

**Ward:** Abbey

**Appeal No:** APP/E0345/W/21/3276463

**Planning Ref:** 200188

**Site:** 55 Vastern Road, Reading, RG1 8BU

**Proposal:** Demolition of existing structures and erection of a series of buildings ranging in height from 1 to 11 storeys, including residential dwellings (C3 use class) and retail floorspace (A3 use class), together with a new north-south pedestrian link, connecting Christchurch Bridge to Vastern Road.

**Decision level:** Refused on 09/04/2021 after consideration by Planning Applications Committee

**Method:** Virtual Inquiry (opened on 26/10/21, sat for 15 days until 19/11/21)

**Decision:** Appeal Allowed

**Date Determined:** 17/03/2022

**Inspector:** A J Mageean BA(Hons), BPI, PhD, MRTPI

## 1. BACKGROUND

- 1.1 The appeal site comprises part of the Policy CR11g Riverside allocated site within the Station/River Major Opportunity Area. The site contains the former SSE offices, locally listed entrance building and open car-parking between Vastern Road and the southern bank of the River Thames, adjacent to Christchurch Bridge. Of the 1.24 ha allocated area, 0.48 ha largely containing the electrical equipment has remained in SSE ownership (outside the site), with the remaining 0.76 ha forming the appeal site.
- 1.2 The planning application was validated in March 2020 after pre-application discussions. The application was refused at committee on 31<sup>st</sup> March 2021, for the following seven summarised reasons:
  1. Failure to provide a high quality north-south link through the site;
  2. Height and proximity of the proposed Blocks D & E to the Thames Path harming the setting and character of the path and The River Thames;
  3. Impact on marginal habitats and lack of appropriate mitigation and insufficient space within riverside buffer for required large canopy trees;
  4. Failure to demonstrate sufficient noise mitigation measures for future occupiers;
  5. Benefits not considered to significantly outweigh harm caused through the loss of non-designated heritage asset and retention and reuse not being fully explored;
  6. Failure to adequately demonstrate that it is part of a comprehensive approach;
  7. The absence of a completed S106 legal agreement for various matters.
- 1.3 The applicant appealed against this decision to the Planning Inspectorate, with a virtual Public Inquiry commencing on 26<sup>th</sup> October 2021 and sitting for 15 days.
- 1.4 As indicated by the Appellant, in advance of planning applications committee, the application stage 20.57% on-site affordable housing offer was removed at appeal stage by the Appellant. At appeal stage, on consultee advice, officers agreed that the scheme could not viably provide on-site affordable housing at this time but a deferred affordable housing contribution mechanism was required to be secured within any S106 legal agreement.
- 1.5 At appeal stage the Council made an application to Historic England to statutory list the entrance building at 55 Vastern Road and issued a Building Preservation Notice. Historic England have confirmed on 17 March that the building will not be added to the List.
- 1.6 During the Inquiry the Appellant submitted further information which the Council's Noise consultant confirmed overcame the 4<sup>th</sup> reason for refusal, subject to a condition being used.
- 1.7 During the Inquiry the Appellant submitted a S106 Legal Agreement, which had been negotiated with officers, to address the 7<sup>th</sup> reason for refusal in the event the appeal was allowed.

## 2 SUMMARY OF DECISION

- 2.1 Mindful of the above, the Inspector considered the remaining main issues addressed at the Inquiry to be:
- A) The effect of the proposed development in design terms with particular reference to the quality and effectiveness of the proposed north-south link through the site and the setting and character of the River Thames and the Thames Path (reasons for refusal 1 & 2);
  - B) The effect of the proposed development on 55 Vastern Road, a non-designated heritage asset (reason for refusal 5);
  - C) The effect of the proposed development on the natural environment with particular reference to marginal habitats and large canopy trees (reason for refusal 3);
  - D) Whether it has been demonstrated that the proposal would be part of a comprehensive approach to the development of the Riverside sub-area of the Station/River Major Opportunity Area (reason for refusal 6); and,
  - E) Other planning matters (for example, those raised by the Rule 6 and interested parties), including the benefits to be weighed in the planning balance.
- 2.2 On issue A), the Inspector concluded in relation to the proposed north-south link that:
- “Overall... the route responds to the need to balance competing space pressures, along with the practical and technical constraints associated with developing this site. It would deliver a strategic link for pedestrian and cycle access between the Bridge and the Station, specifically connecting the podium adjacent to the Bridge with Vastern Road.”* (paragraph 47)
- 2.3 Whilst specifying that site challenges meant compromises would be made and acknowledging that there may be other ways of accommodating a more generous and direct route (as advanced by the Council at the Inquiry), the scheme before the Inspector was considered to meet the Policy requirements of offering a suitably direct, legible and visually attractive route, including effective visual links. The route was also considered to be functionally acceptable in practical utility and safety terms, for both pedestrians and cyclists. The link was considered to assist in realising the RSAF vision of a route which connects the area north of the Station to the Centre. Paragraphs 48 and 50 conclude that:
- “Overall, therefore, the appeal scheme would meet the policy requirement for the provision of a high-quality link, befitting the strategic importance of the north-south route.”*
- “The provision of this key link within the wider north-south route would be a notable benefit of the appeal scheme.”*
- 2.4 On issue A), the Inspector commented in relation to the impact on the Riverside that there are tensions between the policy objectives for realising the vision for the redevelopment of the major opportunity area, whilst simultaneously protecting and enhancing the character of the River Thames as a major landscape feature. She concluded that the proposed design realises the Reading Station Area Framework / Policy CR11 aspiration
- “by responding to the history and character of the area and presenting a visually distinctive and attractive frontage to the River, and a gateway into the site. The setback from the riverbank, the creation of accessible riverside space, as well as planting along this frontage, would assist the integration with and enhancement of the River environment.”* (paragraph 81)
- 2.5 The Inspector therefore found that the proposal would have an acceptable effect on the setting and character of the River Thames and Thames Path, whilst also identifying a minor breach in relation to the Policy CR11g and EN11 requirement for the development be set back a minimum of 10m from the watercourse.

- 2.6 In terms of issue B) the Inspector commented on the loss of the locally listed building that there would be conflict with Policies EN1, EN4 and CR3v given the development results in the total loss of the locally listed building. Policy however allows for consideration of whether there would be clear and convincing justification for such loss, usually in the form of public benefits, and whether such benefits outweigh, or significantly outweigh, significance.
- 2.7 With this in mind, the Inspector concluded the building could be afforded no more than a low level and modest degree of significance overall. Reuse and retention options would either cause harm through loss of fabric or ability to appreciate the original form, or/and raise considerable practical challenging. The Appellant's approach to use the site's industrial heritage to inform the proposed design was "an appropriate and proportionate response to these circumstances". The heritage balance required consideration of the public benefits of the scheme, as discussed further under issue E)
- 2.8 On issue C) in terms of marginal habitats, the Inspector concluded that any harmful effects caused would be adequately addressed. In particular, the off-site compensation (whilst challenging to calculate) was considered proportionate and reasonable. Mindful of paragraph 180a) of the NPPF, the Inspector found that "*on the basis that harm cannot be avoided, there would be adequate compensation*" (paragraph 141).
- 2.9 On issue C) and large canopy trees, the Inspector identified tensions between the need to secure high density development and the aim to deliver large canopy trees and protect and enhance the character of the major landscape feature. Whilst stating the tree types would be "*less than optimal*" and the proposals "*would not fully comply*" with policy, it was also found that the trees "*could be accommodated without future conflict*", and "*relate reasonably well to the landscape character*", leading to the overall conclusion on this matter at paragraph 154 that:
- "this is a compromise position in which a high-density scheme would be accommodated with some softening of the frontage and some environmental benefits. Nonetheless, the appeal scheme does offer broad compliance with policy and guidance"*.
- 2.10 In terms of issue D), in respect of comprehensiveness, the Inspector concluded that:
- "it has not been demonstrated that the proposal would be part of a comprehensive approach to the development of the Riverside sub-area of the MOA. In particular, concerns regarding the viability of development on the remaining part of the site, the effectiveness of movement patterns within and between the sites and the efficiency of the use of the remaining site area have been identified. In these regards there would be conflict with the requirements of Policies CR11viii) and CR2f"* (paragraph 168)
- 2.11 For issue E), matters raised by the Rule 6 and interested parties, the Inspector found in overall terms that the points raised had been adequately addressed by the Appellant.
- 2.12 In terms of Issue E) and housing land supply, the Inspector acknowledged the common ground that the Council can demonstrate a supply of housing land in excess of five years. The Inspector did not conclude on whether the appeal scheme was required to help meet the totality of supply across the wider plan period, the Inspector instead specified that "*securing a policy compliant housing scheme is of benefit to supply right now*" and that should be afforded significant weight.
- 2.13 In terms of the submitted S106 Legal Agreement, the Inspector concluded that all obligations met the NPPF and Regulation 122 tests.
- 2.14 With regards to the planning balance and conclusion reached this is copied in full below for your information.:

## Planning balance and conclusion

197. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 establish a statutory presumption in favour of the Development Plan which must be observed. The vision for the development of the allocated area as part of the extension of central Reading northwards has been in place for some 20 years. The challenge of delivering this vision on the appeal site has highlighted the need to address and reconcile tensions between policy and guidance relating to the unique location of the site between the urban core and the River.
198. The proposal would comply with key elements of the planning policy framework for the Borough, and for the site. Specifically, the principle of residential-led mixed use development of this inner urban site as part of the expansion of the core of the town centre northwards is firmly established in the LP. The establishment of a connection to the major north-south movement corridor would support a strategic planning objective. In these regards this highly accessible location is ideally suited to the proposed high- density development with low car dependency. Further, the high-quality design which reflects the history of the site, has regard to its riverside setting, and connects key elements of the MOA with the rest of central Reading, would make a significant contribution to the overall environmental improvement of this area. The scheme would also provide a suitable response to the natural environment, with any harmful effects on MV addressed by an appropriate level of mitigation.
199. Whilst there is a high degree of compliance with policy requirements, I have identified conflict in relation to the loss of the LLB and with provisions relating to the requirement to demonstrate that the proposal would be part of a comprehensive approach to the development of the Station/River MOA. I have also found technical conflict with the policy requirement for development to be set back 10m from the riverbank. I will consider the weight to be given to these harms before turning to the benefits of the appeal scheme.
200. The loss of the LLB must be considered against the requirements of Policy EN1 that the loss of a heritage asset should require clear and convincing justification, usually in the form of public benefits. The Policy EN4 test is that benefits should significantly outweigh significance. I concluded that the LLB can be afforded no more than a low level and modest degree of significance. I also found that, in the context of the site allocation, the approach to using the site's industrial heritage to inform the design of the appeal buildings would be an appropriate response. It may be possible to deliver the benefits of this development whilst in some way retaining the LLB. However, I have addressed the practical challenges of reuse/retention in my reasoning. Furthermore, I must consider the appeal scheme as presented.
201. I have considered the current application for listing this building. If this were to succeed, then the legal requirement that special regard must be had to preserving its special interest would apply. Further, the Framework sets out that great weight must be given to the conservation of designated heritage assets, and that any harm requires clear and convincing justification. In these circumstances I give the loss of the LLB significant weight.
202. I turn next to the requirement to demonstrate that the proposal would be part of a comprehensive approach to the development of this sub-area, as set out in Policies CR11viii) and CR2f. The specific concerns identified

include the viability of development on the remaining part of the site and the effectiveness of movement patterns within and between the sites. There is considerable uncertainty over the future of the remaining part of the allocated area, with the owners suggesting that it is not likely to come forward in the short or long term. This does raise questions about whether development on the appeal site should be predicated on ensuring the feasibility of development options on this site. I raise this point noting also that any changes to accommodate a comprehensive scheme would be likely to lead to a reduction in the quantum of development on the appeal site. Current viability matters have already led to the withdrawal of on-site affordable housing, highlighting the challenge of achieving an economically robust scheme overall.

203. More generally, I have also had regard to the fact that the appeal scheme would secure the development of a substantial portion of the Riverside allocation, a site of great importance as a link between the town centre, the River, the Meadows and beyond. The challenges of designing a policy-compliant scheme in terms of transport links, providing a high-density mixed-use scheme that responds to the River setting and adjacent residential areas, whilst also managing the presence of the adjacent SSE equipment and achieving the highest quality of design, has been considerable. Nonetheless, I must give this policy conflict significant weight.
204. Finally, I consider the breach of policy provisions relating to the requirement that development be set back at least 10m from the River to be a minor matter, noting that in net terms this requirement would be achieved. I therefore give this conflict modest weight.
205. Set against these harms, the appeal scheme would deliver a significant amount of new housing on part of an allocated brownfield site in a highly sustainable location. At the present time the site, and the quantum of housing proposed, may not be needed for the Council to meet its LP housing requirement figures. Nonetheless, the housing requirement is set at a minimum level. In the context of the importance of boosting the delivery of homes nationally, housing supply considerations must attract significant beneficial weight.
206. The scheme would deliver a key section of the north-south pedestrian and cycle link, connecting the Bridge and River towpath with the Station. It would provide an important link supporting the Council's aspirations for this key movement corridor, enabling sustainable and healthy travel choices. The opening up of the riverside area and provision of a café would support the attractiveness of this route. The continuation of this north-south link is a policy requirement. Nonetheless, this has been a policy objective for some 20 years, with the supporting text to Policy CR11g setting out that achieving the north-south link is the main priority for the site and should be given substantial weight in development management. Further, given the evident challenges of achieving a viable route through the site, my view is that securing the delivery of this important piece of infrastructure would be a benefit attracting significant weight.
207. There is dispute as to the extent to which financial contributions towards the provision of a pedestrian/cycle crossing facility over Vastern Road would be a benefit. Nonetheless, as this would support connectivity across the wider north-south sustainable travel corridor, it should be afforded beneficial weight in the balance.
208. There would be wider social, economic and environmental benefits associated with urban development of this nature, though collectively such

generic benefits attract no more than moderate weight. Other considerations, such as biodiversity net gain, the employment and skills contribution, the open space/leisure contribution, the carbon off-setting contribution and the provision of flood protection measures would mitigate against the effects of the development on social, economic and environmental infrastructure. They are therefore required to make the development acceptable in planning terms and do not attract beneficial weight.

209. The scheme would not be able to viably support affordable housing. A deferred contributions mechanism would be secured via the S106 and could convey additional benefits, though I cannot give this weight at this stage.

210. Turning to the final balance, on the one hand I have identified harms which carry weight against the appeal proposal. Set against this are a number of public benefits which carry beneficial weight that is demonstrably above policy compliance. When seen in the context of the significant benefits associated with managing the regeneration of the site as a whole, my view is that the policy harms identified would be clearly outweighed.

211. Section 38(6) requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. In this case whilst I have identified a high degree of policy compliance, there remains conflict with some provisions of the development plan. However, the beneficial elements identified represent material considerations which indicate that a decision which does not fully accord with the development plan may be taken.

212. For the reasons set out above I conclude that the appeal should succeed.

**Assistant Director Planning, Transport & Regulatory Services Comment:**

Clearly it is very disappointing to have an appeal allowed and particularly in this case where so many important local plan aspirations were at stake and where officers and consultees have worked so hard to present the Council's case in such a robust manner. The decision to allow is not seen as a criticism of the Council's decision to refuse or the efforts of officers and the Council's appeal team but is more a reflection of the complicated nature of balancing competing constraints and opportunities, aspirations and reality to reach a planning decision.

Officers are working with the legal team to substantiate if the Council has any grounds to challenge the decision as are there are some aspects on how the balancing of policies was set out that are not clear and our thoughts on this will be discussed further at your meeting.

Case officer: Jonathan Markwell

**Site Location:**



**Site Layout:**

