

**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPULSORY PURCHASE ACT 2004**

**APPEAL BY AVIVA LIFE & PENSIONS UK LTD
VASTERN COURT, VASTERN WAY, READING**

APP/E0345/W/21/3289748

Inquiry opened 26 April 2022

APPELLANT'S CLOSING SUBMISSIONS

Introduction

1. Permission should be granted for the appeal scheme because it represents a very substantial policy-compliant contribution to the regeneration of Reading, in line with the national housing, economic and design agenda as well as with the objectives of the adopted development plan.
2. No one suggests for a moment that the public interest, or proper planning of the area, would be served by a perpetuation of the status quo on the appeal Site. It lies in Reading Town Centre, it is an under-used, car-dominated previously-developed and allocated site which occupies one of the most sustainable locations in the South East of England adjacent to the station.
3. Hence the local policy aspirations for high-density tall building re-development on the Site, for housing and/or employment purposes. Both types of development are recognised within the adopted policies for the Site and are acknowledged to be beneficial.
4. The Site itself is remarkably free from major constraints. It does not lie in a Conservation Area or contain any designated assets; it is within Flood Zone 2. It has also been analysed as of low sensitivity to tall buildings¹.

¹ See the Reading Tall Building Study, 2018 version: CD7.45 pages 75-76.

5. Alongside the achievement of the key policy goals, come placemaking objectives, which is where the Council's main outstanding objections lie. The (now) Appellant has from the inception of the project worked towards a high-quality design, taking into account guidance at national and local levels and seeking to ensure that the scheme (brought forward in outline) will lead to the creation of an excellent place. It has balanced all of the relevant matters in developing the scheme, recognising that some important choices are reserved for the detailed stage. No scheme commands universal support due to subjectivity and the need for planning balance, but the main strokes of this scheme are plainly in accordance with policy at all levels.
6. It would be a good design. There are, no doubt, several, perhaps many, different ways to create a successful place on the Site. Design guidance like the Reading Station Area Framework (of 2010) contributes to the debate and although a little out of date, contains some detailed thinking on successful outcomes. But it is not the be-all-and-end-all. The Council's case regrettably slides into that error far too often; and as a result, it has lost sight of the big picture for positive planning on the appeal site.
7. These submissions bear in mind the main issues identified at the outset of the inquiry and are structured in the following way:
 - (1) The appeal scheme
 - (2) Compliance with key policies
 - (3) Design: layout; heights; cluster and 'crown'; routes; public realm; trees; heritage assets; neighbours (largely daylight/sunlight).
 - (4) Sustainability
 - (5) Benefits
 - (6) Overall planning appraisal and balance(s).

The appeal scheme

8. The Appellant asks for permission for the following description of development:

“Outline planning permission with the details of access, appearance, landscaping layout and scale reserved for later determination. A demolition phase and phased redevelopment (each phase being an independent act of development) comprising a flexible mix of the following uses: Residential (Class C3 and including PRS); Offices (Use Class B1(a)); development in Use Classes A1, A2, A3 (retail), A4 (public house), A5 (take away), D1 and D2 (community and leisure); car parking; provision of new plant and renewable energy equipment; creation of servicing areas and provision of existing services including waste, refuse, cycle storage, and lighting; and for the laying out of the buildings; routes and open spaces within the development; and all associated works and operations including but not limited to: demolition; earthworks; provision of attenuation infrastructure; engineering operations.”

9. In addition to the description, the development consent would be defined and governed by the s.106 obligation², planning conditions³, and:

- (1) The Amended Development Parameters Schedule⁴
- (2) The Parameter Plans: see paragraph 12 below.
- (3) The Design Code⁵.

10. The Amended Development Parameters Schedule provides as follows:

Total Floorspace

2.1 The total maximum floorspace within the Development as a whole shall not be more than 87,002 sqm GEA (excluding plant).

2.2 The floorspace within Use Class C3 shall not exceed 79,257 sqm GEA. The total maximum residential units shall not exceed 1,000.

2.3 The residential accommodation may range between studio apartments to 3 Bed dwellings.

2.4 The total minimum floorspace within Use Classes A1-A5 and D1-D2 shall be 2,000 sqm GEA.

2.5 The minimum and maximum floorspace by Use Class, by Plot (as defined on Plan PP-102_P2), and by total will comply with Table 1.

11. Furthermore, the Parameter Schedule restricts the floorspace in each Block: Blocks A to C must be residential and have maximum floorspaces; Block D can be largely residential (max 20,568

² ID94.

³ ID72A.

⁴ ID61 revision A.

⁵ ID89.

sq m) but with an irreducible amount of office space (4,350 sq m). If Block D is an office scheme, then its floorspace is capped at 24, 495 sq m overall (see following table).

Use Class		Plot A	Plot B	Plot C	Plot D	Total sqm (excluding plant)	GEA
Maximum Floorspace (all use classes)		17,254	20,554	24,409	24,785	87,002	
C3 Residential units	Min	48,000				48,000	
	Max	16,294	19,324	23,071	20,568	79,257	
B1a Offices	Min	0	0	0	4,350	4,350	
	Max	0	0	0	24,495	24,495	
A1-A5, D1-D2 Retail Units/ Facilities/ Gym Community	Min	2,000				2,000	
	Max	7,000				7,000	

12. The Parameter Plans proposed comprise:

- Plan PP-100_P1 Development Footprint**
- Plan PP-101_P2 Site Access & Egress**
- Plan PP-102_P2 Building Plots**
- Plan PP-103_P3 Building Heights**
- Plan PP-104_P2 Basement Footprint**
- Plan PP-115_P1 Site Access & Egress Option 1 – Hermes First**
- Plan PP-116_P1 Site Access & Egress Option 2 – Aviva First**

13. As to the Design Code, the Council wishes to dispense with it entirely in favour of a condition which leaves the contents at large to be determined at the detailed stage. Whilst that would not be entirely unacceptable as a way forward (as the Appellant sees it), it would not sit well with the Government's emphasis on design coding⁶. It would also jettison much careful and

⁶ NPPF paragraph 128 for instance.

responsive work by the Appellant team in framing and re-framing the details of the draft Code, and be a retrograde step.

14. The Inspector and Secretary of State can therefore base judgements about the likely quality of the scheme's final details from the Code. Key aspects of it are:

- (1) Keeping generous separation distances between the blocks of development within the scheme.
- (2) Daylight and sunlight effects are limited by reference to no material difference between the final scheme and the assessed effects of the Illustrative Scheme (all the relevant resulting values in the Vastern Road properties are set out in the appendix to the Code).
- (3) Public realm character areas are established.
- (4) A hierarchy of routes and active frontages is set out.
- (5) Relatively detailed plot by plot design stipulations are set out, showing the likely form of development on those plots (driven largely by entrances/egresses, and daylight and sunlight)
- (6) Appearance and materials are guided.

15. The overall effect of the package of definitions and stipulations is to give considerable confidence as to the likely quality and disposition of the detailed scheme. The Appellant's evidence shows that there will be little overall difference between the final scheme and the kind of massing, height and disposition shown in the illustrative scheme⁷.

16. Of course it will be borne in mind that the scheme remains in outline, and the Illustrative Scheme is not *literally* the likely final outcome; it may be that the roof forms would change; it might be (in relation to Block D) that the shape of the massing might change somewhat in the final design (dependent on decisions on things like the height of internal atria, plant cover

⁷ It is not necessary to rehearse in closing the details of the debate about the degree of potential difference between the Illustrative Scheme and the Parameters; the Appellant's position is set out in ID77, 87 and 88. The overall position is that with the floorspace caps and daylight restrictions, the final version of the scheme is likely to be very similar in overall massing and height disposition to the Illustrative Scheme. The effect of the parameters themselves is of course acceptable, but the application is hedged about with stipulations which mean that the full parameter envelope is unlikely to be employed. The measured floorspace used by Mr Collado is accurate to 1mm from the Revit software and in the case of any discrepancy with figures calculated in other ways by Mr Doyle, Mr Collado's figures should be preferred.

solutions, and so on). But the general shape and disposition of the buildings is not likely to differ much from the Illustrative Scheme.

17. That stems from the following:

- (1) The stipulation that daylight effects on the Vastern Road properties would not be worse than the Illustrative Scheme. To extend the built form to the maximum of the envelope northwards (ie towards Vastern Road) would lead to sunlight/daylight results like those generated by the parameters plan envelope – whilst by no means unacceptable, they unsurprisingly show a greater impact on the Vastern Road properties.
- (2) The stipulation that 80% of residential units in the final scheme must meet the 2022 BRE internal daylighting guidance also has a marked effect on built form – the blocks must be designed so that daylight can penetrate the internal courtyards as shown on the Illustrative Scheme.
- (3) The floorspace caps mean that it is very unlikely that materially increased volume could be brought forward in the residential blocks A, B and C (and indeed D, if it turns out to be residential). There is no obvious reason why (beyond providing well-designed apartments) the final scheme should look to aggrandize public foyers or other such areas.
- (4) In general (including Block D if it turns out to be an office block) the Council’s position that the Illustrative Scheme is likely to be exceeded in various ways does not explain why the developers would make the scheme more expensive without being able to increase the saleable or lettable floorspace. With the possible exception of the main office atrium, the opposite proposition is more realistic – that the floorspace limits control the overall volume.

18. For those reasons, the suite of controls (a) enables confidence to be had that the assessment work before the Secretary of State is robust, and (b) means that a clear idea can be formed of the likely final disposition of built form on the site if permission is granted and the likely high quality of the design.

Compliance with the key policy requirements – overall observation

19. I make the observation that the narrowness of the areas in relation to which the Council maintains objection need to be seen in the light of the very considerable amount of common ground over policy compliance. This is more than a question of ‘focus’ – the basic position is that the appeal scheme has been designed expressly to accord with the land use principles in the development plan, and to deliver its main objectives.
20. Adopted Local Plan policy is contained in the 2019 Reading Borough Local Plan (“RBLP”), which covers the period to 2036. It replaced the Core Strategy (2008, 2015), the Reading Central Area Action Plan (2009) and the Sites and Detailed Policies Document (2012, 2015).
21. A major mixed-use re-development of the Site falls foursquare within the policies of the RBLP:
- (1) The Site lies within the Central Core (Policy CR1);
 - (2) It falls within the Office Core (Policy CR1);
 - (3) And the Primary Shopping Area (Policy CR1);
 - (4) It sits within a Tall Buildings Cluster (Policy CR10);
 - (5) Within a Major Opportunity Area (Policy CR11) and
 - (6) Is a site identified for Development or Change (Policy CR11).
22. Therefore as far as the principle of the proposed uses is concerned, there is no issue debated between the main parties. The proposed flexible mix of residential, office and retail/town centre uses is entirely consistent with the RBLP⁸.
23. I return later to the weight to be given to housing and office development in the overall appraisal; but the provision of up to 1,000 homes and up to 24,000 sq m of office space in this pivotal location in Reading is directly in line with local aspirations and with the requirements of national policy.

⁸ The Inspector clarified with Mr Jupp that the Council takes no point about CR1 or CR7 of the RBLP.

24. There is a curious strand to the Council's closing submissions relating to 'plan-led' development. Mr Jupp confirmed however that there is no 'prematurity' point advanced, or the like. The emphasis given to the so-called 'plan-led' issue in the Council's closing is really just an attempt to elevate the status and/or the importance of the RSAF in this case. But even if the RSAF were given a lot of weight, it is inherently unsuitable to be pressed into service as a quasi-policy or set of rules as the Council wishes. The argument indicates how the Council's case has become unbalanced by over-reliance on the RSAF in this way. Of course, it is material and its contents should be carefully considered, but it is only guidance and must be treated with suitable flexibility, as Mr Jupp accepted in his evidence.

Design

Cardinal tests in the NPPF as the bedrock of the assessment

25. The NPPF sets out criteria at paragraph 130 for assessing whether a scheme would comprise good design. I focus on criterion (c) at this point because it is within the broad ambit of that criterion ("sympathetic to local character [whilst] allowing change") that one can situate the various criticisms that the Council makes of the appeal scheme.
26. Whether Block A is too high, whether the blocks step up (or down) sufficiently, whether the cluster is effective with the appeal scheme in place; whether the townscape and heritage effect is appropriate – these are all matters which fall within criterion (c) of paragraph 130 of the NPPF.
27. It is notable on the other hand how few if any of the other criteria in paragraph 130 of the NPPF are engaged by the Council's case:
- (1) There is no question that the scheme, whatever its final configuration of uses, would function well as a mixed use scheme next to the railway station within the new quarter which is taking shape (criterion (a)).
 - (2) The scheme would be visually attractive – the draft Design Code ensures that a high-quality appearance throughout the scheme would be achieved, and there is absolutely nothing which suggests that the scheme would be anything other than visually engaging, indeed, (in places) arresting – the ground plane would be highly activated, with good quality hard

and soft landscaping, the buildings can be articulated successfully with appropriate materials (criterion (b)). The Design Code would ensure that no clashes would occur even if the blocks were taken forward by different developers.

(3) The scheme would have, and contribute to, a strong ‘sense of place’: a high density city (or town) centre quarter with tall buildings, active ground floor and a mix of uses interacting with routes across the area (criterion (d)).

(4) The scheme would optimise the Site (criterion (e)).

(5) The scheme would create a safe, inclusive, healthy and accessible place (criterion (f)).

The place of heritage in the discussion

28. Responding to the heritage context of the Site is part of NPPF compliance (as well as a result of applying s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is also part of good design. I come below to the specific points about effects on heritage significance, but here note that the NPPF does not require otherwise acceptable and beneficial schemes to cause no harm whatever to heritage asset significance: paragraph 202 of the NPPF embeds the idea of balance in the NPPF’s heritage policies. Reading’s ambitions for tall building clusters in the town centre could not be a better example of why such an approach is appropriate.

Keeping the RSAF in perspective

29. NPPF paragraph 128 talks about the role of design guides in the process. Much of the Council’s case (based on Mr Doyle’s evidence) turns on alleged inconsistencies with the RSAF of 2010. Although constrained to acknowledge that the RSAF was not a ‘rulebook’, just beneath the surface of many of the design criticisms lies a much more prescriptive approach to the RSAF, which is not in accordance with the NPPF or with the status and role of the RSAF itself. This has an effect on the weight that should be given to those points.

30. In terms of the weight that should be given to the RSAF in general, the Appellant through Mr Newton broadly agrees with the way it was put by the SSE Inspector, who describes the RSAF

as “somewhat dated but remains relevant as a guiding framework”⁹. Some weight should therefore be given to it.

31. However, it is not a rulebook, and one should be careful about treating its principles or suggestions as anything more than guidance¹⁰. The SSE case itself is a good example of the correct approach: the Council fought the appeal partly on the basis that the Thames route proposed by SSE was unacceptable, indeed describing it as “the antithesis” of the guidance in the RSAF¹¹. The SSE Inspector found good design was proposed notwithstanding the marked difference between the SSE scheme and the RSAF in relation to the alignment of the route.
32. There have been plenty of examples in this inquiry also, some of them internally-inconsistent aspects of the Council’s own case: contrast Mr Doyle’s rigid ideas of what an acceptable “grid” pattern for the Site should be with Mr Jupp’s view that the whole idea of the grid is negotiable when one is addressing sustainability and orientation issues. It is also pretty clear from the contrast between the RSAF Illustrative Scheme and some of the ideas within the rest of the RSAF that the guidance must be applied with common sense and flexibility. The RSAF itself describes with clarity that the Illustrative Scheme it contains is only “one possible scheme that would comply with the framework”; Mr Doyle accepted that in the light of that, the RSAF’s Illustrative Scheme does not represent parameters against which the acceptability of other schemes should be judged.

The key points from the adopted policies and the work underpinning them

33. It is right to start the assessment against local ideas for the design of the Site with the adopted policy (adopted some 9 years after the RSAF was written, but still making reference to it as “detailed guidance”). The key points from the guidance tell one why the scheme is appropriate even as one sets them out:

⁹ CD 5.1 DL 14.

¹⁰ The Council describe the RSAG guidance as the “detailed mechanism” and “rebuttable presumptions” – these are inappropriate terms and reflect the negative straitjacket effect of treating the RSAF from 2010 in that way. Another good example is that apparently, the policies, through the RSAF require the clock tower to be “framed” from Station Road – nothing of sort is the case. It will always depend on the overall assessment of the scheme.

¹¹ Ibid DL21-23, 29, (and 33-34).

- (1) The adopted RBLP describes the area in which the Site lies as “the most significant opportunity to accept new development”¹²; in Policy CR11¹³, the adopted ‘vision’ for the area is as an extension of the centre, creating a mixed use destination centred on the station.
- (2) However, it is not the station itself which in design or townscape terms (as opposed to its transport and civic function) is seen as the centrepiece. Instead, the policy objective is broader, focused on the ‘wider station area’ becoming a “destination in its own right”, a “vibrant central quarter”.
- (3) This emphasis, not on the station itself, but on the area around the station, is picked up in Policy CR10¹⁴, which emphasises the aim is to create development which would “signify the status of the station area” (my underlining). Taking a holistic approach to what would be good development in the context of that policy objective is what separates the Mr Collado’s work from the approach taken by Mr Doyle, so many of whose points focus wrongly on seeing, walking in a straight line to, or being lined up to one side of, the *station*. When I put this error to him, he said that in his view the station building was the “founding event”. Whatever that means, it does not adequately come to terms with the actual focus of the adopted policies here, which is directed to the creation of a whole new place around the station.
- (4) That new place is to be characterised by tall buildings. There is no dispute that the entire site falls within a ‘tall building area’¹⁵. The policies envisage a general pattern with the tallest buildings at the centre of the cluster (including of course Station Hill), the lowest at the fringes – but this is a relative exercise and does not exclude tall buildings towards the edges of the allocated site. Policy does not stipulate how tall, either in absolute terms or relative to one another, those buildings should be¹⁶.

¹² CD4.1 page 129, paragraph 5.2.15.

¹³ CD 4.56

¹⁴ CD 4.55, Policy CR10a.

¹⁵ See CD4.56 (Policies Map, black dotted area and legend), confirmed by Mr Doyle’s Figure 12 page 57 and in cross examination.

¹⁶ The RBLP defines tall buildings as those of 10 storeys or commercial or 12 storeys of residential, equating to 36m, and states (Policy CR10) that the Station Area Cluster in Policy CR10a is an area for such buildings.

Layout

34. The scheme must optimise the use of the Site, bringing tall buildings to a sustainable location and creating a characterful and durable place. The layout worked up by Mr Collado aligns four built blocks broadly north-south, with the tallest element nearest the station, and stepped profile to all the blocks, laid out in a grid pattern with secondary streets and pedestrian areas running between them.
35. There is nothing objectionable about the layout. It makes the most efficient use of the Site and allows better sunlight and daylight penetration into the scheme (and beyond) than blocks arranged east-west; the Hermes scheme is much more negative in its daylight effects on the appeal Site and is not such a good example of layout. The RSAF lays the site out broadly as per Mr Collado's scheme¹⁷.

Heights

36. No objection is made in the Council's evidence to the heights per se of Blocks B, C or D. It is not said, for instance, that the absolute height of the proposed Block D is too great for its context¹⁸.
37. The area (as I have already mentioned) including the Site, is identified in the RBLP for tall buildings, but adopted policy says nothing about how high in absolute terms the buildings should be. The RSAF indicates that these should "rise up around the station 'nexus", and that the approach "to building massing should be dramatic with a new cluster of taller buildings forming a new and distinctive skyline for the Station Area as a centrepiece of the centre."¹⁹
38. The RSAF refers to 'landmark' and 'benchmark' heights across the Site, but it is recognised by the Council that these are not maxima – indeed, the guidance says as much²⁰. The RSAF Illustrative Scheme does not appear to stick to those indicative heights itself, presumably having

¹⁷ Noted at paragraphs 7.41, 8.21, 8.29, 8.52, 8.55 8.65 and 9.5 of the Committee Report into the appeal scheme.

¹⁸ Despite what is said at paragraph 127 of the Council's closing, the Inspector asked expressly whether it was being said that Block D was too high and was told that it was not – it was a point about the relationship with the station building.

¹⁹ Paragraph 6.13, RSAF, CD7.1.

²⁰ Paragraph 6.23 Ibid page 36.

taken on board the advice in the RSAF that taller buildings can be justified by reference to urban design, planning benefits and mitigation²¹.

39. The RSAF indicates in that context that the relationship between proposed tall buildings on the appeal Site and areas to its north and west will need to be carefully assessed, “with heights stepping down so that they relate appropriately to surrounding development and residential areas.”²²
40. Against that policy and guidance, two main points (leaving aside daylight in Vastern Road for the moment) are made by the Council: (a) that Block A is too high, and (b) that the scheme blocks are objectionable because they do not ‘step down’ from Block D to Block A (what Mr Doyle derided as a ‘toast-rack’).
41. It did appear that Mr Doyle’s position was out of kilter with his own guidance: he formed the view that *“because the proposed heights exceed Local Plan and RSAF height and massing guidelines, this will result in unacceptable detrimental effects on the townscape...”*²³. Obviously, that does not follow and cannot be right anyway. One needs to look at the actual effects.
42. Starting with the Parameter Plan on heights²⁴, Block A is in two parts – the northern piece, which addresses Vastern Road and the roundabout, is at a maximum of 71m AOD; the southerly component, which is set back from Caversham Road and contains an inset for the pocket park within the scheme, has a greater maximum AOD of 94.2m. The actual maximum storey height equivalents are 8 and 10 storeys at the northern end and 16 storeys at the southern end.
43. AVR4²⁵ illustrates what that would look like from the roundabout. The building would not be too tall from there, either in relation to the importance of that particular node on the inner ring road in Reading, or in relation to housing to the north on Vastern Road. It is entirely appropriate to mark the sweep of the roundabout with enclosing built form of that kind, and the height of development proposed is well-proportioned as regards the space onto which the built form would face. Vastern Road is a very substantial width at this point.
44. Nor would it matter in the slightest that from relatively close quarters the built form of Block A’s northern part would occlude views of the station building and much of Station Hill due to

²¹ Ibid paragraph 6.23.

²² Ibid paragraph 6.29, page 37.

²³ Mr Doyle Statement of Case Appx para 2.20.1.

²⁴ PP-103

²⁵ ID48

the effect of perspective²⁶. The point of the design guidance is to create the Station Area, not preserve all short and medium distance views of the station – if one wished to do that from this location, one would have essentially to keep the built form to something akin to the retail sheds which occupy the site now. Station Hill will in longer views including from the north west remain the dominant building in the ensemble; whereas at relatively close range, this part of Block A would announce the arrival at the edge of the Station Area new quarter and represent a tangible marker of the city-centre type development that policy aims to create there.

45. Due to the substantial dimensions of the road network in this location, the northern part of Block A would not over-dominate the housing on the other side of the road. The daylight and sunlight effects on those properties would be no greater than those analysed for the Illustrative Scheme²⁷ and would be acceptable; no overlooking or privacy impacts would occur, again because of the distances involved.
46. As for the 16 storey component of Block A, there would be no unacceptable ‘edge’ impacts to the west of the appeal Site. The townscape in that location is largely comprised of commercial units and any residential lies a substantial distance to the west, as illustrated in AVR7. There would be no overshadowing, loss of daylight, over-dominance or privacy issues in that direction. Although there is general guidance in the RSAF about the need to ensure good built and functional relationship to buildings off site to the west, both the appeal Site²⁸ and the area to the west of the Site, are relatively insensitive to tall building development.
47. There would certainly be a marked change in heights at that point in Caversham Road, but something similar would be achieved by the Hermes scheme. The 16 storey part of Block A is set back from the road and the entrance²⁹ and would bring the townscape benefit of marking the important east-west route to the station into the new quarter, without causing any clearly identified harm.
48. Again, the context is key – Caversham Road is also part of the internal ring road, and is described by Council officers³⁰ as having a “wide and assertive segregation”, in its role as an “urban dual carriageway”; they note that there will inevitably be a change in character at this point in the townscape. The effect of Block A in the townscape will be wholly beneficial.

²⁶ Hermes would have a similar effect in a number of views.

²⁷ As per the Design Code block A stipulations at section 4.1).

²⁸ See the discussion about insensitivity of the appeal site itself to tall buildings in the revised and updated Reading Tall Building Study.

²⁹ See Parameter Plan layout and the Design Code stipulation about the retention of the two TPO trees in that location.

³⁰ See the Hermes Report to Committee CD 7.57, paragraph 6.2.23.

49. Turning to the Council’s argument that Block A is too high because it should “step down” in relation to buildings to the East (ie Blocks B-D), it is important to understand the nature of the objection. This is not a point about the effect on the streetscape or immediate views – on the contrary, it relates to much longer-distance views where one would be able to perceive the separation between, and relative heights of the four built components. I deal with it in a moment under the heading of the ‘cluster’.
50. In line with good design practice – seeking to create interesting townscape which enhances the area, the appeal scheme has a justified proposed height for both parts of Block A. There is very little actual substance to the complaint that the Council makes about the building, which remains at a rather superficial level (“should step down”). Actually, there is nothing wrong with the proposed height and massing of Block A, and its justification in enclosure, townscape improvement and wayfinding/legibility terms is a good example of the process that the RSAF imagines being gone through on an application, ie, justifying the final resolved scheme by townscape, benefits and mitigation yardsticks.

Cluster and ‘crown’

51. Mr Doyle’s case is that the appeal scheme would fail to reflect the ideas of ‘crown’ or ‘blister’ within the Reading Station masterplan area, ie, that Blocks A to D, seen in the context of other committed schemes, would (a) fail to appear subordinate to the ‘crown’ of the cluster formed by the Station Hill development, and/or (b) fail to descend in relative height towards the west (and to some extent the north), again, undermining the function of the cluster in some way. Neither point bears scrutiny.
52. The evidence now amply illustrates how, in mid and long distance views (ie ones where the overall form of the cluster would be able to be appreciated), Station Hill would appear to be the dominant building, in line with the Council’s thinking. As one moves around a townscape, the effects of perspective and motion parallax come into play, and the relationships between built components fluctuates to some degree. But the evidence is compelling that in all important representative views towards the cluster, Station Hill is dominant, and the appeal scheme buildings form part of a layer of forms within the cluster – Block D plays second fiddle to Station Hill (and in several views to the tallest block in the Hermes scheme as well); Blocks C-

A are well spaced out, legible within the cluster and achieve the overall effect of modulating the cluster downwards at its edges³¹.

53. It is interesting that this is still very clearly achieved by Block A in the relevant views. The fact that Blocks B and C are not obviously taller does not really matter in the overall composition because the cluster overall has a coherent shape with the bigger pieces towards the centre and closest to the railway line and station.

Routes

54. The Council criticises the appeal Scheme for the way it connects between the station/subway entrance and Vastern Road. Mr Doyle's view was that there should be a direct line of sight between the exit to the subway and/or the station on the one hand, and the route into the now consented SSE scheme on the other. Such a direct line of sight is inconsistent with the appeal scheme and would require some form of chamfering or carving away of one of more blocks within the scheme.

55. Mr Collado was however right to question the premise behind the Council's view – ie, that it was necessary in urban design terms for there to be such a direct line of sight, for the following reasons:

- (1) There is no firm basis for such a prescriptive approach in adopted policy (too high level) or in the RSAF. The latter's almost ceremonial layout spanning Vastern Road and connecting the river with the station in a straight line does not appear to have been feasible when the RSAF was drafted, and the failure to deliver the northern part of it on the SSE site was rejected as a valid criticism of that scheme by the appeal Inspector. The underpinning premise about straight lines stretching to the river is therefore of no weight.

³¹ The key views are in ID 48 (updated AVRs showing cumulative condition with Station Hill correctly plotted): (a) AVR9, in which Station Hill looms above and behind a layered cluster with SSE in the foreground and lowest and the appeal scheme in the middle plane; (b) AVR 11, in which Station Hill is utterly dominant and the scheme is recessive; (c) AVR 8 where perspective means the cluster adopts the Council's favoured shape, and (d) AVR 11, where the scheme is again the middle plane and the actual edge of the cluster is provided by the westerly lower component of the Station Hill scheme. I also note that the assertion in the Council's closing that buildings should "grade down to the prevailing heights" is not found in any policy or guidance document. There is a benefit to a contrast marking the beginning of the new Station Quarter, something which the Council do not focus on.

- (2) The idea that one should cut across the generally regular grid of the appeal scheme in order to facilitate a direct line of sight just from the station/subway to the start of the SSE scheme is inconsistent with the very heavy emphasis Mr Doyle laid on grid patterns in other parts of his evidence.
- (3) Fundamentally, however, it is unnecessary to interrupt the scheme's layout to engineer what would be a rather questionable outcome. The way across Station Square North towards the river is signposted by the design itself – the very wide (minimum 23m), landscaped public realm stretching between the station/subway and the crossing of Vastern Road³² would be a self-evident way to progress north, and no doubt there would be signs to the river (which itself could not be seen with SSE in place, whatever the configuration of the appeal scheme).
- (4) Mr Doyle has to accept that the best that could be done, by way of echoing the original undeliverable RSAF route to the river, would be to give a view of the entrance into the SSE scheme. That entrance is (a) highly visible as soon as one is within the main body of the appeal scheme route between blocks D and C; and (b) the crossing of Vastern Road would be highly visible and likely to be staggered (for highway safety reasons), so that one was deposited by it directly outside the SSE entrance.
- (5) It is of course ironic that throughout the scheme's application phase, indeed until the SSE decision letter dated 17 March 2022, the Council was heavily relying on an alignment across the appeal Site exactly as proposed by the Appellant. Its claimed distinction – that there are “immovable” items on the SSE site but not on the appeal site – does not really take things any further. The effect of the SSE equipment staying *in situ* had not been properly taken into account by the Council when drafting the RSAF or in dealing with the SSE scheme, and as a result the whole premise of a direct route to the river, and indeed of legibility depending on direct lines of sight at all, has been set aside and rejected. As the SSE Inspector found, legibility is about more than simplistic sight lines.
- (6) The proposed route is clear, legible and would achieve the functional connectivity between the station/subway and the beginning of the SSE development.

³² See CD 1.55 (landscape masterplan) at page 213, the ‘Spine’. Indeed, the entire section of the DAS (October 21), CD 1.55 is worth reading again for a reminder of the kind of high quality public realm that is being proposed in all parts of the scheme.

56. Second, there is no valid criticism of the appeal scheme based on the notional route to the roundabout shown on drawings in the Local Plan, as Mr Doyle confirmed in answer to the Inspector.
57. Third, the scheme will provide excellent new and improved connections across Vastern Road, across Caversham Road, and through the subway (all either agreed highway works which will be paid for by the scheme or agreed s.106 contributions to existing schemes).
58. Fourth, the avenue route from Caversham Road to the station, directly to the south of Blocks A to D, would be an important functional connector for those living to the west of the appeal site. It would lie between the Hermes scheme and the appeal scheme. Whilst the somewhat unrelieved northern facades of the Hermes scheme would present a simple, bold edge to this space, the four blocks in Mr Collado's scheme (the locations and sizes of which are set by the Parameter Plans) would provide an interesting and engaging route through the new central area of Reading: the entrance to the area would be marked by the set back, taller element of Block A, but have an interesting and satisfying relationship with the small park which lies between Blocks A and B. a relatively spacious gap between Blocks B and C would add interest and variety as well as a functional connection by car (compare for instance the single approved gap between the main northern elevations of the Hermes scheme). The main 23 m wide pedestrian and cycle route between Blocks C and D would be of high quality and considerably enhance the townscape for those passing through.
59. Fifth, it is unnecessary to find a mechanism for guaranteeing that only one access serves both the Hermes development and the appeal scheme off Caversham Road. No highways justification is advanced to support that idea. It is certainly not the case that a single access is required in order to ensure comprehensive development – both the appeal scheme and the Hermes scheme could come forward unchanged, both having good access and egress, without there having to be a single joint access off Caversham Road. The policy in the RBLP does not require such a mechanism and is not geared towards that kind of intervention; indeed, it is phrased more in terms of ensuring that parcels within the overall area can come forward independently so as not to coagulate and delay the delivery of the objectives for the area.
60. Again, the point actually rests on Mr Doyle's contention that such a solution is necessary to achieve good public realm between the two schemes. That underestimates the sheer size of the intervening public realm between the two sets of buildings, and the self-evident ability of the designers to create interesting and attractive public realm even with two accesses (in the space between the Hermes scheme and Blocks A-C of the appeal scheme). The Council's closing

submissions on this point rely on Mr Doyle's views³³ that having two carriageways would be "a vast area" of carriageway and a "barrier". Neither need be the case and the objection is simply an overstatement – even were there two (one-way) carriageways, they can be well designed and paved and they would sit within a very substantial area between the two schemes, which would be planted as illustrated in the application document.

61. The Hermes scheme has always been promoted (and was resolved to be granted) with egress across the northern part of Station Square North and out to Trooper Potts Way, and it does not follow that any 'joint' solution would remove that key aspect of the Hermes Scheme and provide for a purely pedestrian area between the station and Block D of the appeal scheme.
62. So whilst the 'joint' solution is (on the evidence) reasonably likely to happen, it is not strictly speaking, necessary. It is not clear (no draft of the Hermes s.106 agreement having been provided to the inquiry) whether or not permission will be issued subject to a s.106 obligation which makes provision for a single joint access (something reflected in the drafting of Schedule 14 of the Aviva s.106 agreement, which has been felt prudent by the parties to include to cater for that very eventuality – that the Council does not consider it necessary in Hermes' case to require such a joint route guaranteed by s.106 obligation).
63. Even were it felt by the Secretary of State to be necessary, the provisions of Schedule 14 would enable it to be delivered (whichever of Hermes or Aviva went first). Those provisions are in an agreed form and (whilst not purporting – as they could not – to bind Hermes) they deliver would, of felt necessary, manage the co-ordination between the sites effectively. As I say, the only circumstance in which Schedule 14 would not apply (if it has been judged necessary to begin with) is if the Council has not felt such a provision to be necessary to include in the Hermes s.106 agreement, a contingency which the Secretary of State will no doubt have regard to as well – ie, if the Council in the end don't insist on it for Hermes, then that would surely mean that imposing such a burden on the Appellant's scheme would be unnecessary and unreasonable.
64. For those reasons, there is nothing to the Council's criticism of the way the appeal scheme connects to the rest of the central Reading area. It will be knitted into the regenerated new quarter with excellent connections by foot, cycle and car.

³³ See Closing paragraph 271.

Open space in the public realm and trees

65. The main points raised by the Council here are (a) that the appeal scheme does not achieve a satisfactory contribution to Station Square North, (b) the footpath widths to Vastern Road are inadequate, (c) planting in Vastern Road is inadequate.
66. The first point is just a matter of judgement. Mr Doyle found the public realm broadly between the station and Blocks C and D of the appeal scheme “unbalanced”, but there is not much tangible to go on. For a start, a sizeable portion of that area lies outside the red line of the appeal scheme and within the Hermes scheme/Network Rail’s land³⁴. Second, the space overall created by the scheme would be a huge improvement on the current condition, and very large – an area of perhaps 35m x 40 m x 70 m³⁵. As a guide to the judgement, Oxford Street is in general 23 metres wide. The fact that Station Square North is likely to be brought forward partly by Hermes and partly under any consent issued on this appeal does not mean that it is to be treated as undeliverable or fractured. The inquiry saw that Hermes has been assembling the interests needed to deliver the public realm improvement and heard that it is expected that Hermes’ permission will be issued in the relatively near future.
67. Blocks D and C are different in parameter form, and would appear very different (especially if D was an office development). D is taller and more foursquare in the views across this area; C more modelled and (due to the need for podium and cut away forms for light penetration, as in the Illustrative Scheme), likely to appear different. So there would be enclosure and variety, with ground plane activation. It is not really clear why that should be “unbalanced” – it seems rather more balanced than the artificial forms of the RSAF Illustrative Scheme in this location. The Council’s closing says that the arrangement is “crude rectilinear” design – quite why it is ‘crude’ is not explained and the Inspector will form a view.
68. The Council argues³⁶ that the oversailing which might come forward as part of Block D would be harmful. That is a very strange point – it would receive light (indeed some sunlight in the summer as the Council recognises) but also provide shelter from weather at other times of year., and some variety. There is nothing conceivably wrong with it.

³⁴ See ID46 and the Office Copy Entries showing how much of the former Network Rail land is being incorporated into the Hermes Scheme – ID81.

³⁵ See ID42, which gives an idea of the square metrage of the area too, at 3760 sq m.

³⁶ See the Council’s closing paragraph 262-263.

69. As to the second point, the footpath widths on Vastern Road would not be uniform. They would never drop below 5 metres, which is a sizeable set back from the pavement³⁷. That is not markedly different from the width achieved by SSE onto Vastern Road. Both footway and cycle path can be achieved easily in that area.
70. As to the third point, there would be the possibility of additional tree planting along Vastern Road, despite the presence of services³⁸, although the precise species of tree would need to be finalised at the detailed stage and in discussion with the highways authority and possibly one or more of the statutory undertakers. The Council says that planting has not been ‘proven’³⁹, but one would not expect that at this stage and the evidence is before the inquiry to illustrate the room for planting – it need not, as the Council assert, all be within the red line of the scheme (as some may straddle it, depending on precise detail). These are all matters which can be resolved at the details stage.
71. The Council’s RSAF-based points about a transforming Vastern Road into a boulevard with one lane of traffic and heavily planted with large-canopy trees may be another pipe dream – the Highway Authority has been quick to say that there is no scheme to narrow Vastern Road (as appears to be the idea in the RSAF) and the planting undertaken by the Council has been in the form of fastigate limes in the central reservation. Experience therefore suggests that the kind of meaningful, achievable planting gains proposed by the Appellant strike the right balance.
72. Existing trees T7 and 8 will be kept as per the Design Code⁴⁰. There is no reason from a highways or built form perspective that the trees noted as T18 and 19 cannot be kept either, but that is not necessary to stipulate in the Design Code and will be looked at in the details. T9 can also be kept, as illustrated⁴¹.
73. The Council’s objections to the planting proposed along Vastern Road are in contrast to its silence about the large canopy planting within the scheme itself (along the Spine), which will have a marked greening effect as one moves through the new quarter.
74. Overall, the public realm and planting would be of a high quality and would greatly enhance the area.

³⁷ See the details at pages 218-219 of CD1.55; and the further details at ID33 rev A: widths between 5.4m and 7.5m along Vastern Road.

³⁸ See ID33 Rev A, and ID68.

³⁹ See ID39 and ID69.

⁴⁰ Thereby superseding the Council’s note at ID69 on this point.

⁴¹ ID33 rev A at Figures 2 and 3.

Effect on heritage assets

75. The main issues raised by the Council under this head (which straddles design – in which heritage plays a role – and heritage proper) are: (a) the effect of the appeal scheme on the setting of the listed station building⁴²; (b) the effect on the Conservation Area and (c) the effect on the listed Town Council Building. There would be some negative impact in furtherance of the overall design of the cluster. The Council’s case enormously overplays this point and lacks realism and balance.
76. Mr Bridgeland advised the Council that the station building would suffer a moderate adverse effect within the category of Less than Substantial Harm (‘LSH’); that the CA and Town Council building would both experience a minor adverse LSH. Dr Miele found that there would be very low adverse effects on the CA and Town Council and a low LSH effect on the station, subject to the final design of the appeal buildings⁴³ (but assuming that they would be suitably designed)⁴⁴.
77. The former station building has been to some extent affected by the change in its use, but its significance lies in its civic importance and the prominent related townscape role it performs. Its significance was assessed in the ES and in the submitted heritage work and given the way the team worked together (as Mr Collado spelled out) it is not really credible to say⁴⁵ that the scheme came forward without considering impacts on the station as a constraint. The issue is actually whether it is a major constraint anyway, given the big picture emerging from the relevant policies and the realities of how the buildings would be seen together.

⁴² When seen from the south – Mr Bridgeland confirmed (XX) that he did not consider the views of the station building from the north play any role in its significance.

⁴³ Even if Block D were to reach its final form by filling the parameter plan (simply not likely, for the reasons set out in the debate on the floorspace etc), it does not follow that the appearance of the building would not operate to reduce any harm to setting; again, the key point is that the presence of something quite different, behind the clock tower would read due to distance and motion parallax as separate from it. There is no recognition of these points in the Council’s closing submissions.

⁴⁴ It is not quite right to conclude as the Council does that the impact must be “moderate” – Dr Miele is entirely justified in concluding that the ES terminology does not map neatly on to the Less than Substantial scale in national policy. The key point, as he set out, is that the degree of distraction caused by the proposal would not strike at the heart of the significance of the former station building given how it is anchored to the immediate setting with the development of the city/town centre around and about it.

⁴⁵ See the Council’s closing at 4(iii).

78. Much attention was given to Station Road views, but one should really start with the close-up views from within Station Square South:

- (1) It is from these locations that the station's fabric⁴⁶ and formality⁴⁷ are best experienced; because the forecourt of the station is (and always has been) relatively extensive, there are multiple viewpoints of the former station to consider. In many of these, the context of tall buildings already present and under construction is felt, but the station still retains a 'focal' role because of its immediate foreground context⁴⁸ and its formality.
- (2) The damage done by the new station and the clutter of (large) signage affects this to some degree but the building's townscape presence is relatively robust in the square itself.
- (3) In the set of relevant views from Station Square South, the scheme would appear behind the station building at times, as would parts of the Hermes scheme (and as would, of course, any scheme delivering on the Policy and RSAF brief for the Site – a point which is repeatedly ignored, overlooked or side-lined in the Council's case⁴⁹). There would be a new tall building townscape behind it, beyond the railway line, aiming to have the effect of creating a dynamic new skyline to mark the general area surrounding the station in line with policy.
- (4) It is true that the eye would be distracted at times from the station building when in the square, and as part of the kinetic view, at times the proposed building's Block D would lie behind the clock tower and remove the clear sky or silhouette. That is why Dr Miele considers that there would be a negative impact on significance. However, the effect on its overall significance would however be minor, given that its key spatial role 'holding' the square would be unchanged.
- (5) Returning to the essential unreality of the Council's case here. It is relevant – not so much to the degree of change or harm, but to the wider judgemental issue of balancing harms and benefits, that the Council has put in place an allocation for a tall building cluster which it is literally impossible to imagine not having many of the same impacts (in terms of lying behind and catching the eye). The Council points to the guidance in the RSAF about seeking

⁴⁶ As an 1860 remodelling of the Brunel original (ie *not* the original station): see Dr Miele at 10.5-10.9.

⁴⁷ The relationship with the station forecourt, and with the statue of Edward VII, would not be affected by the scheme.

⁴⁸ See Mr Bridgeland paragraph 5.3 page 22; and rebuttal paragraph 3.6.

⁴⁹ For instance, the Council's insistence that the RSAF scheme simply "frames" the station ignores the fact it would catch the eye in views down Station Road, and appear directly behind the clock tower from parts of the forecourt (ie immediate setting).

to avoid harm to assets, but that is no answer to the common-sense proposition that any tall building cluster – even the one illustrated in the RSAF – would be very much higher and lie behind, in a kinetic set of views. Standing in the square, even Mr Doyle’s sliced-off cylinder shape would be seen behind the station in many views from the south west of the station building. This should be borne in mind⁵⁰.

- (6) In addition, and this in a sense goes to the very black-and-white submissions made by the Council on heritage matters, the general objective of the RSAF to bring forward major change in the town centre without causing any harm at all to heritage assets must be approached realistically – if the Council’s point is that it is a breach of guidance or policy for a scheme to cause *any harm* to heritage assets, then that stretches the policy beyond the approach in national policy. The national policy was present throughout the design process and is critical to a lawful overall assessment. Hermes, of course, was not refused because it caused a degree of heritage harm – a balanced approach was taken then by the Council when it wished to grant permission; a consistent approach should be taken here too.

79. Much time was spent on the views towards the station from points to the South on Station Road. As Mr Bridgeland said⁵¹, the further one goes south down Station Rd, the more the contribution to significance made by setting diminishes. There would be views in which Block D lies behind the station building, plainly, and to a very small degree that would distract the eye and harm its significance, but:

- (1) There is some dispute as to the real value of the Station Road views to significance. Mr Bridgeland did not mention them in his assessment⁵² and they are not identified in the RBLP in the place one would expect important heritage views to be identified⁵³. A general statement in the RSAF, which is not a heritage assessment, is not conclusive.
- (2) But assuming at least some value as one looks down Station Road, Dr Miele judges that there would be some low level harm due to some distracting of the eye. However, there are many views in the street from which one would not see the appeal scheme behind the clock tower. Where one would, the harm to prominence would be limited because of the station’s relatively diminutive presence in those views, really effective only at the ground plane and

⁵⁰ It was borne in mind by officers when assessing the scheme for the report into the Hermes scheme: CD7.57 paragraph 6.2.30.

⁵¹ His 3.9 and XX.

⁵² See Appendix 2, paragraph 5.3 page 22.

⁵³ Ie, in Policy EN5 (CD 4.15)

just above. The clock tower furthermore would be less distinct in some views but overall would remain clearly visible due to its colour and the fact it is part of a low-level composition with the rest of the building.

- (3) As Dr Miele stressed, the limits to the effect are hard to reproduce in 2 dimensional images, because the eye will gauge immediately that the appeal scheme is larger and considerably further away than the station building. It will be distinct from it and not read with it or 'blur' it in those views where it appears. All these aspects of the changed condition indicate how limited the effect would be on setting because the key low level prominence of the building would not be muddled or undermined by the presence of a different type of structure behind. This is a common effect and finding in urban settings.

80. So Dr Miele's judgement about overall effect on the former station building is to be preferred as it fully takes into account all of these factors. If the Council's approach (in this case at any rate) were to be adopted, then one can readily see how harm would be alleged in every case – even with a proposed building like that on plot D in the RSAF illustrative scheme would be seen behind the clock tower in the immediate setting of the asset (from the forecourt): will any scheme be refused on this basis? The approach is too brittle and is inimical to the realisation of what the Council actually wants to see in the area.

81. The CA would not be harmed more than to a tiny degree: Mr Bridgeland felt that being able to see the scheme from what he described as a 'key thoroughfare' redolent of earlier phases of the town's development, but that does not tell one much about whether the significance would be harmed. The view would be 'incidental'. It is not a vista or a designed view within the town and there is nothing about seeing a glimpse of the scheme (that is all it would be) from that location that undermines anything of any importance about the CA itself. The setting of the CA is the rest of Reading, which is full of modern buildings and continues to evolve; seeing one of those (outside the CA itself) is just part of the context and does not affect to any material degree what is special about the character and appearance of the CA itself.

82. That is even more the case for the Town Council building – its setting is urban Reading; the change only affects a secondary view of the building itself and such is the distance and the difference between the two buildings that it is difficult to say that even if one's eye was caught momentarily by the appeal scheme in one secondary view of the Town Council building, that any material effect on significance would result.

83. For these reasons, whilst there would be a small adverse effect on the station building due to distraction in its setting, there would be almost none in the cases of the CA and the Town Council building. I return to the balance of harm against public benefit later.
84. It seems to be part of the Council's case that the appeal scheme is objectionable because it should have avoided harm altogether or further minimised it (to a degree not specified). In this case, that is not a cogent objection to the scheme. There are clear design and townscape reasons for the location, height and scale of the proposal (including obviously Block D).
85. A key element of the judgement reached by the Appellant's team about the acceptability of the effect was the degree of change envisaged by Policy and indeed by the RSAF, and a rejection of the idea that a well-designed alternative scheme would have less effect – Mr Doyle's evidence about the RSAF Illustrative Scheme had to focus almost exclusively on a short section of Station Road to suggest that the appeal scheme was more damaging than it to the setting of the former station; the trouble is that in some views from Station Road, there would be little difference, let alone the general impact of a tall building on any part of plot D when seen from the station's immediate setting, the square. A more realistic overall assessment ought to have been made.
86. Clear and convincing justification in paragraph 200 follows from the 202 balance being struck in favour of the scheme benefits. It is not a separate test.

*Relationship with neighbours*⁵⁴

87. The first main issue here is the effect of the scheme on the daylight experienced by properties at 17-51 Vastern Road. The starting point of the assessment is the effect in the cumulative state⁵⁵ of the appeal scheme, expressed by applying the VSC (Vertical Sky Component) and NSL (No Sky Line) assessments within the 2nd edition of the BRE⁵⁶. For the basic policy and guidance on applying daylight and sunlight assessments in planning, the Inspector is referred to the summary contained in Mr Crowley's original position statement⁵⁷.

⁵⁴ Reason for Refusal 7 refers to this topic.

⁵⁵ Ie with both the SSE scheme and the appeal scheme in place.

⁵⁶ The experts agree that it would be appropriate in this case to use the 2nd Edition, notwithstanding the appearance of a revised edition in June 2022, as the scheme was designed with the earlier version in mind and extensive work on that basis has been undertaken: see ID70.

⁵⁷ CD8.16 section 4.

88. In his rebuttal evidence⁵⁸, Dr Littlefair expressed the view that an appropriate numerical benchmark for an appropriate (ie acceptable) residual condition for 17-51 Vastern Road’s windows would be a retained VSC of 24%. That was on the basis that, albeit a level below that in the published 2nd edition of the BRE, Dr Littlefair considered the town centre location of Vastern Road properties justified a different approach⁵⁹.
89. Mr Crowley therefore ran⁶⁰ a cumulative analysis of the implications that the Illustrative Scheme would have on the daylight enjoyed by these properties. The purpose of undertaking the exercise rather than simply applying the daylight impact assessment from the Parameter Plans was to set a benchmark which could then be imposed by condition (or through the Design Code), limiting the effects of any scheme which came forward at the detailed stage to ‘no worse’ than the modelled effects of the Illustrative Scheme⁶¹. In his evidence Dr Littlefair doubted whether the numbers in Mr Crowley’s assessment were “concrete”, but (a) there is no technical rebuttal of them whatever, and (b) they are intended by Mr Crowley to act as the benchmark for future detailed schemes and have a value for that reason also.
90. The results demonstrate that eight of the 17 principal windows on the ground floor to 17-Vastern Road will achieve a VSC of at least 24%. The remaining nine windows will achieve a VSC of at least 23.4%, i.e., negligibly less.
91. That excellent result was supported by ADF results, which demonstrated that all rooms achieve an ADF of at least 1.5%.
92. Mr Crowley also updated the daylight distribution results for the principal rooms⁶² and these demonstrate that 13 of the 17 rooms will achieve the guidelines. Of the four that would not, looking at the comparable results for the RSAF massing, three of these will not achieve the guidelines in that scheme, a strong indication that the outcome from the appeal scheme is reasonable as a consequence of achieving the overall objectives for the Site.
93. In relation to the bedrooms within No’s 17-49, all of these will achieve a VSC of at least 24%, with 36 (90%) achieving a VSC of between 25% and 27% and 2 (5%) achieving a VSC of more

⁵⁸ At paragraph 3.8.

⁵⁹ In his evidence in chief, Dr Littlefair described 24% retained VSC as “not ideal” – but did not move from his rebuttal position that 24% was a useful benchmark.

⁶⁰ See ID56.

⁶¹ Despite the over-extended debate on the subject, it is clear that, with a relatively few exceptions, the Illustrative Scheme drawn up by Mr Collado broadly equates to the scheme as now defined by Design Code, Parameters and Parameter Schedule, as noted above. For the purposes of the daylight and sunlight evidence, the use of the results from the Illustrative Scheme as benchmarks for the maximum effect of the scheme is realistic and gives confidence that the effects on Vastern Road will be within the range assessed by Mr Crowley.

⁶² Ibid.

than 27%. In addition, the daylight distribution results demonstrate that 55% of these rooms will achieve the guidelines. A further 27% will achieve either a minor or moderate impact. The only rooms that would experience a major impact are at second floor level which are large rooms served by small offset windows. These same rooms, plus an additional four it is noted would experience a major impact with the RSAF massing.

94. These results for 17-49 Vastern Road are very good for an urban area and the changes in percentage terms reflect the unusually open aspect to the South that those properties have enjoyed for many years; the results are a far cry from the much lower retained values in the 8 Albert Embankment appeal decision⁶³, to which Dr Littlefair referred in his evidence⁶⁴.
95. The results for the Parameters version of the scheme are a little, but not much, worse, with 20.5% retained VSC the worst outcome⁶⁵.
96. With regards to 51 Vastern Road, the principal window to the ground floor will achieve a VSC of 23.6%, with the window to first floor achieving 24.9% and the window to second floor achieving 26.3% all of which are Moderate impacts. This is the same with the RSAF massing. The daylight distribution analysis demonstrates that both rooms achieve the guidelines.
97. The key thing to remember is that the BRE guidance is clear that it does not represent a comprehensive assessment of the acceptability of effects in any case. That is a matter of judgement taking into account contextual matters. However, in this case, the BRE results alone show that no further assessment is necessary, if one pegs the degree of impact on the Vastern Road properties to the set of impacts from the Illustrative Scheme, which the Design Code now does.
98. Mr Crowley has also provided commentary on the correct approach to retained VSC values in urban areas, in his original position statement, where he makes the following observations which are directly relevant to the contextual appraisal of VSC results⁶⁶:

5.1.13 In the Goldsworth Road Appeal, one of the reasons for refusal was that “The proposed development would result in significant harmful impacts by reason of loss of daylight, loss of sunlight and loss of privacy...”

⁶³ CD 5.8.

⁶⁴ In that case the effect on Whitgift House was much greater and retained VSC values were in the mid to low teens, starting from a much lower base. The judgement reached on daylight in that case was very much on its own facts.

⁶⁵ For number 49.

⁶⁶ I note that the results for the several properties on Caversham Rd are acceptable; the Inspector explored the results for 87, 91 and 93-97 Caversham Rd with Dr Littlefair.

5.1.14 The decision recognised that the BRE guidelines state in their introduction that “The advice given...is not mandatory...” and the guidelines “...should be interpreted flexibly...” The decision goes on to state: “Retaining a VSC level of 27% in neighbouring properties is unrealistic; as has been recognised in many appeal decisions and other documents. Even retaining 20% VSC is considered, generally, to be reasonably good, and in urban areas retaining around mid-teens % VSC is considered to be acceptable.”

99. The second daylight/sunlight issue is whether the appeal scheme would cause unacceptable effects on the Hermes Scheme. Mr Crowley assessed this using modelled data and making reasonable assumptions (based on the Hermes outline drawings and standard room sizes/openings), and found that in the cumulative condition, the appeal scheme would not cause an unacceptable diminution in daylight to units in the Hermes scheme. Mr Crowley considered a notional LKD to a 1 Bed unit on the first floor to Block E-G and a 1 Bed and 2 Bed unit on the second floor of Block A with the Illustrative Scheme in place⁶⁷ and all will exceed an ADF of 2%, demonstrating that with careful design, the proposed accommodation within this scheme facing Vastern Court will enjoy good access to daylight.

100. Mr Crowley clarified that he has used the agreed aperture sizes and that the modelling of the Hermes scheme was appropriate.

101. Thirdly, analysis of the proposed scheme itself was slightly bedevilled by the complexities of the evidence but that has been clarified⁶⁸. The Design Code stipulates that a minimum of 80% of the 1000 units proposed should achieve the BRE level of daylight, which in a dense urban location is an acceptable outcome; some units on the lower levels will not achieve that level of daylight but it is not a requirement of the BRE that every unit in an urban location such as this achieves the benchmark level. As Mr Crowley explained, the values assessed at the outline stage are capable of improvement when the detailed design is finalised, for instance through the re-positioning of balconies, or the use of a larger window openings than modelled.

102. Sunlight access to the lower floors is more challenging due to the position of the Hermes Scheme and the general orientation of the scheme – most of the rooms within ninety

⁶⁷ Nothing turns in relation to this point on the fact that the Illustrative Scheme was used, as the analysis only relates to the effects on first and second floors of the Hermes scheme.

⁶⁸ As set out in the Appellant’s solicitors’ email of 17 October 2022: PDF pages 33 and 34 of Appendix A of CD 8.16 show a sample of the First Floor ADF results for Block B and C of the Illustrative Scheme. The drawings are dated 23 September 2021. These results were superseded by a later analysis, the results of which are shown on PDF pages 20 and 25 of CD 1.46 (“Internal Daylight and Sunlight Review dated 6 October 2021 by CHP Surveyors Ltd”) with these subsequently superseded by the results shown on PDF pages 51 and 56 of CD 12.6 (“Statement of Common Ground: Daylight and Sunlight June 2022”).

degrees of due south are within 28 degrees and so access to direct sunlight is difficult. But the overall outcome is not unacceptable given (a) that over 60% of the habitable rooms on the lower three floors of Blocks C and B will achieve APSH of at least 15%, ie appropriate for an urban location; (b) the good overall daylight penetration guaranteed by the Design Code and (c) the fact that the Site lies in what is intended to be a dense area of tall buildings, in order to achieve other planning objectives. Again, some balance and fairness is needed when evaluating these points.

103. Overall, there would as a result be nothing unacceptable about the daylight or sunlight effects of the appeal scheme.

Sustainability

104. The main questions here are (a) policy compliance with RBLP Policy H5 and (b) whether there is an objection to the scheme based on orientation or use of natural resources.

105. The parties debated the meaning of Policy H5⁶⁹'s reference to "zero carbon homes". Paragraph 4.4.46 seems clear that where homes have not been designed to be carbon neutral, the policy requirement is discharged by being at least 35% better than the 2013 Building Regulations.

106. The SPD (also 2019, published a month after the adoption of the RBLP)⁷⁰ contains Table 3.1 which echoes paragraph 4.4.46 of the RBLP. Paragraph 3.1 of the SPD also contains the alternative way to comply with policy, of being at least 35% better than 2013 Building Regulations, but also refers to an off-set payment. Paragraph 3.11 contains additional wording which goes beyond the words of the Policy ("if [carbon neutrality] is not achievable") and the Council says that this imposes a further policy test requiring demonstration that carbon neutrality is not feasible. That is well beyond providing amplification or colour to Policy H5 and should be rejected. Either the SPD is in line with the policy or if not then limited weight should be given to that phrase.

⁶⁹ CD4.35 page 5

⁷⁰ CD7.7.

107. The appeal scheme, it is agreed, would be able to satisfy the criterion of 35% better than 2013 Building Regulations. It is not a policy failing of the scheme that it is not designed to be carbon neutral.

108. The other main point advanced in various ways by Mr Crawshaw was that the scheme failed to represent sustainable development because it had not been shown that options for orientation, passive solar gain, etc had been examined during the design process. There is a simple answer – the townscape drivers for successful design, including the north-south grid, simply meant that more idiosyncratic layouts were not deemed appropriate. There is no objection to the scheme in terms of wind mitigation or over-heating, and the combination of townscape objectives and a high-performing built envelope⁷¹ is more than sufficient to accord with policy⁷².

The benefits of the scheme

109. There is no dispute that the appeal scheme would bring “significant benefits”⁷³. The scheme would provide up to 1,000 homes in a highly sustainable location and notwithstanding the current 5 year supply position, the parties agree that significant weight should be given to providing what in total would equate to nearly 2 years’ worth of supply⁷⁴; the housing numbers are not, as Mr Jupp notes, minima. A similar approach was taken by the SSE Inspector⁷⁵. That would be in line with the national emphasis on increasing the supply of housing⁷⁶. The Council submits⁷⁷ that some of the benefits would be common to any scheme but there is no evidence to that effect, and that argument is a well-known circularity which should be treated with caution. It is much more straightforward than the slight of hand which the Council seeks to use:

⁷¹ The Inspector will take into account the conditions on exploring heat pumps and dealing with water (draft conditions 65-67). The Appellant’s evidence shows that the built form would go beyond both the 35% v 2013 standard and the current standards also.

⁷² Mr Crawshaw confirmed that any District Heating scheme, if it happened at all “wouldn’t be there for years”. No non-compliance arises on that score. Mr Crawshaw was clear he did not consider the scheme breached Policy CC4.

⁷³ Mr Jupp, paragraph 9.22 page 107.

⁷⁴ Mr Newton also noted that despite the re-development of the Site not currently being sufficiently viable to provide affordable housing (an agreed position), the inclusion of Review mechanisms in agreed form will ensure that the potential for affordable housing to be provided either on or off site is maintained.

⁷⁵ CD9.1 DL189-191.

⁷⁶ NPPF paragraph 60.

⁷⁷ LPA Closing paragraph 284.

the benefits are the benefits of the scheme and their weight should not be reduced on the basis that some unspecified alternative scheme might achieve them.

110. There is a timing issue also – the site is allocated in the RBLP (to 2036) for residential and mixed use regeneration, but the Site’s leases are shortly to end; without a planning permission for re-development, Aviva will look to re-let its asset which would effectively sterilise the Site contrary to the policy intentions for perhaps 10 years (as Mr Newton said, the average length of a commercial lease for the type of units here); even if the new leases came to an end in say 2034, there would obviously not be time to deliver the sought-for regeneration of the Site during the lifetime of the RBLP, an outcome which should be avoided if at all possible.
111. It is agreed that substantial weight should be given to the re-use of previously developed land, in line with NPPF paragraph 120.
112. Significant weight should be given to the considerable contribution to employment and economic growth generally, in line with NPPF paragraph 81. Mr Jupp took no issue with the numbers as set out by Mr Newton on these points⁷⁸, and agreed that moderate weight should also be given to the spin-off benefits to the town centre of expenditure being located in the appeal scheme⁷⁹.
113. Mr Jupp did not feel able to give weight to the public realm and townscape improvement the scheme would undoubtedly bring compared to the current situation; this was on the basis of the Council’s case on those points. However, the scheme would bring multiple benefits in terms of the public realm, connectivity, design quality and sense of place, and due weight should be accorded to those improvements.
114. Some weight should also be given to the removal of a considerable number of vehicular movements from the Site and the immediate area as a result of the scheme.
115. Overall the scheme would, unsurprisingly given its scale and location, produce a very weighty package of planning benefits.

⁷⁸ See Mr Newton, page 47 paragraphs 5.16-5.17.

⁷⁹ See Mr Jupp

Policy compliance and material considerations

116. The public benefits of the scheme would outweigh the low level of less than substantial harm to three heritage assets. Care should be taken with the Council's closing submission⁸⁰ that policy or law requires the developer to justify why any harm to heritage assets is "necessary". No such policy or legal principle exists and it would be a mistake of law to take that approach. The balance between harm (great weight, etc) is to be set against the benefits, bearing in mind that there is a bias in favour of conservation. That is all. Again, the overstatement of this point is a signal of the overstatement of the judgements on harm themselves in Mr Bridgeland's evidence.
117. Overall, the scheme accords with the development plan read as a whole, and both s.38(6) of the 2004 Act, and the NPPF paragraph 11 indicate that permission should therefore be granted.
118. Compliance with the NPPF is a weighty consideration also in favour of the grant of permission.

Residual s.106 and conditions points

119. I have covered the main points on Schedule 14 of the s.106 agreement above. There is nothing outstanding on the s.106.
120. Condition 4 has been reworded to make it clear that the access parameter drawings are in the alternative.

Overall conclusions

121. The fractured and extended nature of the inquiry has posed practical challenges for those involved (chiefly of course the Inspector) but there is a comprehensive set of assembled evidence, a clear set of consent documents, and relatively few main issues.

⁸⁰ At paragraph 24.

122. Listening to the torrent of unbalanced negativity comprising the Council's closing submissions, one would be forgiven for thinking that the appeal scheme was entirely contrary to policy and guidance and unacceptable in most other respects; but its concerns are very much overstated. On the design side they are mired in the overly prescriptive approach that Mr Doyle has taken. It is not helpful or appropriate to apply a 12 year old piece of design guidance as if it were a set of rules – apart from anything else, it leads to the Council missing the wood for the trees.

123. Like most high density optimised urban pdl schemes, there are balances to be struck, for instance between housing and townscape benefits and full compliance with BRE guidance. But the balance is strongly in favour of letting this scheme – after a lengthy delay – fulfil the main brief that policy sets it, as part of the station cluster. It will bring about a revolutionary improvement in townscape and design quality on the Site, and crystallise a key part of the overall masterplan that the Council has sought for a number of years. The Government's headline ambitions for more housing, greater economic investment and growth, and good design, would all be fulfilled.

124. For those reasons, and subject to the conditions and the s.106 (to be completed within the next fortnight), the Inspector is respectfully requested to recommend that the appeal is allowed and permission is granted.

RUPERT WARREN K.C.

16 November 2022

Landmark Chambers

London EC4A 2HG