculated by combining sensitivity with magnitude of impact. He notes that sensitivity of this view is medium, but the magnitude of impact is small. So applying the significance of effect table in his methodology (**CD1.42** chapter 1a, page 1-4, table 1.8/ or page 7 of appendix MDC-1) this should be a minor

impact not a negligible one. In answer to your questions he attempted to use the table 1.9 criteria to justify any difference, but table 1.9 is describing the matrix in table 1.8.

107. It is submitted that Mr Chard in reality sought to use table 1.9 to set aside the results given by the Table 1.8 matrix. But the description table 1.9 provides for a "*negligible adverse*" effect is one of "*a barely perceptible change in the view*". This is the same description as that for a "*very small*" magnitude of impact in table 1.7. The reading for AVR10 on page 32, however, is "*small*" not "*very small*". It follows that any attempt to change the outcome derived from the significance of effect matrix in table 1.8, based on the criteria in table 1.9, would be inconsistent with the assessment of magnitude of impact in table 1.7 in any event.

108. So, the impact for view AVR10 in the TVIA, correctly applying Mr Chard's methodology should be "*minor*" as a result of correcting this mistake. However, as I put to Mr Chard in xx, the change shown in this view is obviously "*noticeable*" (he answered both that it was and that it wasn't noticeable), and given the way the built form rises behind the clock tower the alteration in view would actually be a "*pronounced*" deterioration. Mr Chard accepted that: if you find the alteration in view "*noticeable*" that equates to a moderate adverse impact, if you find it "pronounced" that is a major adverse effect and that this is an exercise you can carry out. It is submitted that the change is obviously "*noticeable*", the real question is whether it is "*pronounced*".

109. To answer this question involves analysing Mr Chard's note that the development would "*complement the approved project of 29 Station Road*" and that "*it would appear below the existing skyline*" as this is principally what he has found to bring down the magnitude of impact.

110. AVR10 shows that 29 Station Road has no impact on the view of the Station, this is because it appears off to the side and therefore does not impact on the eye-level focal point of the viewer in the lower middle skyline. It does not impact the silhouette of the Station on the skyline in the centre of the view, it is off to one side and frames the Station.

111. In contrast as Mr Chard accepted (xx) the appeal development would appear in the eye-level focal point. The importance of this is made clear by the Historic England Advice Note 4 (**CD7.24** p.17 figure 6(a)) which shows how tall buildings placed on the skyline at the focal point of a viewer visually compete with heritage assets and impact the skyline. This is exactly what the appeal development does: it does not frame the view (as the 29 Station Road development does), rather it competes with the clock tower and impacts the lower middle skyline at exactly the focal point of a viewer looking north along Station Road.

112. Once this is understood, it is clear why the development would have such a harmful effect on this viewpoint, as Mr Doyle and Mr Bridgland have found. This explains why there is a "*pronounced*" deterioration in the view – Mr Chard's assertion that it would appear below the existing skyline is simply incorrect and misses exactly what is harmful about this view. A "*pronounced*" deterioration (and therefore a major adverse impact) is a more realistic assessment than just a "*noticeable*" deterioration (giving rise to a moderate impact) and I invite you to so find Inspector. But on any view the deterioration is "*noticeable*" and therefore the impact on the view is moderate adverse. Policy requires that the development should not harm this view and should make a positive contribution where possible. Whereas the proposed development causes at least moderate harm.

113. The above analysis assumes that Mr Chard is correct to assess the sensitivity as medium, however (as you explored in your questions) this is questionable when applying Mr Chard's criteria. Under his table 1.5 addressing "*Value*" the methodology states that a location which is of national importance because it has designated assets should be categorised as being of "high value". He noted that this was a "problem" with his criteria, but the criteria are clear and require an assessment of high value.

114. In any event, given the importance attached to the Listed Station building in policy (see CR11 at 5.4.8 and the RSAF at 12.6 which identifies the Listed Station building as "*one of Reading's most prominent historic buildings*" placed at the centre of the strategy), high value is a far more appropriate assessment of this view. This higher value combined with "*susceptibility*" would operate to raise the "*sensitivity*" of the

view above the "*medium*" on page 32, which would in turn raise the "*significance of effect*" when combined with the "*magnitude of change*".

115. The fact that this view should have a "*high sensitivity*" rating is further confirmation that the correct assessment for the significance of effect which the development would cause is "*major adverse*" – a pronounced deterioration.

Character Area 4

116. Mr Chard's assessment of the significance of effect which the proposed development would have on Character Area 4 is also deeply flawed. In relation to this case, concerning as it does views of the Station this is particularly important because of the way views of the Station are bound into the sensitivity of the character area. Something Mr Chard did not appreciate.

117. CA4 is the character area in which AVR10 is located. The Tall Buildings Strategy "TBS" (**CD7.44**, Appendix 1, page 11) identifies the townscape sensitivity of CA4 to the inclusion of tall buildings to be high. But Mr Chard accepted (xx) that he had not considered the assessment at page 11 of the TBS when arriving at the baseline sensitivity for CA4 within his TVIA (App. 1.2a starts at CA22 on page 2). He also accepted that the baseline in the TBS identifies the original Station building as a "*key townscape feature*" which "*provides focus to views to the north*" (table row 6). Something not considered in his assessment of the impact the proposed development would have on CA4.

118. When one considers the importance afforded to the Listed Station in policy and the TBS as well as within Mr Chard's own methodology (Table 1.2 also provides that designated features or areas of national importance are of "*high*" value), Mr Chard's assessment that the sensitivity of CA4 to the change proposed is low (Appendix 1.5a/ MDC5-A page 16) simply cannot stand – it should be "*high*".

119. Furthermore, his assessment of a "*small*" magnitude of impact giving rise to a "*negligible beneficial change*" also fails to accord with his criteria. In the notes he relies upon two factors to downplay any impact - that the proposed development

would "*combine to provide the perception of increased urbanisation*" and would provide "*an improvement in the legibility of built form and wayfinding*". But he accepted (xx) these factors were not identified as positive factors in the key views section of the TBS on page 11. When relevant factors, as identified within the TBS, are considered and the methodology in Tables 1.4 and 1.9 applied, it is plain that there would be at least a "*partial alteration*" to the existing townscape resource and therefore a "*medium*" magnitude of change and "*moderate*" significance of effect, even applying Mr Chard's methodology.

120. Mr Chard (rx) drew your attention, Inspector, to the 2018 update to the TBS (**CD7.45**), which provides (final box on page 26) that tall buildings "within the character area itself" would remain uncharacteristic. It is submitted, however, that this is to miss the point. The updated TBS records "*no significant change*" under "*key views*". Therefore, the view of the Station is still noted as being one of the two identified key views, and the only one providing focus to the north. The TBS states that tall buildings within the character area would be uncharacteristic and harmful, it does not say that tall buildings affecting this key view would not also be harmful. The "*high sensitivity*" value is for the CA as a whole.

121. Mr Chard's continued attempt to downplay the importance of the Station, his failure to consider the CA4 baseline and the relevant section of the TBS within his TVIA, and his consequent reliance on factors which it does not assess as important whilst omitting to consider its assessment of the Station view as a key view, operate to undermine his assessment.

122. As with viewpoint AVR10, it is submitted that Mr Chard has failed to recognise that the value and therefore sensitivity of CA4 is "*high*" and that the magnitude of impact is also higher than he has assessed. This is because he has failed to appreciate the importance afforded to the Station and its prominence as forming the subject of a key focal view from Station Road. He has mistakenly treated increased urbanisation as a positive. In reality the impact is adverse. Indeed his "offsetting" positive against negative effects is simply not recognised within his own methodology. If one considers his table 1.9 in the appropriate context, it is clear that the development would realistically have a moderate or major adverse effect in that it would result in

"*partial deterioration*" or "*considerable deterioration*" of the existing townscape resource and I invite you to so find, Inspector.

AVR25

123. View AVR25 is the view as one enters Station Square south. Mr Chard affords this view "*medium*" sensitivity (page 38 of TVIA Appendix 1.5a). He goes on to find a "*medium*" magnitude of impact at the operational stage. However, rather than finding the significance of effect to be "*moderate adverse*" (as he does at the construction stage where he also finds a medium impact) he concludes it to be "*negligible beneficial*". In his notes he says this is because (1) more tall buildings add interest and (2) the variety of articulations provide a positive contribution. But this is to entirely ignore the importance of retaining the prominence of the Station as the focus of the view (HEAN4 at **CD7.24** and TBS at **CD7.44** discussed above).

124. The effect of more buildings behind the Station (where currently no tall buildings appear) would be to compete with the Station and cause it to lose its prominence in the view. In his PoE Mr Chard noted (at 7.60) that the committee had not considered kinetic views. Mr Doyle has provided these at **ID24** figure 2. These show exactly how the appeal development would appear to swing around directly behind the clock tower as one entered the square. Kinetic views are further evidence of the harm the appeal proposal would cause.

125. In reality there is simply no basis for Mr Chard to change his significance of impact assessment from "*moderate adverse*" to "*negligible beneficial*". Applying his own methodology, (as with AVR10) there would either be a "*noticeable*" or "*pronounced*" deterioration in the view and therefore a "*moderate adverse*" or "*major adverse*" impact. In this location the only realistic conclusion is that the development would represent a pronounced deterioration. To argue that the impact is beneficial, on the basis these tall buildings would "*add interest*", is absurd.

Conclusion on issue (i)

126. It is submitted that, in effect, Mr Chard, in his TVIA and evidence, is attempting to retrospectively justify an extremely harmful adverse impact on the Station and views of it, whereas what policy requires is that the Station should have been recognised as a constraint and that any scheme be carefully designed to avoid detriment to it. The difficulties Mr Chard had trying to justify his approach in xx and in answers to your questions, arise from a failure to properly address the Station within the DAS. The evidence demonstrates that there would be a series of significant and harmful impacts on the Station in substantial conflict with policy.

(ii) Height across Plots A-D in the context of the need to design a scheme which is focussed on the Station at its heart, and the need to satisfactorily address the relationship with surrounding development and residential occupiers by stepping down heights as one moves west across Plots D to A

127. It is clear from the previous section that the height and location of development on plots C and D has been arrived at without having due regard to policy. The RSAF evidence base demonstrates that 12 storeys on plot D, located so as to frame the Station from the south rather than harm its setting and views of it, is acceptable from a design standard, reflecting the Benchmark heights in table 6.9 and related guidance. The appeal proposal on plot D rises too high at 20.8 commercial stories and is in the wrong place. The same is true of the positioning of Block C. Benchmark heights have simply been ignored.

128. A similar approach has been taken, in that Benchmark heights have been simply ignored, in respect of the need to step the development down as one moves across the Appeal Site from east to west, and retain the focus on the Station at the heart of the cluster. Furthermore, the fact that the development on Plot D is too tall means that this excessive height has, in effect, been used to set an excessively high building height on Plots A-C, rather than the height being set by the Benchmark.

129. Policy identifies areas to the west of Caversham Road and north of Vastern Road as being of particular sensitivity, as well as identifying the need to avoid significant

negative impacts on outlook, amenity and residential character (CR10(v) CR11 Figure 5.3 and RSAF figure 6.10). In particular Policy CR11 emphasises the need for any development to "*give careful consideration to the areas of transition to low and medium density residential*" (CR11(vi)) and paragraph 5.4.8 emphasises that:

> "*schemes in these areas should take account of the fact that there are areas of low-rise housing fringing the area, and this should be reflected in the design of the schemes, both in terms of the effect on character of the area and on the amenity of residents*."

130. The key to understanding the difference between the treatment of Plots A-D (N3-6) in the appeal scheme, as compared to that in the RSAF, can be readily appreciated by reference to Mr Doyle's LF Figure 32. This shows, as he describes, the RSAF scheme stepping down across the Appeal Site to meet the Caversham roundabout and residential development to the west of Caversham Road.

131. In contrast LF Figure 32 (read with the **ID30** heights comparison) shows the Appeal Site at 20.8 commercial storeys on Plot D (last column), 15.6 on Plot C and 15.2 commercial storeys on plot B, before it actually rises again to 15.6 on Plot A. When one looks at LF Figure 32 it is apparent that the appeal scheme, particularly from views to the west such as AVR4 and 7, maintains its height over a significant portion of Plots C-A. The width and depth of the 15-16 commercial storey development relative to each Plot is what creates the effect described by Mr Doyle as the "toast rack". One loses any impression of the development stepping down as one moves away from the area of the site in closer proximity to the Station.

132. It is necessary to examine why this effect is different from the RSAF Illustrative Scheme, how this has come about in the design of the appeal scheme, and why it is harmful.

133. The RSAF does not contemplate any landmark building on Plot A (Figure 6.9). It contemplates local landmark buildings on Plots B-C and emphasises that the Benchmark on Plot D must comply with tall buildings guidance (accepted by the Appellant to be CR10 in particular). It explains at paragraph 6.26 that "*Landmark buildings may exceptionally "puncture" the Benchmark heights*". This is what one

sees in the RSAF Illustrative Scheme. No landmark building on Plot A, and slender towers which puncture the Benchmark heights on Plots B and C. This creates a stepping down effect as one moves from east to west. As Mr Doyle explains (rebuttal 2.3.7 referring to his rebuttal figure 2):

> "*The RSAF Illustrative Scheme shows tall but slender buildings that will infringe upon views to a far lesser extent than the appeal scheme as indicated in the Parameter Plans*"

134. It is this built form, extending tall buildings across a large proportion of each sub plot rather than puncturing Benchmark heights, right the way across the Appeal Site up to the westernmost building on plot A, which presents as a scheme which does not step down and flatly ignores the Benchmark heights in the RSAF. The contrast between the two schemes is evident from Mr Doyle's LF Figures 17 and 19.

135. Why is Plot A so tall? Mr Collado intimated in his rebuttal and **cx** for the first time that it was to mark Caversham Road roundabout, but as Mr Doyle explained (by reference to his LF figure 12 in cx), this amounts to an ex post facto justification that does not stand up to scrutiny. Buildings such as Thames Quarter, designed to address a roundabout can be seen in LF Figure 12 (building 3). The tall building on Plot A does not address the Caversham Road roundabout at all it is off to one side (see LF Figure 17 and AVR4 at **ID49**).

136. When one examines the DAS, it is clear that this document did recognise the requirement in policy that:

> *"As recommended in the local planning guidance, the proposed development's height should gradually rise from West to East."*

137. On page 77 this text appears under "constraints and opportunities" and is accompanied by a diagram showing a red arrow rising from west to east. On page 90 the height of Block D is shown as being reduced as part of pre-application discussions. Although not referred to in the text or response, the accompanying diagram shows Plot A being increased in height. Mr Collado accepted (xx) that the

increase in the height of Plot A was "*not specifically addressed in the DAS*". The reality is that it is not mentioned at all, is wholly unjustified, and is contrary to the identified constraint which reflected policy requirements.

138. Throughout the course of the Inquiry the Design Code has been amended to remove any requirement for the height to rise from east to west (the various deletions are collated in paragraph 2.8.2 of Mr Doyle's Supplementary statement). Indeed in his chief note presentation (**ID28**) Mr Collado, at page 14, deletes the westernmost part of the arrow in his reproduction of the figure from page 77 of the DAS.

139. This amounts to a tacit recognition, Inspector, that the scheme you are being asked to allow on appeal ignores the Benchmark heights, which require development to step down as one crosses the site from east to west, along with any requirement in the RSAF that heights should step down so that they relate appropriately to surrounding development and residential areas (RSAF 6.29).

140. The suggestion that the taller building on Plot A was intended to address the roundabout is simply an attempt to retrospectively justify a change which is contrary to the identified site constraints. The Appellant's purported reliance on taller development on the 80 Caversham Road scheme is also misconceived. As Mr Jupp pointed out (xx) at 6.2.23 of the 80 Caversham Committee Report (**CD7.57**) it is noted that:

> "*in overall terms the proposed massing on the Caversham Road frontage is acceptable, albeit this is considered by officers to be at the very upper limits of acceptability owing to the character of the area to the west.*
>
> *Figure 31 – Left: RSAF Figure 14.8 – illustrative proposals showing the buildings fronting Caversham Road at 7 storeys, rising to 9 storeys in the south-west and north-west corners of the application site. Right: Extract from the Addendum DAS showing 8 storey residential/ part 5/ part 7 storey office building fronting Caversham Road*."

141. The appeal development at 15.6 commercial storeys on Plot A is not comparable to the 8 storey residential/ part 5/ part 7 storey office building fronting Caversham Road, which the 80 Caversham Road scheme permits.

AVR4

142. The effect of the Appellant's decision to disregard guidance on Benchmark heights, failing to step down the height of the scheme from east to west, is apparent when one moves on to consider the views from the west.

143. Mr Chard agreed the following in xx:

i. RSAF figure 7.2 (page 42) identifies AVR4 as view 39, one of the "*shorter distance views that are of importance*" and for which "*the emphasis will be on ensuring that the development…makes a positive contribution to the view*";
ii. RSAF figure 8.2 (page 45) confirms that Caversham roundabout is an important intersection and point of orientation;
iii. Local Plan Figure 5.3 (page 149) confirms the roundabout is part of a "*key movement corridor*" and as part of a high quality, well designed development (CR11 paragraph 5.4.5) it is important to get this view right.

144. In the TVIA AVR4 is considered (with fuller notes) at page 5 of Appendix 1.4a (or appendix MDC-5b). Sensitivity is given as "*low-medium*" and within the sensitivity column it is noted that "*the Thames Tower in particular helps draw the eye towards the Station*". Mr Chard expressly accepted (xx) that this is important because the redevelopment of this area centres on the Station and CR10(a) provides that the Station should be at the heart of the cluster.

145. Mr Chard assesses the magnitude of impact as "*medium*", but rather than a "*minor/moderate*" or "*moderate*" significance of impact as his methodology would suggest, he arrives at a "*negligible beneficial*" significance of effect. In coming to his determination not only does he seek to set off positive and negative impacts in a way that is not provided for within his methodology, he also notes, as a central part of his assessment, that views along Caversham Road would be channelled towards the proposed development and that spatial offsetting between the buildings would

allow views towards the existing buildings south of the railway line, such as the Thames Tower.

146. In xx, however, Mr Chard accepted by reference to AVR4 as shown on the last page of **ID49** that views through to the Thames Tower would not be possible from AVR4, and therefore any role which the Thames Tower had in drawing the eye towards the Station would be gone.

147. Applying Mr Chard's criteria in table 1.9 this would amount to a "*noticeable*" deterioration in the existing view and a "*moderate adverse*" significance of effect. This is because, as is evident from AVR4, and as Mr Doyle explained in his evidence (both oral and written), the buildings on Plots A, B and C are too tall being more than twice the Benchmark heights. Policy (CR10a, CR11 and the RSAF at figure 6.10 and paragraph 12.6) requires the Station "*at the heart*" of the cluster, with the tallest buildings close to it and a step down in height to lower buildings at the fringes. Should the appeal development be permitted it would be the building on Plot A, actually taller than that on Plot B, which would appear to be at the heart of the cluster. If anywhere this is where the observer would expect to find the Station.

148. Mr Chard (in rx) asserted that the view of Thames Tower may be blocked by permitted development such as the 80 Caversham scheme in any event, but this is to miss Mr Doyle's point. Policy requires that the Station should be and be seen to be at the heart of the cluster. From this view, agreed as being an important view, an important intersection and point of orientation, and part of a key movement corridor, the proposed development would prevent the Station from fulfilling this role. It would signal the centre as being somewhere else.

149. The RSAF proposes no landmark on Plot A, but the appeal scheme proposes development to 15.6 commercial storeys meeting Caversham Road. The RSAF provides that area S2 (Station Hill) should have a district landmark. Such district landmarks are "*the very tallest and most prominent buildings distinguishable from across the reading district*" (RSAF page 33). "local landmarks" should be "*clearly subordinate*" to them. But, in the appeal scheme, not only is the built form on Plot A far in excess of the Benchmark heights and not only does it contain a local landmark when it should not, but it would not be clearly subordinate.

150. Policy requires a high quality of design, not just betterment. Even if the significance of effect for this view were "*negligible beneficial*", contrary to the analysis above, the treatment of Plots A-C is an example of how the scheme has been poorly designed. The DAS constraint to step down from east to west across the site has been ignored with no proper explanation. In so doing the strategic aims of the CR group of policies to set the Station at the heart of the cluster from this important key movement corridor would be frustrated. This is a clear example of poor design which fails to reflect the strategic priorities of the LPA, which the National Design Code states should be central to the design process of the development and should "*form the basis for the design characteristics of the development*".

AVR7

151. This view is at Appendix 1.4a, page 8 with the cumulative view at Appendix 1.5a page 21. You took Mr Chard to this view in your questions, Inspector (referring to MDC-5b and c). Mr Chard agreed sensitivity for this view should be recorded as "*high*" (the reference in MDC-5b being an error). Magnitude of impact is stated to be "*medium*". So applying tables 1.8 and 1.9 the significance of effect should be "*moderate*" or "*major adverse*".

152. Mr Chard seeks to set off what he terms a "*medium beneficial impact*" caused by "*locally distinctive built form with a variety in massing and heights with greater offsets between the taller elements*", with the fact that "*The large scale of the proposed development would be noticeable in views and result in adverse very small magnitude of impact*". However, this does not fit with his methodology, either in terms of offsetting or in terms of what it says about "*noticeable*". An application of Mr Chard's methodology at tables 1.7 and 1.9 affords a "*medium*" magnitude of change and a "*moderate*" adverse significance of effect respectively to alterations resulting in a "*noticeable*" deterioration. Therefore one would expect a "*noticeable*" affect to be a "*moderate*" adverse impact not a "*very small*" one.

153. In your questions, Inspector, you asked Mr Chard about a noticeable or pronounced change and he said that "*If it was uncharacteristic, it would be a pronounced change.*

Here it is not because of other consented schemes". However, this merely serves to indicate that the impact of this scheme on its own and its impact with other cumulative schemes would be pronounced, in that it would be more than just "*noticeable*".

154. Mr Chard indicated that you can form your own view. The reality is that when one looks at AVR7 (**ID49**), and bears in mind that the sensitivity of this receptor is high, this shows a magnitude of change of the most pronounced kind. Should you allow the proposed development it would cause a "*major adverse*" significance of effect to this view, as a straight-forward reading of Mr Chard's own methodology would indicate.

155. As with other views from the west such as AVR4 this reflects the fact that in the design of the appeal scheme Benchmark heights have been ignored (see also LF Fig 17), as have LP and RSAF requirements to step down development in order to relate appropriately to surrounding development and residential areas. It could not possibly be said that this scheme accords with the presumption that heights should "*grade back to the established heights in the surrounding area*" (RSAF paragraph 6.25).

(iii) The need to provide, as part of the spatial strategy for the centre, a north-south link of high quality to change the perception of the area north of the Station as a separate entity

156. There has been a change to the route of the north-south link between the Station and the river, brought about by the 55 Vastern Road appeal Inspector allowing that appeal. The effect of this change is that the route will no longer run straight across the 55 Vastern Road site, it will need to follow a dog leg around the retained electricity equipment, as shown in Mr Doyle's LF figure 26. The issue on this appeal is whether the design of the appeal scheme has considered the impact of this change and whether it still results in a north- south link which is both sufficiently direct and of a high quality of design.

157. From the outset it should be noted that there is no consideration within the DAS of whether any alternative route across the Appeal Site is required, following the 55 Vastern Road decision. Mr Collado accepted this (xx). It follows that if the placement of Plots on the Appeal Site results in a high quality north-south route it would be by chance and not by design.

158. Mr Collado agreed (xx) that:

i. Policy CR11e requires a high quality route;

ii. CR11e provides development capacity figures for the entire sub-area which are indicative only and these figures are subordinate to the need for high quality design;

iii. The proviso within LP 5.4.6 that "*Improving links for pedestrians and cyclists through the centre, particularly in a north-south direction, is one of the key principles for the spatial strategy of the centre*" applies to the north-south link as it passes through the Appeal Site;

iv. The Appeal Site development should build on and extend the existing grid layout and structure of the central area as described in policy CR2 and the Reading City Centre Framework page 10 (**CD7.46**);

v. Routes in an offset grid (as shown in figure 20 on page 42 of Mr Doyle's rebuttal PoE) are inherently less well connected than a distorted grid because an offset grid has three connecting points as opposed to the four in a distorted grid;

vi. The strategic priorities of the LPA should be central to the design process and form the basis of the design characteristics of the development; to achieve a well-designed place the DAS must make the right choice for the layout (as the National Model Design Guide provides at paragraphs 4 and 21).

159. Mr Collado accepted that the route shown in the DAS constraints and opportunities section (page 78) reflected the position prior to the 55 Vastern Road decision. The illustrative concept (page 128) shows two possible routes through the 55 Vastern Road site, but does not contemplate any other route through the Appeal Site. Mr

Collado said (**xx**) "*I did not see the need to*." Furthermore, he accepted that there is no other documentation showing that an alternative alignment was contemplated.

160. The Inspector on the 55 Vastern Road appeal found that the SSE equipment was a fundamental constraint and therefore the direct line through the site could not be maintained (CD5.1 paragraph 21). Mr Collado accepted (xx) that there is no such constraint affecting the alignment of the north-south route through the Appeal Site.

161. Although Mr Collado (cx) opined that the SSE site had been designed in response to his site, the route the 55 Vastern Road Inspector contemplated across the Appeal Site is shown in figure 39 of Mr Doyle's appendix C to his PoE (taken from the 55 Vastern Road DAS). That figure shows a different route for the north-south link across the Appeal Site allowing it to connect onto Vastern Road directly opposite the entrance to the 55 Vastern Road Appeal Site – this would be a distorted grid connection to Vastern Road with four connecting points, rather than an offset grid with three points of connection. Mr Collado admitted (**xx**) that he had not considered such a layout.

162. Mr Doyle's LF figure 28 shows three alternative alignments of the north-south route across the site – none have been considered by Mr Collado. It can be seen that route C in particular could be achieved by amending the Parameter Plans for Plots C and D to protect the significance and views of the Station by enabling a design of development more similar to that shown in the RSAF Illustrative Scheme (see for example Mr Doyle's Rebuttal Appended figure B on page 64).

163. Mr Doyle's LF figures 24 and 26 show how the orientation of the north-south route through the appeal scheme will result in the view of those walking the route being terminated whether walking to or from the Station, as Mr Doyle explained both in his written (Rebuttal PoE paragraph 2.5.29) and oral evidence. The route from the Station will be blocked by Block B of the 55 Vastern scheme just as Mr Doyle demonstrates in figure 22 of his rebuttal PoE; the route to the Station will be blocked by buildings within Plot C of the Appeal Site as shown in figure 21.

164. An indirect route such as this will not change the perception of the area north of the Station as a separate entity (CR11 paragraph 5.4.6), rather it will serve to reinforce

a feeling of separateness. This is demonstrated by Mr Doyle in his views from the north and south provided at **ID4.6 and 4.7**. Both of these visualisations demonstrate how a view through can be provided simply by shifting the alignment 14 metres to the west.

165. The RSAF at paragraph 5.9 states that the north-south link is "*The most significant movement corridor in the RCAAP, and is vital to the success of development in this area*". The National Design Guide (CD7.17 paragraph 82, page 13) notes that "*Prioritising pedestrians and cyclists means creating routes that are direct.*"

166. The Appellant relies on the width of the route through the Appeal Site as being generous. But quality is not just about width and treatment, it is primarily about alignment and directness. Because of the need to retain the SSE equipment the north-south route cannot be direct through the 55 Vastern Road site, it must rely on wayfinding measures. However, there are no such fundamental constraints precluding a high quality and direct north-south link, a route which avoids the need to connect through to the SSE site as part of an off-set grid terminated by buildings. Policy requires a high quality route, and it is submitted that Mr Doyle's evidence should be preferred as demonstrating that the current alignment no longer provides for such.

6. Sunlight and Daylight

167. Sunlight and Daylight considerations have been addressed in so far as they impact, or rather don't impact, the weight which can be placed upon the Illustrative Scheme when determining the appeal. This section considers the harm which the proposed development would cause to residents of dwellings both existing and proposed, should you allow the appeal, Inspector.

168. The first point to note at the outset is that, following Mr Crowley's evidence (xx) it is accepted both that the scheme would cause harm and that this would constitute a breach of LP policy CC8 – Mr Crowley accepted that the proposed development would cause a detrimental impact on the living environment of existing and/or new residential properties in terms of access to daylight, and therefore breach CC8. The only issue between the parties being the precise extent of the detrimental impact. The consequence of that concession will be examined below.

169. It should be remembered that until the Appellant's letter of 30 May (**ID56**) no attempt had been made to analyse the impact of the Illustrative Scheme on existing residential properties. This is because it was recognised that any appeal scheme to ultimately come forward was constrained by the Parameter Plans and therefore to assess the scheme's effects on existing residential properties, these Parameter Plans should be used.

170. In respect of proposed dwellings internal to the appeal scheme, however, some form of Illustrative Scheme had to be used as it is not possible to assess the effects on properties within courtyard blocks using Parameter Plans which don't contain courtyards.

171. Although the Appellant provided some information at **ID56** purporting to address the impact of the Illustrative Scheme on existing properties, and amended the Design Code to include the "not materially worse" clause, I have already explained in section 3 of these submissions why it is that this clause does not, and cannot, operate

to restrict the height and volume of any final scheme to closely resemble that of the Illustrative Scheme.

172. Furthermore, as Dr Littlefair also explained in his "Note on Submission by the Appellant on sunlight and daylight issues" (**ID78)** at paragraph 2.6, this assessment cannot be relied upon as no massing diagrams have been provided so it is impossible to verify what scheme was analysed. In any event, (paragraph 2.7) this analysis shows a significant impact on 64 of the 66 windows analysed at 17-51 Vastern Road.

173. Given that, you must test the acceptability of the appeal scheme against the Parameter Plans in respect of existing development, from this point on these submissions concentrate on the agreed evidence in the June 2022 statement of common ground: Daylight and Sunlight (**CD12.6**) in respect of existing properties. I will then move on to consider the effect on proposed residents using the Illustrative Scheme as has always been contemplated and as is also addressed in the June SoCG.

174. Finally, I will address impact on the 55 Vastern Road scheme permitted on appeal.

(i) Existing Properties

Loss of Daylight to 17-51 Vastern Road

175. The witnesses have assessed impacts on the existing properties using both appropriate methodologies: vertical sky component (VSC) which measures the amount of light reaching a given window (**ID54**, page 3), and daylight distribution within the room sometimes called no sky line (**ID54**, page 4). The measurements for each and the ramifications will be considered below.

Vertical Sky Component

176. The June SoCG (**CD12.6** paragraph 4.5) provides:

"*It is agreed that the summary of vertical sky component (VSC) results for 17-51 Vaster Road are that 0 windows (0%) will meet the BRE guidelines and experience a negligible impact. All the windows analysed would experience an impact ranging from moderate to major adverse.*"

177. Mr Crowley (xx) agreed the following:

i. Of the 57 windows he analysed in 17-49 Vastern Road, 39 would experience relative reductions of 33-39.8% (taken from page 7 of Dr Littlefair's presentation (**ID54**));
ii. The other 18 windows would have relative reductions of 40% or more (also from page 7);
iii. In the 8 Albert Embankment call in decision (**CD5.5**) (in which the SS agreed with the Inspector's recommendation on sunlight and daylight matters) "*very significant weight*" was given to the harm to the occupiers of Whitgift House and 2 Whitgift Street (paragraph 759) and this was in respect of some reductions of 40% (paragraph 837);
iv. On the basis that Dr Littlefair confirmed that only 17 windows in Whitgift House and 2 Whitgift Street were affected by a more than 40% reduction in respect of the 8 Albert Embankment scheme, more windows were so affected in the appeal proposal;
v. Furthermore, paragraph 837 of the recommendation confirms that any suggestion that higher daylight levels are more applicable in the suburbs and that poorer conditions may be considered acceptable in dense inner-city areas should be treated with "*great caution*".

Daylight Distribution

178. The June SoCG (**CD12.6**) confirms the Appellant's acceptance that 36 rooms (69%) would fail to meet the BRE guidelines in terms of daylight distribution.

179. Mr Crowley accepted (xx) that not only would the effects on daylight distribution be outside the BRE guidelines for 36 of the 50 rooms analysed, but that 11 would

have impacts of more than double the BRE recommendation (explained at **ID54** page 8).

180. Although Mr Crowley suggested (Position Statement paragraph 5.1.19) an alternative daylight distribution target that up to 50% of the room could lie behind the no sky line, Dr Littlefair explained this is not published guidance and could give rise to a large gloomy area covering almost half the room. Furthermore as Percy Waldram's research has demonstrated this is unlikely to be acceptable to the occupants and in any event 15 rooms would fail even this low threshold (Dr Littlefair PoE paragraph 4.18, and rebuttal PoE 3.10 and 3.13-15).

Major impacts

181. Appendix A to the June SoCG identifies "*major*" adverse impacts on the following property numbers: 17,19,21,23,25,27, 29,31,33,35,37,39, 41,43,45,47, 49 and 51. This amounts to a "*major*" adverse impact on each and every property. Mr Crowley accepted (xx) that "*There are a lot of major adverse impacts*." Dr Littlefair noted (cx) the need to take all major adverse impacts very seriously.

182. Policy CC8 provides that development "*will not cause a detrimental impact on the living environment of existing residential properties or unacceptable living conditions for new residential properties, in terms of…Access to sunlight and daylight*". Mr Crowley accepted the proposed development would breach this policy.

183. The supporting text at 4.1.36 provides that a "*key concern*" is "*to ensure that new development does not reduce the quality of the environment for others, particularly where it would affect residential properties.*" Mr Crowley accepted that the way in which one should test detrimental impact is by reference to the BRE guidelines in accordance with paragraph 4.1.42 of the LP.

184. On that basis alone, it is clear that at least "*very significant weight*" should be given to the harm to the occupiers of 17-51 Vastern Road which would be caused by the development's effect on their VSC and daylight distribution.

185. This can be compared with the RSAF Illustrative Scheme. Although not every window and room in that scheme would meet the BRE guidelines a hugely improved percentage would. As Dr Littlefair explains (**CD54** page 10), with the RSAF scheme only 16 of the windows analysed in 17-49 Vastern Road would not meet the BRE VSC Guidelines as compared to all 57 with the Appeal scheme.

186. The Appellant may seek to pray in aid the Inspector's decision in the Woking appeal and the "two stage test" to which it refers (produced at **CD5.2**). However, each case must turn on its own facts and evidence. The Woking Inspector found at paragraph 46 that there was no breach of the development plan in respect of sunlight and daylight issues because "*the proposed development would not cause any harm*".

187. However, the context in this appeal is that Mr Crowley has accepted that there is a breach of policy CC8, and although he has noted that the precise level of detrimental impact is not agreed, he has agreed that "*there are a lot of major adverse impacts*" in circumstances where the development plan applicable here identifies (4.1.36) a "*key concern*" that new development does not reduce the quality of the environment for others with particular emphasis on residential properties. Furthermore, Mr Crowley has accepted that in the context of this LPA and this LP the level of detrimental impact is tested against the BRE guidance as provided in paragraph 4.1.42.

188. As noted already, the strategic priorities of the LPA should be central to the design process and form the basis of the design characteristics of the development. Reading has given residential amenity in terms of access to sunlight and daylight high priority as measured against the BRE Guidelines. Furthermore, the context in the Woking case included circumstances where the Council had granted development which would have the same effect as that proposed (see paragraph 37). Whereas, as demonstrated, in the present case the RSAF demonstrates that the Appeal Site can and should be developed without causing the level of detriment the appeal scheme causes.

(ii) Proposed Building

Daylight in Illustrative Scheme

189. The witnesses have measured the daylight levels in the Illustrative Scheme by using the Average Daylight Factor (ADF) which is expressed as the average illuminance in a room divided by the simultaneous horizontal unobstructed illuminance outside (under overcast conditions) (**ID54** page 12).

190. Mr Crowley accepted (xx) the following (from **CD54** page 14):

i. If one uses the recommended value of 2% (the kitchen value) for living/kitchen/diners, 63% of the rooms analysed would comply, assuming a realistic frame factor of 0.8;
ii. If one uses the lower value of 1.5% (the living room value), 70% would comply;
iii. Out of the 180 living/ kitchen/ diners or studios only 18% (33) would meet the recommended value of 2%;
iv. If one uses the lower value of 1.5%, of the 180 living/ kitchen/ diners or studios only 38% (68) would meet this value;
v. Three living rooms have an ADF of 0.2% and 2 bedrooms an ADF of 0%.

191. With the letter of 30 May (**ID56**) revisions were made to improve the performance of Block C. However in respect of this revised position, Mr Crowley accepted (xx):

i. In respect of living/ kitchen/ diners if one uses the recommended value of 2% (the kitchen value) only 40% (36 out of 90 assessed) would meet the value;
ii. Again for living/ kitchen/ diners if one uses the lower 1.5% value only 78 or 79% (Mr Crowley said the difference was not material) would meet the value

192. Dr Littlefair explained that one of the ways in which the scheme has been "improved" (**ID56** Appendix F) is to divide up some of the living/ kitchen/ diners to create non-daylit kitchens. He calculated 31 in total (34%). The BRE guidance provides (**CD7.20** paragraph 2.1.14) that non-daylit kitchens should be avoided whenever possible. It is only where a small internal galley type kitchen is "*inevitable*" that a direction is made for it to be directly linked to a well day-lit living room. The fact that it is only by "improving" the scheme that non-daylit kitchens have been provided demonstrates that their presence in the scheme is not "*inevitable*". This indicates that the more reliable figures to take in respect of daylight in the proposed development are those derived from the Illustrative Scheme unimproved.

193. In discussing the acceptability of the proposed building ADF levels Mr Crowley sought to rely upon (but did not produce) the Epping Forest decision (paragraph 5.2.9 of his position statement refers). Dr Littlefair explained (rebuttal PoE 3.20) that in their reports for that scheme CHP gave proportions of 88% and 98% meeting the recommendations, and the Inspector gave "worst case" figures of 81% and 83% for living/ kitchens/ diners. Whether one takes the "unimproved" scheme figures of 18%/38% or the "improved" figures of 40%/ 78 or 79%, even applying this measure, daylight provision in the proposed building would be inadequate.

194. This issue is brought to the fore by recent amendments the Appellant seeks to make to the Design Code. The Design Code now says (**ID89**) at paragraph 5.6.7 that 80% of habitable rooms in the proposed development should meet the minimum standards in the 2022 edition of *'Site layout planning: a guide to good practice*.' However, this means that up to 20% of rooms can be below the minimum, including all rooms in some flats. Depending on the mix of flats and level of compliance in bedrooms, it could result in less than half or less of the living rooms meeting the minimum standard. For example if we take a notional 100 flats, 50 of which are 1 bedroom and 50 two bedroom, this would give a total of 250 rooms. According to the Design Code amendment, 20% of these, or 50 rooms, could have daylight provision below the minimum standard. If all the bedrooms complied, then half of the 100 living rooms would have substandard daylight.

195. In his email Henry Parkinson states that they have '*included the quantum of habitable rooms which are required to achieve the recommended minimum levels in accordance with the latest guidance*'. However the latest guidance (**ID95**) does not mention that only 80% of rooms need comply. The change to the Design Code therefore represents a very substantive worsening of the standard of accommodation in the proposed development. The previous version (**ID67**) stated that '*Daylight assessments should prove achievement of standard recommendations described in BS8206 - Lighting for Buildings (2008)*' implying full compliance with the then relevant standard. This amendment amounts to an admission that the proposed scheme will produce inadequate daylight provision for proposed residents.

Appellant's Position Statement Appendix A data

196. Inspector you have queried the Appendix A data in the Appellant's position statement. Dr Littlefair addresses this in his rebuttal proof at paragraph 4.13-4.14. He notes that Appendix A of the Appellant's Position Statement is out of date and should be ignored. It is unclear why Mr Crowley included this appendix. It is a report dated 23rd September 2021; Mr Crowley revised the report on 6th October 2021 (**CD1.46**) and updated the data again for his Position Statement on 28th March 2002 (See Appendix F), and for the Statement of Common Ground on 10th June 2022 (**CD12.6** Appendix F). Appendix C of **CD1.46** uses BS 8206 part 2.

197. Dr Littlefair explained that appendix A is incomplete because it does not have all the data in it, and uses out of date glass transmittances and reflectances.

198. In his PoE (paragraph 3.24-5) Dr Littlefair explains that BS 8206 was superseded by BS EN 17037:2018 in May 2019 which recommends minimum levels of daylight significantly greater than those in BS 8206 Part 2. The UK National Annex to BS EN 17073 gives lower levels similar to BS 8206 Part 2.

199. If you, Inspector, wish to assess the development against EN17037 it would be possible to use the data at the end of Appendix F of the Appellant's Position Statement, however (as Dr Littlefair explained in cx and in **ID54** page 13) the data use an unrealistic frame factor of 0.9, which will lead to daylight provision being

overestimated. The 'Summary of Results' tables in Appendix A do not agree with the updated Appendix F data; in general, with the updated data in Appendix F there are more rooms with poor levels of daylight than the summary tables in Appendix A suggest. In summary, Appendix A should not be used, and should not have been included in the Applicant's Position Statement.

200. Adding up the totals in Appendix F, out of the 180 living rooms analysed only 74 (41% of the total) would meet the lower 150 lux target in the UK National Annex of BS EN 17037. This is with the unrealistic frame factor of 0.9. The way the results are presented, it is not possible to tell how many rooms would comply with a more realistic frame factor, or with the 200 lux target recommended for combined living rooms with kitchens in the UK National Annex of BS EN 17037. However the compliance rates in each case would be expected to be lower. This underlines that whichever standard is used, the proposed development would fail to meet it

Sunlight in the Illustrative Scheme

Inside rooms

201. The witnesses have measured sunlight inside rooms in relation to BS 8206 Part 2: sunlight is quantified by calculating the hours of sunlight falling on the centre of a window in a typical year as a % of unobstructed ground. The % recommended in the British Standard is 25% year round and 5% in winter (**ID54** page 15).

202. Mr Crowley accepts that:

i. A maximum of 13% of all living/ kitchen/ diners considered would meet the recommendation in the British Standard (position statement 5.2.12, confirmed in xx);
ii. Dr Littlefair calculates 21/180 which is 12%, and there is no material difference between 12 and 13% (xx);

iii. Dr Littlefair describes this as "unprecedentedly" poor (rebuttal 3.21) and Mr Crowley specifically accepted that he "*couldn't think of a worse scheme*";

iv. There are no new figures given in the revised Illustrative Scheme.

203. Dr Littlefair explains that (rebuttal 3.21):

> "*It is not credible that James Crowley can extrapolate from a 12% or 13% compliance rate on the lower floors to a compliance rate of 50% or more in the development as a whole, given that there will be fewer flats on the upper floors.*"

204. Although the Design Code (**ID89** at 5.6.1) speaks of "improving" sunlight/ daylight provision this is meaningless in the face of such a poor existing baseline. The best evidence is clearly that, should permission be granted, any development which comes forward would be woefully deficient in terms of sunlight received in living/ kitchen/ diners and that this would constitute a substantial breach of both the British Standard and LP CC8.

Open Spaces

205. For open spaces the BRE guidelines recommend that 50% of the space can receive at least 2 hours sunlight on March 21st (**CD54** page 16). Dr Littlefair explains that the courtyard and roof terrace to Block C would not meet this recommendation (only 4% would have 2 hours of daylight – Figure 11 in Dr Littlefair's PoE) and that an analysis based on a June 21 date (suggested by Mr Crowley on page 2 of the letter at **ID56**) is not part of the guidelines. Mr Crowley (on page 2 of the **ID56** letter) accepts that a failure to meet the guideline is not ideal.

206. Although the Design Code (**ID89** 5.6.3 and 5.6.6) requires lowering southeast corners of courtyards to a height necessary to enable the necessary amount of sunlight to be provided and requires the 2 hours to be achieved on 21 March, in the absence of an Illustrative Scheme showing this, there is no demonstration it will

result in the guideline being met. The exclusion where external amenity is not provided ignores that this will reduce amenity space provision and may result in a shortfall. The reality is indicated by Mr Crowley's letter at ID56, the Appellant feels that it is sufficient to meet the necessary provide 2 hours on June 21st. But this is not the guideline, and the guideline will not be met.

(iii) 55 Vastern Road (SSE scheme)

207. The latest position of the parties on daylight and sunlight impacts on the 55 Vastern Road scheme is set out in documents **ID70** "Joint Response by CHP and BRE on Daylight and Sunlight 16-9-22" and **ID78** Dr Littlefair's "Note on submissions by the Appellant on daylight and sunlight issues". The Council accepts, following the latest evidence produced by the Appellant at **ID70**, that sufficient evidence has been provided to show that it is possible to design the proposed accommodation on the 80 Caversham Road site with adequate levels of daylight.

208. Accordingly it is agreed that:

i. The Figures set out in the June SoCG for 55 Vastern Road Cumulative ADF (**CD12.6** Appendix D page 41) are correct but the column entitled "EB7 results from 20/05/2020" should be ignored (**ID70**);
ii. The CHP results on this table show that the majority of the 12 living/ kitchen/ diners will not achieve the ADF target (**ID70**);
iii. 11 of the 12 living rooms analysed would have ADF below the minimum recommendation, compared to 5 with the current retail park (Mr Crowley **xx**, **ID54** page 17);
iv. Annual sunlight to 7 of these living rooms and winter sunlight to 8 would be below BRE recommendations with the appeal scheme in place (Mr Crowley **xx**, **CD12.6** page 42, **ID54** page 17);
v. In total 10 of the 12 rooms would have losses of sunlight outside the BRE guidelines with 8 losing more than half their sunlight (Mr Crowley **xx**, **CD12.6** page 42, **ID54** page 17)

209. The Appellant says that this is acceptable, principally for two reasons:

i. This arrangement was accepted at the 55 Vastern Road appeal; and
ii. Although not agreed and although no data is before the Inquiry, in a letter at pages 8-9 of **ID78** Mr Crowley asserts he has rerun the analysis of ADF for 55 Vastern Road and with the Illustrative Scheme all living/ kitchen/ diners and for the parameter massing 10 of the 12 would meet the 1.5% and the remaining 2 would be just 0.1% away.

210. However, both of these reasons are flawed. In respect of the first, as Dr Littlefair explained (**cx**) the 55 Vastern Road committee decision (**CD3.58** at 4.14.2) provides:

> "*For the proposed dwellings…Where properties in Block A and B might be affected by the proposed development on the south of Vastern Road, as this application was still under consideration this impact could still be addressed*"

211. Accordingly, the Council was aware of the issue of low levels of light on this façade, but expected this issue to be resolved by modifications to this appeal scheme.

212. In respect of the second reason, Dr Littlefair explains (**ID78** paragraph 3.1) that the paragraphs discussing the rerun analysis in the letter at pages 8-9 are incorrect because they are based upon an analysis without balconies, which Dr Littlefair has consistently argued to be incorrect and is the reason he has agreed the Eb7 data should not be used in the first place (referring to the bottom of the first page of **ID70**). It follows that the agreed data on page 7 of **ID70** should be used which still shows that 11 of the 12 living/ kitchen/ diners would have ADF below the 1.5% standard. The approved plans for the proposed development at 55 Vastern Road have balconies, and these balconies should therefore be included in any ADF analysis.

Conclusion on Sunlight and Daylight

213. Should it be permitted, it is common ground that the proposed development would cause a detrimental impact on the living environment of existing and new residents in breach of CC8. This in turn would breach LP policies CR10(v) and CR11(vi) running contrary to paragraph 5.4.8 and guidance in the RSAF. The only question is how severe the detriment would be.

214. It is also common ground that there would be major impacts on all properties 17-51 in terms of daylight reaching those properties and that this constitutes "*a lot of major adverse impacts*".

215. In terms of sunlight impacts on residents within the scheme, Mr Crowley was unable to think of a worse example in terms of the percentage of rooms assessed failing to meet the standard. It is submitted that in the circumstance of this case, Dr Littlefair's evidence that it is not possible to extrapolate from 12 or 13% compliance to a figure of 50% compliance in the development as a whole is absolutely compelling. To use his words, this represents an "unprecedentedly poor" sunlight provision especially considering the large size of the development. Added to this, sunlight provision in the courtyard and roof terrace of Block C would not meet the relevant standard.

216. In terms of daylight provision for residents within the scheme, by whichever yardstick it is measured there is a large percentage of rooms which will not meet the standard. This is underscored by the Appellant's belated attempt to amend the Design Code a further time to reflect the fact that 20% of rooms can be below the minimum, including all rooms in some flats. Depending on the mix of flats and level of compliance in bedrooms, it could result in half or less of the living rooms meeting the minimum standard.

217. Finally, on the best evidence, allowing the development would consign 11 households within the development at 55 Vastern Road facing the Appeal Site to substandard daylight provision. Furthermore, 10 households would have losses of sunlight outside of the BRE guidelines with 8 losing more than half their sunlight;

in circumstances where the committee on that application expected the issue to be resolved through this appeal process.

218. These impacts separately represent deficiencies in daylight or sunlight terms which should be given significant weight. Cumulatively they represent development which causes extremely severe sunlight/ daylight impacts, including an unprecedentedly poor impact on sunlight provision for proposed residents of the scheme, which should be given the greatest weight in any planning balance and constitutes a very substantial breach of LP policy.

7. Trees, sustainability, public realm and open space

219. This section of the Closing Submissions addresses the appeal scheme's impact on trees, its approach to sustainability, public realm and open space.

(i) Trees

220. The entirety of the Appellant's case on trees articulated in Mr Chard's PoE at 7.91-2 is that the DAS shows a comprehensive landscape strategy could come forward within the development parameters and be secured by condition at the Reserved Matters application, and such a strategy could include tree retention.

Policy

221. 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."*

222. The National Model Design Code (**CD7.18** N.3.iii Street Trees point 27) elaborates on this requirement for:

> "*Careful positioning to allow space for the mature trees without causing obstruction or interfering with property, infrastructure, street lighting or junction sightlines*."

223. This Council's policy documentation in relation to trees provides as follows:

i. EN14 emphasises the need for new development to make provision for tree retention and planting, "*particularly on the street frontage*" to maintain and enhance the character and appearance of the area, improve tree coverage and biodiversity and adapt to climate change, "*Measures must be in place to ensure that these trees are adequately maintained*";

ii. LP Paragraph 4.6.28 emphasises that "*there will be a need to use appropriate large canopy species*" which are defined in Mrs Hanson's PoE at 5.42-5.46 with reference to relevant documentation;

iii. From a strategic perspective, CC7 and CR3 emphasise the importance of "*high design quality*" in relation to public realm, green infrastructure and landscaping, with CR3 emphasising the need for appropriate tree provision to create high quality spaces;

iv. CR11 and in particular CR11e in relation to the site specifically emphasise the need for high quality design in relation to green infrastructure;

v. The Sustainable Design and Construction SPD (**CD7.7**) specifies at paragraph 5.4 the preference, where possible, to use large canopy species that provide more benefits for climate adaptation, this is more pressing for the Appeal Site given its location in the designated Air Quality Management Area (AQMA), within a "low canopy cover ward" on a designated "tree corridor" (see Tree Strategy CD7.8 as discussed in Mrs Hanson's PoE at 5.32 and following);

vi. The RSAF at paragraph 5.6 provides for Vastern Road and landscaping as public realm priorities (bullets 5 and 10) with a description of the vision for Vastern Road given at 5.12 as transforming the character to a tree-lined avenue. This is of town wide importance given that it is a "*central element of the town centre public realm*";

vii. RSAF Fig. 8.3 (page 47) shows a tree-lined avenue on Vastern Road in diagrammatic form. The RSAF Illustrative Scheme at Figure 14.1 (page 80) shows a tree-lined avenue, as does the perspective view at Figure 14.8 (page 82). The text at paragraph 14.6 provides that '*New landscaping and tree-planting enhance the environment of the key routes and spaces*."

The Appeal Scheme

224. The Natural Environment Officer, Sarah Hanson's PoE raised fundamental concerns about the appeal scheme, with reference to the Parameter Plans and their conflict with the requirement for successful tree retention and the planting of required large canopy trees.

225. Following the round table discussion on tree & landscaping matters on 3 May 2022, and as requested by you, Inspector, the Council provided a "Note on Vastern Road tree planting" dated 9 May 2022 (**ID39**) which confirmed the species along the central reservation (along with reasons for the choice), provided detailed plans of underground utility constraints to tree planting on the Vastern Road frontage, and concluded that it had "*not been demonstrated that planting, as shown on the Illustrative Landscape Masterplan* (within Section 7 of the DAS – **CD 1.55**), *can practically be implemented*".

226. Also following the round table discussion, the appellant submitted their "Additional Material – Vastern Road Sections" document dated 6 May 2022 (**ID33**). This shows indicative tree planting along the "*urban edge*" (as defined in the Design Code), moots how T9 of the TPO could be retained, illustrates the "*Cycle lane / Pavement / landscaping arrangements*" on the Vastern Road frontage and comments on tree selection for this frontage. A response to **ID33** was provided by the Transport Development Control Officer on 11 May 2022 (**ID44**) and the Natural Environment Officer on 12 May 2022 (**ID45**). The former raises concerns about the indicative way TPO 09 is proposed to be retained. The latter comments on the fact that tree planting relies on Highways land (there being no sufficient provision within the red line) as well as addressing the associated issues of tree planting close to the kerb edge, the lack of appellant comment on the constraint posed by services, the lack of an AIA covering how TPO 09 could be retained, inconsistencies in drawings, lack of clarity on how levels would be dealt with and finally comments on the appellant's tree selection (narrow form trees).

227. Following further discussion on tree retention during the Inquiry, the appellant submitted a revised "Additional Material – Vastern Road Sections" on 11 July 2022 (**ID33 – Revision A**). This acknowledges the underground services along the Vastern Road frontage (extending into Caversham Road), refers to amended indicative tree planting, provides for a minor amendment in respect of TPO 09 retention and the "Cycle lane / Pavement / landscaping arrangements", and contains an additional paragraph on tree selection.

228. The Council's response to **revised ID33** is provided in **ID66**, providing a comparison with the original ID33. The **revised ID33** provides no response to the Council's **ID39** (Notes on tree planting) - no written acceptance or acknowledgement of the tree planting restrictions is given - nor does the appellant respond to the Council's **ID44** & **ID45**.

New Planting

229. From **Revised ID33**, read with the Council's documents discussed above, it is possible to conclude the following:

i. The DAS indicates a 5m strip on Vastern Road for planting. Mrs Hanson explained (round table and PoE paragraph 6.15) why this was insufficient focusing on canopy space.
ii. Now service constraints are known. This restricts tree planting to a strip along the frontages of Plots C & D, entirely on Highways land, and limited to *"a line 1.0m from the kerb line where services permit*" which is insufficient for canopy and root space. Based on advice given in GreenBlue Urban's Soil Volume Guide (Appendix 4, page 46 of Sarah Hanson's PoE), it can be seen that "large canopy trees" require a minimum 31m3 soil volume. The limited planting strip would not allow this per tree.
iii. Revised **ID33** does not address, or take into account, the matter of canopy conflict (discussed by Mrs Hanson during the Round Table

discussion and at **ID39** page 1), i.e. a minimum 10m set back from the kerb is required to avoid canopy conflict, as this provides the space needed for the mature canopy and to limit canopy overhang of the highway until trees have grown enough to make crown lifting to 5.5m above the highway feasible. Otherwise, to meet with the statutory requirement (as interpreted in Reading), the lowest branches would have to be 5.5m above the road at the time of planting;

iv. No confirmation is provided that the utility providers would be content with trees planted in such close proximity to their service route (last paragraph of **ID39**) or that a suitably sized soil volume could be provided for the required large canopy trees.

v. Although within his evidence (cx), Mr Chard referenced existing trees in the central reservation on Vastern Road, the second paragraph of **ID39** details the specially designed tree pits for the central reservation, i.e. sufficient volume for those (narrow form) species was provided whilst preventing conflict with services.

vi. The appellant has not therefore demonstrated that any planting of large canopy trees, with their associated soil volume and canopy space requirements along the Vastern Road frontage would be feasible within the confines of the proposed parameters.

vii. Whilst the **revised ID33** provides an additional paragraph in section 4 stating that agreements can be reached at reserved matters stage with utility providers to ensure that the planting does not adversely affect the services present, this leaves the feasibility of tree planting to the reserved matters stage. The appellant could build out to the full extent of the parameter plan footprint, leaving potential tree planting confined to the limited locations in front of Plots C & D (which locations have not been agreed with Highways). If at that point it is determined that tree planting is not feasible, then the scheme will be without tree planting on the Vastern Road frontage contrary to EN14, the adopted Tree Strategy and Reading Station Area Framework, as well as the appellant's indicative planting.

viii. Policy EN12 requires new development to maximise opportunities for enhancing the Green Network. This is discussed in 5.5-5.10 and 6.38-

6.40 of Sarah Hanson's PoE which explains that the failure of the appeal scheme to demonstrate that large canopy trees can be successfully retained and planted on the main frontages represents a breach of this policy.

Tree Retention

230. Also following further Inquiry discussion on trees, the appellant provided on 18 August 2022 a document called "RPA for trees Caversham Rd" (**ID68**) which focused on T7, T8, T17 & T18 of the AIA. From **Revised ID33** and **ID68**, read with the Council's response at **ID69** it is possible to conclude the following in respect of tree retention:

i. The proposed scheme entails the loss of five TPO trees (T7-T9 and T11-T12 of the AIA) as well as other non-TPO trees;

ii. The retention of TPO 09 is based on a scheme to divert a cycle lane around a landscaped area protecting the tree. That cycle lane encroaches on Plot A Parameters Plan Revision P2 which you, Inspector, are being asked to approve;

iii. **ID68** confirms that T7 & T8 would have to be removed to be "*mitigated with new landscaping the detail of which would be submitted at the reserved matters stage*", but as discussed above (and in **ID69**) the scheme provides insufficient space for new landscaping;

iv. **ID68,** stating as it does that protection could be secured for T17 and T18 via condition at the reserved matter stage, relies upon the Illustrative Scheme being further away from T17 and T18 than the existing building. However as discussed in section 3 of these submissions (and the **ID69** response), the appeal scheme must be determined on the Parameter Plans which show that the RPAs could be detrimentally impacted, both by construction of the new building and by future pruning requirements as a result of a multistorey building closer to the trees.

231. Throughout the Inquiry process, the Design Code in relation to trees on Caversham Road has been changed. **ID89** now reads, in 6.1.4:

> "*The development will retain T1 and T2 (as shown on TPO 3/06) along Caversham Road taking into account the need to accommodate a vehicular access from Caversham Road, the permitted building lines and root protection zones*"

232. However, (assuming root protection "zones" is intended to mean "areas") the wording of the Design Code still fails to give the necessary protection to T17 and T18 as it is not possible both to take account of the permitted building line (Plot A as defined in the Parameter Plans) and the RPAs because there is a conflict between the two (see **ID69**).

233. The appellants documentation fails adequately to respond to the tree and landscape matters raised in the evidence of the only tree expert to give evidence - Sarah Hanson. The LP and RSAF supported by the other guidance discussed above, contain particular strategic priorities in relation to this Station/ river major opportunity area, sitting as it does within the AQMA a "low canopy cover ward" on a designated "tree corridor".

234. Far from providing development in keeping with the RSAF's vision for Vastern Road, a "*central element of the town centre public realm*", ensuring that it is transformed in character to a tree-lined avenue, the scheme fails to provide sufficient space for the required large canopy trees on the Vastern Road frontage". Indeed, the proposed scheme entails the loss of five TPO trees (T7-T9 and T11-T12 of the AIA) as well as other non-TPO trees, and the documentation provided does not demonstrate how the two TPO trees purported to be "retained" (T17 and 18 – T1 and T2 on the TPO) can be successfully retained without direct harm and the need for future pruning. The scheme as proposed is contrary to the requirements of both national & local policy and the other adopted documents.

(ii) Sustainability

235. The approach to sustainability considerations required in the LP and the RBC Sustainable Design and Construction SPD (**CD7.7**) is one of "fabric first" measures, it being noted in paragraph 4.2 of the SPD that "*applicants should seek to improve fabric efficiency in the first instance.*" This is inherent in the structuring of the relevant policy framework as well as within section 4 of the SPD and Figure 4.1.

236. As the round table on energy and sustainability progressed, it became clear that the Appellant, in its design of the appeal scheme, had failed to adopt this approach. Mr Newton (xx) accepted that just because the RSAF shows a particular arrangement and orientation of blocks of buildings within its section 14, this does not obviate the need for the DAS to demonstrate that that these factors have been considered as part of the requirement to demonstrate a robust strategy to minimise carbon dioxide emissions. However, it became clear this is precisely what the Appellant has done.

A Flawed Approach

237. The relevant policy context within the LP is set by policies CC2, CC3 and H5. CC3 relates to "Adaptation to Climate Change" and expressly provides that all development "*will demonstrate*" how it has been designed to incorporate measures to adapt to climate change. Specific measures expressly provided as being required to be incorporated into development include as the first measure:

> "*Wherever possible, new buildings shall be orientated to maximise the opportunities for both natural heating and ventilation and reducing wind exposure and other elements*".

238. During the round table on policy CC3, Moditha Wickamaratna (for the Appellant) pointed to the words "*wherever possible*" one should maximise, and said that this was "*not the sole principle*". But it is submitted this provides no adequate response

to justify the approach the Appellant has taken. Positioning of buildings is not the sole principle, but it is a critical starting point from which all other considerations follow. Given Mr Newton's acceptance that nothing in the RSAF precludes the need for the DAS to demonstrate that the scheme has been designed considering factors such as orientation, it cannot be suggested that it is not "possible" to demonstrate how the development has been expressly designed to orientate new buildings to maximise opportunities for these purposes.

239. The Council's witness, Timothy Crawshaw MRTPI, has extensive relevant experience as set out in his PoE at paragraph 3: he has acted as climate change and urban planning consultant to the United Nations Development Programme in Europe and Africa, and is now the chair of the Tees Valley Nature Partnership and immediate past chair of the Historic Towns and Villages Forum. He noted in the discussion on CC3:

> "*It is a question of the quality of the evidence in the design process. How is the evidence for that maximising shown there? If there is no understanding of the baseline, how can you maximise?*"

240. The matter came up again during the discussion on the RSAF. When it was asserted by the Appellant that alternative scheme arrangements had been looked at, you, Inspector, asked how you were supposed to see that from what was in front of you. The answer was:

> "*You don't see that from what is in front of you*"

241. When you pressed the Appellant about orientation of the buildings, their witness referred to the massing on the south corner dropping to allow sunlight to come into the space between, but as Mr Doyle noted:

> "*We can see at CD8.19 (Mr Collado's PoE) and ID28 (his presentation) what Mr Collado says that he has done. If it is not set out here one has to question whether it was considered. In particular when he wrote 6.1.1, he had seen Mr Crawshaw's evidence at that stage*."

242. Paragraph 6.1.1 sets out the constraints and opportunities Mr Collado claims that the design process took into account. There are no sustainability considerations listed there. Not even an indication that factors such as orientation to maximise opportunities for natural heating and cooling, ventilation, wind exposure and other factors were part of the process. Nor is there any indication that any of the considerations in the other CC3 bullet points influenced the design: nothing on solar shading, thermal mass, heating and ventilation, the use of trees and landscaping to adapt to climate change and so on.

243. This is entirely unsurprising as none of the appeal documentation including the DAS considers these factors. However, the fact that Mr Collado does not address these matters in his presentation, after receiving Mr Crawshaw's evidence is particularly telling. From paragraph 35-41 (pages 14-15) Mr Crawshaw expressly discusses the DAS and notes that:

i. There is no adequate treatment of insolation and solar shading which "*do not appear to have influenced the scheme design in terms of sustainability*";
ii. Wind and cooling have not been analysed and therefore cannot be counted on as being a significant design consideration;
iii. The role of existing and proposed landscaping and how this could contribute to site resources has not been assessed and therefore cannot have been key design considerations;
iv. Any role of water features in reducing the heat island effect is not considered and is a missed opportunity;
v. The sun path analysis is limited to the need for natural light in the buildings and amenity spaces;
vi. The illustrative concept suggests the same elevational treatment for each aspect in terms of solid to void ratios irrespective of orientation for solar gain and it is not clear how PV will be integrated into roof design (something Mr Doyle elaborated on in the round table explaining the various competing interests in respect of roofs).

244. Mr Crawshaw carries out a similar analysis of the Design Code (pages 15-16), the Residential Development Energy and Sustainability Statement/ Strategy (**CD1.19-1.20**) (pages 16-17), the Non-Residential Development Statement/ Strategy (**CD1.10**) (page 17) and the ES (**CD1.3**) (page 17-19), but the commentary on the DAS read alongside Mr Collado's presentation is of particular relevance. This is because this exercise demonstrates that Mr Collado had the opportunity to explain how these factors had been considered in substance, even though absolutely no mention is made of them in the documentation. He did not do so.

245. The reality is, Inspector, on the best evidence it is clear that Mr Crawshaw is correct to say (as he does at page 20 of his PoE) that the application fails to demonstrate a robust strategy in terms of minimising carbon dioxide emissions. He is correct to note that the lack of a proper assessment of relevant factors undermines the energy hierarchy and fails to demonstrate a strategy to reduce carbon emissions through passive measures and "Fabric Energy Efficiency". As Mr Crawshaw notes these matters "*are fundamental to the design principles of the proposed development*" and "*the Parameter Plans that would form any approval will result in a form of development that has not been proven to optimise the natural resources of the site in terms of sun, ground, wind and vegetation*".

246. In a similar way the development fails to comply with CC2 which relates to sustainable design and construction. This provides that proposals for new development will be acceptable where "*the design of buildings and site layouts use energy, water, minerals, materials and other natural resources appropriately, efficiently and with care and take account of the effects of climate change*". As Mr Crawshaw explained the design of the buildings does not take into account fabric energy efficiency measures. It assumes a layout and then provides a series of "*bolt on*" measures.

247. As Mr Jupp explained, the fact that Policy CC2 contains a second paragraph referring to the need for non-residential development to meet the various applicable BREEAM standards depending on whether they are major or minor developments, has no bearing on the general applicability of the first paragraph. If there were any

doubt the supporting text makes clear (as Mr Newton accepted in his oral evidence) that: "*The general principle of this policy in terms of development, applies to both residential and non residential uses*."

248. Paragraph 4.1.5 of the supporting text notes that "expectations of performance" of new build homes in terms of emissions are set out in policy H5. But the "*general principle*" of Policy CC2 in its first paragraph relates to the need, in the first instance, to design the buildings and the layout of sites to take into account the various ways in which passive measures can be used to ensure that energy and other natural resources are used both appropriately and efficiently and take account of the effect of climate change.

249. Policy CC2 is therefore a freestanding policy and Mr Newton was not correct to suggest (in his oral evidence) that it was parasitic on policy H5.

250. But in any event policy H5 provides specific and additional standards for new housing. In particular, for new housing there is a list of 6 relevant standards (a)-(f), one of which (c) provides that all major new-build residential development (such as the appeal development) "*should be designed to achieve zero carbon homes*". The supporting text at 4.4.46 explains what is meant by "zero carbon homes":

> "*Therefore, the requirement will be that major new housing is built to zero carbon homes standard. A revised Sustainable Design and Construction SPD to be produced in 2019 will contain more detail on achieving this requirement, but in general where homes are not designed to be carbon neutral, this will mean as a minimum a 35% improvement in the dwelling emission rate over the 2013 Building Regulations plus a contribution of £1800 per tonne towards carbon offsetting in Reading*"

251. So "zero carbon homes" means (1) design homes to be carbon neutral, and (2) if this is not done then as a minimum a 35% improvement and a contribution is required. The SPD states at table 3.1 that for major development a zero carbon approach is required, it is only "*if unachievable, a minimum 35% improvement…and contribution to offset*" is acceptable. The glossary (page 45) simply makes clear that any development achieving at least the 35% can be termed a "zero carbon home"; Table 3.1 makes it clear that one only gets to that stage once one has demonstrated

that "Zero Carbon" is unachievable. But, as Mr Crawshaw explained, the DAS does not go through the exercise of establishing a baseline properly which considers passive measures in order to establish what is achievable.

252. Section 4 of the SPD deals with energy efficiency and it is clear that, in the first instance, applicants should address fabric efficiency because "*Fabric improvements are much more likely to ensure long-term carbon reductions and are generally achieved at lower cost than on-site generation*" (paragraph 4.2). A developer cannot therefore simply rely upon a 35% improvement and offsetting; but this is what the appellant has done. The entirety of section 4, including figure 4.1, is predicated upon fabric efficiency measures being taken first. And, as Mr Crawshaw explained (round table), the design of the development including factors such as orientation and layout is of central importance. To use Mr Jupp's words (cx) having referred to Mr Crawshaw's evidence:

> "*There is one simple reason why they have been unable to demonstrate this (*that zero carbon is unachievable*) – put simply sustainable design has been an afterthought in the design process*."

253. To allow the appeal in spite of this would be to wholly undermine the Council's strategy as laid out in LP policy and the SPD to meet the climate change challenge by using a fabric energy efficiency first approach, which is much more likely to ensure long-term carbon reductions. It would send the message that it is permissible to design a scheme first, and then simply address sustainability and climate change as an afterthought.

254. Finally, in relation to the ministerial statement on plan making, Mr Jupp explained that Policy H5 was adopted in 2019, and accordingly was made with full knowledge of the ministerial statement and PPG. The LP Inspector found the policy sound stating at paragraph 66 of his report that "*The standards are necessary in the light of local evidence, technical standards and other regulatory requirements*" (ID79). But whatever standard is applied, the approach advocated in the SPD and LP Policy of fabric energy efficiency first is unaffected.

(iii) Public Realm and Open Space

255. The evidence focusses on three main areas of public realm which the appeal proposal fails to address adequately: (1) Vastern Road, (2) Station square (north) and (3) the east-west spine in relation to the dual road arrangement. These submissions will address them in that order. The second area, Station square (north), also involves open space considerations. The east-west spine dual road arrangement is addressed in the section 106 agreement, but some submissions on this issue are required as the Appellant maintains that the mechanism intended to address this issue does not comply with the tests set out in Regulation 122 of the CIL regulations.

(1) Vastern Road

256. It is common ground that the Vastern Road interface is an important public realm priority. Within the RSAF it is described as a "*key public realm priority*" (paragraph 5.6) and transforming its character into a "*tree lined avenue as a central element of the town centre public realm*" is emphasised at 5.12. As already discussed above, this goal is compromised in respect of trees by the lack of space provided and there is a degree of overlap as the lack of space for trees also means the public realm provision is poor.

257. Mr Chard's fundamental argument on this issue is that the width of Vastern Road itself provides "*distinct separation*" and siting lower elements on Vastern Road "*constitutes a progression of scale*" from the lower residential development on Vastern Road to the tallest elements of the scheme via lower elements adjacent to Vastern Road (see Chard PoE 7.29 page 34).

258. The fallacy in this argument is apparent from an examination of Mr Doyle's rebuttal PoE at page 51 (Figure 26). As he explains the scale and setbacks are harmful and result in an unbalanced street, out of proportion with the adjacent two storey dwellings. This is as a result of insufficiently generous setbacks to create a threshold

or setting for the new development which consistently exceeds Benchmark heights and provides for buildings which rise sheer from the back of narrow pavements.

(2) Station Square (north)

259. Station Square (north) is also identified within the RSAF as a "*key public realm priority*". The RSAF envisages that Station Square (north) will be a high quality public space and, alongside Station square (south), a new town square. Its importance is emphasised at figure 8.2 of the RSAF (as well as figure 5.3 of the LP). Figure 8.2 calls it a public square and an "*important intersection and point of orientation*".

260. The key difference between the parties can again be encapsulated visually. Mr Doyle explained (**cx**) by reference to his LF figure 29 and figure 14.1 of the RSAF how the RSAF shows the Station square north extending into and across the Appeal Site, rather than hard against the southern boundary.

261. This can be contrasted with the Appellant's Building Plots parameter Plan (also shown on LF figure 29) which shows a crude rectilinear arrangement where building plots define the edges of the square. Mr Doyle demonstrates the impact this would have at figure 27 of his Rebuttal PoE (page 53). Effective permeability is limited. Figure 52 of Mr Doyle's main PoE (page 155) demonstrates how enclosure of the square in the appeal scheme compares poorly with the RSAF scheme. This visualisation demonstrates that Mr Doyle's concern that framing of the square appears accidental and "*entirely inappropriate for a major town square*" (PoE 5.3.6.6) is bourne out.

262. The relationship which Plot D would have with Station square (north) also has implications for the quality of this open space. As explained by Dr Carolyn Jenkins (PoE paragraph 5.7) the extension of the building on Plot D to extend over part of the square from second floor level upwards would restrict the flexibility and usability of this part of the open space. This oversailing arrangement is also demonstrated within Mr Doyle's rebuttal PoE on page 54 (Figure 28).

263. The Appellant's Figure 2 (**ID51**) shows that this area will not benefit from natural daylight due to direct sunlight for significant parts of the day compared with an open space that is not over-sailed. For example, on 21st June, around half the area over-sailed (or greater) is in the shade from 9 am – 2 pm, with around one-third in the shade at 3 pm and 4 pm.

264. Furthermore, figure 2 indicates that the overhang will need to be supported by thick columns. This adds to overshadowing and forms a higher degree of enclosure in the manner of a covered arcade and less sense of openness. This does not represent high-quality open space.

(3) <u>East-west spine interface</u>

265. The Appellant argues that the provision within the section 106 agreement (at schedule 14) for a shared access road is not necessary to make the development acceptable in planning terms (see Community Infrastructure Regulation 122 (2)(a)). They argue it is not necessary to ensure comprehensiveness and comply with policy and that it is not necessary to provide high quality public realm. This is simply wrong.

266. The Council is seeking to act consistently across this allocation and, for the Hermes proposal, Members accepted officers' advice about the policy imperative to ensure an effective use of land and the promotion of improved permeability through the site for pedestrians and cyclists. As a matter of principle, the same point applies to the Appeal Site. Option drawings for the shared access road that are proposed to be appended to the Hermes Agreement will form part of the Hermes permission once granted. Hence, there is a clear inter-relationship between the sites.

267. Paragraphs (ii) and (viii) of LP Policy CR11 support the policy case and state that development in this sub-area (which includes both sites):

    i. Should "*help facilitate greater pedestrian and cycle permeability*"; and

ii. Should "*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*.'.

268. This point of principle applies with equal force to the Hermes and Aviva schemes and is consistent with the Council's request for shared access provision.

269. Paragraphs 5.4.2 and 5.4.10 of the reasoned justification refer to development of the area coming forward in a "comprehensive manner" with cognisance of planned redevelopment of neighbouring sites. Again, making clear the Council's policy objective of a holistic approach to development and associated infrastructure.

270. The RSAF addresses comprehensiveness as follows:

i. It notes that it was promulgated in expectation of the potential redevelopment of the Appeal Site and the Hermes site (see paragraphs 2.10-2.13);
ii. Paragraph 3.6 emphasises the importance of accessible space including "*east-west and north-south routes to enhance movement and linkages across the area*...".
iii. Paragraph 5.4 notes that:

> "*The overall aim is to improve the Station Area public realm by creating, improving and connecting public spaces. More detailed aims include: 'stitching' together the various development sites both visually and physically… unifying the area through a coordinated design approach….creating more opportunities for sustainable forms of transport, particularly walking and cycling, by enhancing the connectivity and legibility of the area…*"

271. As Mr Doyle explains (PoE 5.3.5.6):

> "*two parallel roads would result in a vast area given over to vehicle circulation that will act as a barrier to pedestrians crossing from one side of the street to the other and prioritisation and general dominance of vehicle movements over pedestrians. These objectives do not sit easily with the appellant's case, pursuant to which two parallel access roads could potentially come forward across the spine of the area."*

272. Such an arrangement would be flatly contrary to the policy requirement to secure comprehensive development of the CR11e site in a manner which secures a high quality design prioritising pedestrian and cycle permeability. The mechanism provided for in the section 106 to prevent such an arrangement is plainly necessary to make the development acceptable in planning terms.

8. Planning Balance

273. Development should come forward in a planned way. It should be the subject of local determination by way of the Development Plan process. The Council has a series of strategic priorities which can be distilled from a consideration of the Central Reading suite of policies in conjunction with the RSAF. The evidence has demonstrated that the scheme would stand in fundamental conflict with these.

274. Set within this context, the harmful impacts of the scheme are clear and substantial. The evidence has demonstrated that the scheme would cause a moderate degree of less than substantial harm to the significance of the Listed Station building. In spite of the importance attached to the Station in policy it did not form one of the constraints to development in the DAS and accordingly it is unsurprising it would be harmed by the scheme.

275. Should permission be granted for this scheme it would countenance permanent and significant harm to the significance of one of Reading's most prominent historic buildings. Furthermore, it is harm which has been shown to be unnecessary to achieve the vision set out in the Central Reading suite of policies and the RSAF.

276. Given the way in which development capacity is addressed within policy CR11, where it is made expressly subject to the need for a high quality of design, it is simply unrealistic to assert that public benefits are capable of outweighing this harm when one applies the NPPF paragraph 202 balance, nor to assert that the harm has received "*clear and convincing justification*" in paragraph 200 terms. Similarly this harm alone puts the development squarely at odds with the Development Plan.

277. In addition to the Station, the scheme would cause less than substantial harm to the significance of both the Market Place and London Street Conservation Area and the Grade II* listed Town Council Chamber.

278. The harm to the significance of the Station in heritage terms is compounded by harm to the townscape in views that include it. Again this harm is unsurprising given the approach taken within the DAS. Mr Chard, in his TVIA and evidence, is attempting

to retrospectively justify an extremely harmful adverse impact on the Station and views of it, whereas what policy requires is that the Station should have been recognised as a constraint and that any scheme be carefully designed to avoid detriment to it.

279. Harm is also caused to the townscape in views from the west and this reflects the fact that in the design of the appeal scheme Benchmark heights have been ignored, as have LP and RSAF requirements to step down development in order to relate appropriately to surrounding development and residential areas. This also puts the development squarely add odds with policy and the need to prioritise a high quality of design.

280. Significant harm is also caused through the failure to include within the scheme a high quality north-south link, a link which is "*The most significant movement corridor in the RCAAP, and is vital to the success of development in this area*". Again, the design of the appeal scheme has been deficient, this time failing to react to changing circumstances. The Appellant relies on the width of the route through the Appeal Site as being generous. But quality is not just about width and treatment, it is primarily about alignment and directness. Because of the need to retain the SSE equipment the north-south route cannot be direct through the 55 Vastern Road site, it must rely on wayfinding measures. However, there are no such fundamental constraints precluding a high quality and direct north-south link, a route which avoids the need to connect through to the SSE site as part of an off-set grid terminated by buildings, as this scheme would do.

281. Sunlight and daylight considerations are given central importance within the LP and RSAF. Yet the scheme would bring with it severe sunlight/ daylight impacts, including causing a high number of major impacts on the daylight of adjoining residents and an unprecedentedly poor impact on sunlight provision for proposed residents of the scheme. These factors should be given great weight in any planning balance and constitutes a very substantial breach of LP policy.

282. The LP and RSAF contain a strategic vision for Vastern Road, as a "*central element of the town centre public realm*", with an aim of ensuring that it is transformed in

character to a tree-lined avenue. The scheme fails to provide sufficient space for the required large canopy trees, entails the loss of five TPO trees and the documentation provided does not demonstrate how the two TPO trees purported to be "retained" (T17 and 18) can be successfully retained. The scheme fails to realise the vision for Vastern Road as a public realm interface in spite of the prominence it is given in policy. Similarly the scheme fails to reflect the policy requirements for the Station square (north) and the open space it contains. In this regard also the scheme is contrary to the requirements of both national & local policy and the other adopted documents.

283. Finally, to allow the appeal would be to wholly undermine the Council's strategy as laid out in LP policy and the SPD to meet the climate change challenge by using a fabric energy efficiency first approach, which is much more likely to ensure long-term carbon reductions. It would send the message that it is permissible to design a scheme first, and then simply address sustainability and climate change as an afterthought. This too places the scheme in conflict with the Development Plan.

284. Although benefits are identified, these are common to many mixed use proposals which could be achieved in an appropriately amended scheme which addressed the Council's reasons for refusal of the application. The Council has a healthy housing land supply as explained by Mr Jupp, and in any event development quantum is subordinate to the need to create a scheme which is of high quality and well designed.

285. Mr Newton rightly did not suggest that there are any considerations which could outweigh non-compliance with the development plan. This scheme is in substantial conflict with the Plan and therefore the Council respectfully requests a recommendation that consent not be granted.

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15 November 2022