

**APPEAL REFERENCE APP/W0340/W/25/3359935**

**APPEAL MADE BY LOCHAILORT NEWBURY LIMITED**

**THE MALL, KENNET CENTRE, NEWBURY.**

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**CLOSING STATEMENT FOR THE APPELLANT**

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1. In these submissions, we address the main issues, as set out by the Inspector in the post-CMC note (CD 5.5)(as amended as a result of the clarification given by the LPA and by rule 6 parties as to the scope of their respective cases). We will, in so doing, address the specific points raised by the Inspector on day 5 of the public inquiry.

Main Issue 1 – Whether the proposal would preserve or enhance the character or appearance of the Newbury Conservation Area and the effect of the proposal on the setting of listed buildings. To include subtopic areas of town character, scale/height/massing and density, appearance and townscape effects.

*Approach*

2. We begin with the approach to the assessment of impacts on the significance of heritage assets.
3. We start with policy. There is little between the main parties on this.
4. So far as the development plan is concerned, the principal policies of the Local Plan (West Berkshire LP Review 2022-2039) which concern the historic environment and heritage assets are SP9 and DM9 and DM10. RFR 1 refers, in the context of heritage impact ,to policy CS19 of the former LP; it is agreed that relevant policy in the new LP is SP9 (see Main SofCG table).
5. Policy SP9 is expressed in entirely conventional terms and, unsurprisingly, reflects the statutory and national planning policy tests; development is expected to preserve or enhance heritage assets and their significance; the main policy test within policy SP9 is identical to that set out now in NPPF at para.215 i.e. where there is less than substantial harm, this should be weighed against public benefits. SC agreed that this was the principal development plan policy test applicable here to impact on heritage assets. DM9 and DM10, again as SC accepted, reflect that principal policy test (and both policies provide that “proposals will be determined in accordance with Policy

SP9”). DM9 and DM10 then set out certain criteria which may, in an individual case, inform the application of that main policy test (rather than being, as SC accepted, individual policy tests required to be met in all cases).

6. The NPPF policy is also familiar and its meaning is not controversial; great weight should be given to an asset’s conservation (para.212), harm to the significance of an asset requires clear justification (para.213) and where less than substantial harm arises, this should be weighed against the public benefits of the proposal (para.215). Where public benefits outweigh less than substantial harm, then this may (and usually would) provide the justification for that harm for the purposes of para.213, we submit.
7. In terms of the approach to the assessment of impact on heritage assets, CM has adopted an internal balance, whereby any heritage harm to an asset as a result of proposed development is balanced against heritage benefits to that asset, in order to arrive at an overall assessment of impact on the significance of an asset. The alternative is to focus in the first instance on harm and to consider heritage benefits as a public benefit in the application of inter alia NPPF para.215. The net internal balance approach is not required in law nor in policy. However, where a proposed development has, as we say in this case, beneficial and some adverse impacts on the significance of an individual asset, then the internal balance would seem the most appropriate approach to adopt to reach an overall conclusion on impact on significance; to reach a conclusion on impact on significance only by reference to adverse effects risks, we say, a distortion as to the effect of a development as a whole. Our case is that the internal heritage balance should be engaged here; the LPA, it appears, agrees.
8. Finally, in terms of approach to the assessment of impact on the significance of listed buildings, in all cases in this appeal, there is no direct impact; any impact is because of development affecting the setting of listed buildings. The approach taken by the Inspector in his report into the (called-in) Edith Summerskill House planning application (CM App.1) concludes that the impact on an asset arises by way of development in its setting “... unless the asset concerned derives a major proportion of its significance from its setting, then it is difficult to see how an impact on its setting can advance a long way along the scale towards substantial harm to significance” (see Inspector’s report, para.12.50, set out in CM proof para.4.31). The Secretary of State accepted the Inspector’s conclusion (ibid.). It is submitted that the same approach applies here; no party has suggested that the significance of any listed building that is

potentially affected by the development derives a “major proportion” of its significance from its setting.

9. The appeal site lies within the Newbury Town Centre Conservation Area (“the CA”). It is also within the setting of several listed buildings. It is common ground that the character and appearance, and significance, of the CA is derived in large part as a result of the collection of listed building within it. As such, the significance of the CA and LBs, and the impact of the development on that significance, in large measure overlaps. It is for this reason that the Appellant and the LPA have identified groups of LBs within the CA and have focused on impact on those groups. The AVR views, which have been agreed in terms of location and methodology, assist in assessment of those impacts.
10. Before we examine those groups of assets, we make a few initial observations.
11. First, the LPA accepts that the Kennet Centre gives rise to harm to the significance of the CA and to a range of LBs embedded within it and in its vicinity. Dr. Hawkes-Reynolds (“RHR”) confirmed this in xx; it is confirmed too in the Heritage SoCG (CD 5.8), at paras.3-4. RHR also agreed with the conclusions as to the harmful effect of the Kennet Centre set out in the Officer Reports (CD 1.5) (e.g. para.13.25 (Jan 2025 report)) and in the CA Appraisal and Management Plan (“CAAMP”), at Fig 59 (p.80), p.260 (internal), para.11.66 – 11.68 (pp.194-196). The Rule 6 parties also seem to agree. Indeed, that the Kennet Centre causes harm to heritage assets is recognised at all levels and by all parties to the inquiry (Cllr. Abbas seems to be the exception) is unsurprising. Even the most cursory experience of the southern part of the CA demonstrates why there is common ground in this respect.
12. Second, the position of the LPA, through the evidence of RHR, is that the harm to heritage assets arises from the height, scale and massing of buildings blocks A, B and S. This is reflected in RfR 1, to which RHR speaks. Blocks A and B are internal within the appeal site. Block S extends to the west side of the Market Street frontage of the appeal site; it appears that in respect of Block S, it is the 8-storey element (internal within the appeal site) that is of concern to the LPA. RHR confirmed that the LPA takes no issue with the height, scale or mass of any other block within the proposed development. It takes no issue and raises no objection in respect of the design and external appearance of any part of the development; indeed, RHR accepts benefits in this respect (and we return to this later in these submissions).

13. At this point, we address the point raised by the Inspector concerning the relationship of design to heritage impact. CM was clear as to this point; when considering the effect of development on heritage assets, it is neither possible (nor correct) to consider impact as a result of height, scale and mass in isolation or separately from the wider design of the proposed development, including elevational treatment. Rather, it is necessary to consider the height, scale, mass and design together in order to understand the effect of the development as a whole. That is what CM has done and that is clearly with RHR has in substance failed to do.
14. Thirdly, the LPA accepts a range of heritage benefits that arise from the proposed development. These are set out in the heritage SofCG (CD 5.8) para.11. RHR also agreed with the additional heritage benefits set out in the Officer Report (CD at para.13.39-13.36 (Jan 2025 report)). RHR also agreed with the heritage benefits set out by the LPA's Conservation Officer in her consultation response (CD 2.5). RHR agreed that heritage benefits should attract great weight in any relevant balance (internal or external). CM takes the same approach and to do so is consistent with the statutory duties concerning the weight to be attached to impacts on LBs and as a result of development in CAs.
15. Fourthly, the LPA's ultimate position (adopting an internal balance) is that, in all cases, impact on significance of heritage assets is less than substantial. RHR does not identify where in the less than substantial range the harm which she alleges will arise falls. There is no legal requirement to undertake this exercise. It is however the Secretary of State's position that it should be undertaken (see Paragraph: 018 Reference ID: 18a-018-20190723). RHR accepted, with commendable candour, that her omission in this respect was an oversight. Be that as it may be, the Inspector is not assisted by evidence of RHR as to where the harm that it alleges falls within the policy scale. The Inspector does however have, in the evidence, the assessment and conclusions of the LPA's Conservation Officer who, in her consultation response on the application, concluded, on a non-internal heritage balance<sup>1</sup>, LTSH in all cases and the basis of her view in this respect was explained in that response (see CD 2.5). It is the case that in the OR the gradation of harm as said to be low to

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<sup>1</sup> In her summary in CD 2.5, the LPA's Conservation Officer, having identified low level LTSH, then considers heritage benefits, which, in her view, "carry significant weight in the planning balance". This explanation makes clear that the assessment of low level LTSH is arrived at on a non-internal balance.

moderate This does not reflect the Conservation Officer’s view as set out in CD2.5 and how the position in the OR was arrived at is unexplained. The Inspector also has CM’s views, to which we will return.

16. Fifthly, it is notable that LPA’s Conservation Officer did not object to the grant of planning permission. This is clear from the officers report (CD 1.5) where, at p.30 (Jan 2025 report), the WBC Conservation Officer is recorded as having “no objection”. This reflects her consultation response (CD 2.5) in which, having found a low level of LTSH, she defers the ultimate decision to planning officers to decide whether this is outweighed by public benefits. Notably she does not express any objection to the grant of planning permission, nor does she recommend refusal on heritage grounds. Historic England no longer objects to the grant of planning permission for the proposed development, following amendments made by the Appellant during the application process. That is clear enough from HE’s letter of 20 March 2024 (CD2.39); in previous correspondence HE did object to the proposals and recommended that planning permission should be refused (see CD 2.36 and 2.37). HE has indicated that it still has some concerns (but no longer an objection) but, notably, it advised that if the LPA is satisfied that the development is justified by other considerations, including the benefits to be delivered, the “harm cannot get much lower” and the LPA would be entitled to conclude that that harm is justified (see CD 2.40).
17. With regard to the R6 parties, Newbury Town Council (“NTC”) conclude LTSH at the higher end of the scale. The Newbury Society (“NS”) conclude substantial harm to the CA and LTSH to LBs, at the higher end of the scale. That substantial harm is caused to the CA is not credible and no party, other than the NS, and no professional witness, contends for it. Substantial harm is acknowledged in PPG guidance to be a high test and is one which is not often met. It requires the most serious level of harm, akin to demolition of a LB or unlisted buildings which make a major contribution to the significance of a CA. The appeal proposals do nothing of the sort; indeed, they deliver the removal of a building which detracts from the significance of the CA and nearby assets. The NS’s position on the impact on the CA is not credible and should not be accepted. Likewise, NTC’ and NS’ assessment of a high level of LTHS on other assets – a level just short of substantial – is not credible either and should not be accepted.

18. Sixthly, reference has been made by the LPA and by others to the application for planning permission which is presently before the LPA for a very different form of development on the Kennet Centre site. That application has not been determined, and officers have not yet reached a concluded view on it. There are outstanding issues to be resolved. It is not a commitment, in the form of a proposal that has planning permission; that it will be given planning permission is not assured. As such, and as SC accepted, it can only attract very limited weight at this stage. We say it can and should attract no weight and that it is not material to this appeal. It is well established in law that a proposal that is the subject of an application for planning permission should be determined on its face and any alternative form of development is only relevant in exceptional circumstances. As such, we invite the Inspector to consider the proposals before him. No exceptional circumstances arise which require consideration of alternative, particular an alternative scheme of a very different form and which has yet to receive planning permission.
19. We turn then to assets and do so by reference to the groupings (as shown on CM's Heritage Asset Plan at proof p.41 (internal)) and the AVR views, as all parties have done.

Group 1 (east), Group 5 and Group 6

20. This groups of assets, all within the CA, are to the east of the appeal site and include the LBs of Market Square and Cheap Street. The impacts are shown on AVRs 4-5, from Market Square and AVRs 10, D, C and B, progressing from east to west from the A339 roundabout along Bear Lane to Cheap Street.
21. The LPA's concern, by way of reminder, is as to height, mass and scale of buildings A, B and S.
22. Notably, Historic England does not have concerns about the impact of the development in respect of this group. It has confirmed that "from Market Place (views 4 and 5) there is a slight increase in scale, but it is not one that would be out of keeping with surrounding townscape" (CD 2.36). The LPA's Conservation Officer is of essentially the same view; in CD 2.5, the Conservation Officer states that "In some identified views (AVR Views ... 4 and 5), the proposed development now reads as gently climbing from the existing streetscape, without overly dominating the adjacent buildings". Significant weight should be attached to these judgments.

23. It is the case that the new development will be seen looking south from Market Square. However, that is not the test. The development will not be harmful in those views; Market Square is a generous space with varied townscape within and visible from it. The elevational treatment proposed will add interest and value and will benefit the significance of the Market Square part of the CA, its LBs and views from and within it. No harm arises and, when weight is attached to the heritage benefits, the effect overall is beneficial (as CM has confirmed (proof p.78-79)).
24. With regard to the views west along Bear Lane, this is not a location which provides any opportunity to experience the CA in a positive way; it is certainly not a sensitive view into the CA, nor of the Catherine Wheel PH and 33-34 Cheap Street, as assets in their own right. In support of that submission, we make the following points.
25. First, only part of Bear Lane is within the CA (i.e. that part to the west of the junction of Bear Lane and Wharf Road).
26. Secondly, views towards the CA (and within the CA on the western part of Bear Lane) are from footways, adjacent to a heavily trafficked road with unattractive modern development in the foreground, in particular the BT building, the post office yard, the rear of the unappealing building at the north-east corner of the junction of Market Square/Cheap Street and Bear Lane and various elements of street paraphernalia. As an opportunity to appreciate the CA, its character, appearance and significance, Bear Lane is not a positive one. The same applies to views of the LBs from Bear Lane and, we note, elements of the MSCP and the Kennet Centre are visible above the roofline of the Catherine Wheel PH in those views now (see assessment of CM at proof p.42). RHR in her proof at para.4.23 described modern development in views along Bear Lane as “less sympathetic” which is, perhaps, somewhat of an under-statement. It is when closer to the LB’s i.e. on Cheap Street that their architectural and historic interest is best appreciated, rather than in middle distance views from Bear Lane. That this is the case is recognised in the HTVIA at p.45 para.6.38 and RHH expressly agrees with this assessment (see Heritage SoCG (CD 5.8) para.2 and xx, day 1).
27. Moreover, that Bear Lane is not a sensitive view into and of the CA and of the LBs is acknowledged in the CAAMP; it is not identified on p.86 as a key view – see also para.10.2 (p.123) and Fig 111 (p.124).
28. The development will be seen in views along Bear Lane. However, whether it causes harm to the CA or LB’s is a different matter. CM acknowledges that there

will be some adverse effect on the LBs and of the associated part of the CA in middle and longer views westwards along Bear Lane. However, the development will improve the street scene of the CA and in the nearer views in which the LBs will be best experienced. The CAAMP recognises that the Kennet Centre detracts from the significance of the Catherine Wheel PH and 33-34, Cheap Street (see CAAMP para.11.67 (p.194)). The appeal proposal addresses this with sensitively and well-designed elevations either side of the assets and in views into the CA. The appeal proposals will be seen above the roofline of the two listed buildings and in views from Bear Lane. However, the elevations of the taller internal blocks are well articulated and well designed. Taken as a whole, we say that the limited and low-level harm to views into the CA and of the LBs from more distant views is outweighed by benefits to the immediate context. The overall impact is beneficial (see CM p.78).

29. We add at this stage that the NS reliance on (adapted) street views as representative of how the development in Cheap Street would be experienced is plainly wrong. Street views lack perspective and to use them, as NS has done, generates an inaccurate impression.
30. Regarding Cheap Street to the south of Bear Lane, neither HE nor the LPA Conservation Officer express any concerns about the development when experienced from this location. The view south along Cheap Street is channelled. The poor quality of the Kennet Centre is a detracting element and Cheap Street in general is widely acknowledged not to be a particularly sensitive part of, or a positive opportunity to experience, the wider CA or listed buildings along the Street. The CAAMP recognises that the townscape along Cheap Street is of “lesser quality” (para.11.26 (p.157)). It goes on to state that “Cheap Street is forever predominated by traffic which diminishes the experience of the pavements and has a knock-on effect making this part of the street less desirable for visitors, something which is then reflected in the quality and success of businesses likely to take up tenancies in the buildings in this area” (para.11.27 (p.158)). The removal of the Kennet Centre and its replacement along Cheap Street with well-designed and sympathetic development will have a positive impact on the significance of this part of the CA and LBs along it. Of course, the height, scale and mass of blocks A, B and S will not be experienced in these views, which are southward looking and channelled.

RHR's concerns about Cheap Street (and those expressed by the NS) are not well founded.

Group 1 (west), Group 2 and Group 4

31. This group includes the LBs on Bartholemew Street and that part of the CA seen in views south from Northbrook Street, Bridge Street and Bartholemew Street. These are shown in the sequence of AVR views 1, 2, A and A, which proceed from north to south along that succession of streets.
32. The LPA's concern is, principally at least, the effect of part of the development on views of the roof scape of the northern part of Bartholemew Street. This will be experienced, RHR says, from nearer views – AVR views 2, A and 3. RHR says that this harms the CA and the significance of various listed buildings along Bartholemew Street. RHR says also that there will be harm to the significance of St. Nicolas Church, its gateway onto Bartholemew Street and to Newbury Town Hall.
33. Notably, these concerns are not shared by HE. In its letter of 27 October 2023 (CD 2.36) HE states that "... while the development would be visible in view [sic] from Northbrook Street (view 2) the reductions in height, combined with alterations to the design which mean that from this angle the development would be seen as a varied collection of pitched roofs, mean [sic] that it would not intrude on the townscape in the same way that the previous scheme did. Once on Bridge Street (view 3) the proposed buildings are likely to blend into the street scene well...".
34. The LPA's Conservation Officer did not that consider any harm arises from the appearance of the development in view 3 (see CD 2.5; see also CD 1.5 (Jan 2025 Officer Report para.13.38).
35. CM accepts that in some views south from Bridge Street, the development will be seen behind the roofs and chimneys of some buildings on the northern end of Bartholemew Street and this, considered in isolation, generates a small degree of harm. The roofscape and chimneys will still be visible but in some views with the development behind them. However, as CM made clear, the experience is kinetic and the extent to which the development remains in view behind the roofs of those buildings changes and reduces as the viewer moves southwards along the street. The aspect of concern to the LPA continues over a relatively short distance in the

viewers' journey along the succession of streets and only affects a limited part of the way in which the assets are experienced. As with other aspects of impact, the development and its effects need to be considered as a whole. When proper consideration is given to the introduction of the proposed high quality street elevations and accessways into the appeal site (a common feature in the CA), which will be very much experienced in these views and which represent a marked improvement on the present experience generated by the Kennet Centre, the effect on the setting of the LBs in this grouping and of this part of the CA will be beneficial overall.

36. We turn to some particular points.

37. First, with regard to the Newbury PH, a LB grade II, RHR considers that the development will “loom” above the building, when experienced from Bartholemew Street. CM, in his rebuttal evidence (CD 5.25), has undertaken the exercise of examining the extent to which the proposed development would be visible behind the Newbury PH. That exercise, which RHR does not dispute as to its accuracy or value, shows that only a small proportion – the uppermost two floors of the development - would be seen above the lower part of the Newbury; none would be seen above the higher ridgeline of the PH. The distance from the viewpoint of the nearest part of the proposed development behind the Newbury PH is approximately 42m. Indeed, part of the Kennet Centre can be seen now in existing views above the lower part of the Newbury PH, at a distance which is much closer than the arrangement which the proposed development would introduce. RHR's description of development as “looming” over the Newbury PH is an overstatement. In any event, this impact, such as it is, must be considered in the context of the much-improved street scene which the development would deliver, and which would be a benefit to the significance of the Newbury PH and generally. The effect on the significance of the Newbury PH is beneficial.

38. RHR and the NS consider that there will be harm to St. Nicolas Church and its gateway onto Bartholemew Street. CM concludes no such harm, as does HE; as Grade I and II\* assets, it may be assumed that HE would have paid particular attention to impact (if any) on the Church and the gateway. Both assets are located on the opposite site of Bartholemew Street to the appeal site. The skyline of both will not be affected. Although Bartholemew Street and the Kennet Centre may be

- part of the setting of the assets, the improved street scene and layout will improve the experience of the wider setting of those assets and benefit their significance.
39. Similarly, the Town Hall will not be adversely affected. It is clear enough that it is the eastern elevation of the TH, which includes its clock tower, is its most sensitive aspect. That will not be affected by the development. The rear – Bartholemew Street – elevation is secondary. The development will not skyline or silhouette the Town Hall in any views (including longer distance views, referred to by the HE, to which we will return). The street level improvements will benefit the Town Hall in how it is experienced in its Bartholemew Street context. No harm arises.
40. So far as longer distance views from the very northern end of Northbrook Street are concerned such as AVR view 1, CM was clear in his evidence. Given the distance between the view point and the appeal site and given the focus of the view, which will be on the Northbrook Street frontages which are varied and are themselves of clear interest in the view, the appeal site is not a significant feature, now or with the development, in the view nor does it contribute to the significance of the viewpoint as a place to experience the CA or LBs. CM has explained why the reference to a “vanishing point”, which is more a feature of Renaissance architecture, is not appropriate nor does it represent how the appeal site is experienced in these longer distance views.

*The Wharf Buildings, more distant views and other views*

41. RHR raises an issue about impact on the Corn Store and the Cloth Hall (“the Wharf Buildings). These buildings are not in the Newbury TC CA. These are not matters of concern to the Council’s Conservation Officer (see CD 2.5). Moreover, RHR identifies the effect as “minor harm” (see RHR App.1 p.A1-7).
42. The current setting of the Wharf Buildings and the contribution of that setting to their significance is addressed in the HTVIA (CD 1.75, p.48 (internal) paras.6.91-6.93). What is there set out is agreed by RHR (Heritage SofCG (CD 5.8) para.2)). The assessment refers to the “much changed and modern context” of how these assets are experienced and that the “area is now dominated by car parks and the telephone exchange, the bus station and modern library” (para.6.91). The Corn Store is experienced now in views from the north with modern buildings – esp. the BT/telephone exchange building – above its roofline (see e.g. image in TC

masterplan CD 4.16 p. 34 (internal); see also view from bridge across the river/canal). The HTVIA concludes, in respect of the current setting of the Wharf Buildings, that:

“None of this setting contributes to the interest of the corn store (indeed it actively detracts) and while the former cloth store is a more peripheral element in the views across the wharf, it too is a detracting element in the appreciation of the pair of buildings ... The only historic context for the pair of buildings is on Wharf Street looking towards Northbrook Street (sic)<sup>2</sup> and this part of its setting (arguably the most important aspect of the setting of the former cloth store) is not affected by the development due to a lack of intervisibility” (CD 1.75, p.48, paras.6.92-6.93).

43. RHR notably agrees with this assessment (see Heritage SofCG CD 5.8, para.2). There is no harm to the significance of the Wharf Buildings or of the CA in views from the Wharf.
44. Regarding longer distance views – e.g. AVR views 9, 10 and 11 - these are outside the CA. They are dominated by roads, infrastructure and other modern development. They are not sensitive views and do not contribute to revealing the significance of the CA or any assets within it. The same applies to the additional views referred to in evidence by the NS. CM has given his evidence on the importance of those views to an appreciation of the CA and assets within it. No harm arises.

#### *Newbury CA – Market Town Character*

45. The LPA does not, as RHR and SC both confirmed, take any point on impact on townscape or the visual environment other than in respect of heritage assets. There is no separate townscape and visual impact objection which is advanced. As such, the market town character points only go to the CA and possibly to how LBs are experienced. CM has explained how Newbury has evolved and how there are indeed elements which reflect its market town heritage, including the arrangement of streets. As CM explained, Newbury has not stood still and there are elements of its character which demonstrate an evolution beyond that market town heritage - the taller elements of Parkway development, the BT building, the new Weavers Yard development and indeed the Kennet Centre are examples of this. The proposed must

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<sup>2</sup> As CM explained in EiC, the view along Wharf Street is in fact to Market Place and Mansion House Street beyond, rather than to Northbrook Street.

be considered in that context. Moreover, what is proposed in many respects reinforce the market town character and heritage – the north-south route, the street elevations, the plot sizes (reflecting burgage plots). The proposal will respect and reinforce the market town characteristics of Newbury TC and of the CA, albeit that those characteristics are not definitional in terms of the character, appearance or significance of Newbury and its CA now.

### Other Heritage Matters

46. So far as 17-19 Market Place is concerned, this is an unlisted building and is not locally listed. It is not identified as a building which contributed materially to the significance of the CA (and is certainly not identified as such in the CAAMP). No professional witness suggests any harm because of its loss and replacement with the much-improved form of development that is proposed.
47. So far as form and function is concerned, the residential component of the proposed development is intended to be delivered as BTR units. There is no objection to this, and the LPA recognise this as a benefit, given that it serves the need of a particular cohort of residents and prospective residents. Some elements of the floorspace are necessary to meet the needs and expectations of BTR homes, the principal elements being the internal communal spaces which are integral to the BTR format. It is the case that the quantum of development is necessary to deliver a viable scheme (see SC xx; see also CD 1.5 (Jan 2025 officer report) para.13.33-13.34; CD 1.216). The LPA does not dispute this, as RHR and SC confirmed (on xx), nor indeed do the rule 6 parties. We return to this point later in these submissions. However, and be that as it may, setting matters of viability to one site, the form and character of the development is we say clearly acceptable in its own right and that is how we invite the Inspector to determine the appeal.

### Issue one – conclusions

48. It is submitted that, using the correct approach to assessment for the purposes of this development, the balance of the evidence leads to a conclusion that the development will not harm the character and appearance, and significance, of the CA or any LBs within it or in its vicinity. Indeed, we say, looked at as a whole, there will be enhancements to many assets (see summary at CM pp.78-79). No harm

therefore arises and policy SP9, DM9 and DM 10 are met, as is the NPPF, including para.213. If this conclusion is accepted, then the heritage balance at para. 215 and the same balance in policy SP9 is not engaged.

49. If this is not accepted, the evidence points to any heritage harm being at the very lowest level of LTSH and this harm is amply outweighed by public benefits. There is no conflict with the heritage policies of the DP or those of the NPPF.

Main Issue 2 Whether the proposed parking provision would be acceptable and the effect on highway safety.

50. No party suggests that the proposed development will generate an adverse effect on highway safety; there is no evidence at all to support such a proposition.
51. The Local Highway Authority and the LPA more widely sustain no concern about the proposed parking arrangement, either as to quantum or distribution, including the proposal for shared use of the Kennet Centre MSCP. Mitigation in the form of a sizeable contribution to the costs of upgrading the existing Variable Message Signage (VMS) system and improvements to the Station car park have been agreed and are secured through the planning obligation.
52. Both the LPA and the Appellant have carried out surveys of the use of the Kennet Centre MSCP. It has been shown to have sufficient capacity to accommodate anticipated parking requirements arising from the proposed development, as well as visitor parking, throughout the working week. Mr. Moore's concerns about residents not finding a space when they return from work is not borne out by the evidence and the fact that a resident does not have a dedicated space is not unusual and is nothing to the point. If demand exceeds capacity at any point, it will be on a Saturday as a result of visitors to Newbury TC. However, it has been demonstrated and accepted that there is ample capacity in other car parks, including Market Street/Newbury Station MSCP (see Waterman statement para.27), which would be upgraded via the S106 contributions. The VMS will direct visitors to the car parks with available capacity. No basis for any objection to the parking provision arises and there is no evidence to support a conclusion that severe adverse effects will arise to highway operations.
53. To the extent that NTC suggest that there should be more car parking provided, then, in addition to the matters set out above, it is the case that the appeal site is within a town centre, with excellent access to public transport (bus and rail) and to range of services. If there ever was an opportunity or justification to seek to limit car use and therefore car parking, this is it.

54. No conflict with policy SP23 of the new Local Plan arises. Indeed, the requirement within that policy to improve opportunities for active travel, improve travel choice and facilitate sustainable travel and demonstrate good access to key services and facilities are amply met by the appeal site through its locational benefits. A travel plan has of course been provided in draft and it, alongside the contributions to facilitate it, are secured through the planning obligation. No conflict with policy arises and the parking provision proposed is not a negative feature for the purposes of any planning balance.
55. Moreover, the proposal clearly delivers what is required by NPPF para.110 by “... focusing development on locations which are ... sustainable through limiting the need to travel and offering a genuine choice of transport modes”.

Main Issue 3 - The effect of the proposal on the living conditions of future occupiers, with particular regard to the provision of external amenity space and noise.

56. There are two aspects to this matter. First, there is an issue as to the acceptability of the extent of communal space provided. Second, there is the effect of the operation of the terrace to the Newbury PH on living conditions of residents.
57. In terms of policy, it appears to be common ground that the main relevant development plan policy is SP7 and DM30. The former is a general design policy seeking to secure high quality of design in new development. The latter is more specific and concerns residential amenity. By that policy development is expected to provide a high standard of amenity and, for present purposes, to do this by (a) avoiding “unacceptable” harm in terms of noise and (b) and by providing “functional amenity space of a quality and size to meet the needs of the occupants”.
58. In terms of the first matter, referred to above (the extent of communal amenity space), the LPA’s point is about the quantum of communal open space. The LPA does not sustain any issue on quality of the open space (as SC confirmed to the Inspector<sup>3</sup>) and RfR 5 does not include such a complaint. The LPA says that the proposed development does not meet the quantitative requirements of the Quality Design SPD (2006) (CD 4.10), or the guidance now contained in para.11.100 of the reasoned justification to policy SP30. The LPA does however accept that the SPD, in so far as it concerns private amenity space, and is a “guideline” and strict adherence is not required (see Topic 3 SofCG (CD 5.9) para.23). The same is the case for para.11.100 of the new LP which is stated expressly to be “a guide”. Moreover, the SPD, stated at para.1.16.5 that “for flats,

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<sup>3</sup> SBW addresses the LPA’s points about quality of communal open space in her rebuttal proof (CD 5.26). The LPA does not now advance qualitative concern, as SC confirmed.

a reasonable provision of communal outdoor space is suggested” and that “it is noted that there are a variety of approaches to providing outdoor amenity space for flats which will vary according to the location and character of the proposed development”. The same is now included in the LP at para.11.100. The SPD makes clear “roof gardens are a good way of providing green private space within apartment blocks” (para.1.16.2). Neither the SPD nor the LPA has any specific guidance for BTR development.

59. On terms of the issues, the LPA does not take a point on the disposition or quality of the communal space to be provided in the form of podium gardens. The LPA does not take issue with the approach to provision of private terraces and balconies, nor does it say that these do not contribute to the overall amenity space calculation and assessment. It does however take issue with reliance on internal communal space and on the north south route (or “new street” as referred to in the Topic 3 SofCG) as contributing to the quantum of communal space for new residents.
60. In respect of point 1, communal internal space, including a series of residents’ lounges at ground and upper floors, all with space to spill out into open areas, a gym, a squash court – are important and expected features of BTR development. The nature of BTR homes is that such communal facilities will be provided and these provide the opportunity for residents to gather in a social context. Such facilities are not central features of market or affordable tenure homes. The importance and function of these sorts of communal facilities in BTR development was recognised by the Inspector who determined and allowed an appeal concerning new BTR homes in Basildon, in the context of an objection to the proposal by reference to a failure to meet the quantum of private or communal space specified in supplementary planning guidance – see SBW Proof App.1, see decision letter paras.80 and 88, in particular. The Inspector concluded that these internal communal spaces contributed to the amenity space available to residents of the BTR scheme.
61. In respect of the north south route, the Inspector has been shown the Landscape Design Statement (CD 1.173) which illustrates how the “new street” is to be laid out and what it is to contain. It is a generous multifunctional space which, we say, will clearly contribute to the amenity of new residents as amenity space.
62. Moreover, the appeal site is well located in relation to generous and high-quality public amenity spaces, including parks and the site is easily accessible to these spaces via safe and good quality routes. Much of this has been agreed with the LPA and others. In a town centre location, use of public open space by residents is entirely reasonable and acceptable.

63. We say therefore that the quantum of communal open space and communal and private space generally which is to be provided is entirely reasonable and the requirement of policy DM30 to provide “functional amenity space of a quality and size to meet the needs of the occupants” is met as is strategic policy SP7, in terms of delivering good quality design. This was the conclusion of officers as recorded in all three of the officer reports (CD 1.5 (Jan 2025 report, paras.15.37-15.51 (pp 61-63 (internal))). It seems from SC’s evidence on this point that RfR 5 is indeed something of a makeweight.
64. We turn then to noise. The issue here is noise from the use of the terrace to the rear of the Newbury PH for the playing of live and recorded music and its effect on the living conditions of residents.
65. We make a few introductory points. The Newbury PH, under its premises licence, can play recorded music until midnight each day. Under the amendments to the Licensing Act 2003 introduced by the Live Music Act 2012, the Newbury PH can also play live music until 11 pm, as indeed can any public house unless its premises licence, following a review, specifies expressly otherwise.
66. Secondly, and importantly, it follows that Parliament, in enacting the changes – described as “deregulatory changes” (see SBW App.5 para.11) – introduced by the 2012 Act must have been satisfied that to allow licenced premises to play live and recorded music until 11 pm was acceptable in principle notwithstanding that residential properties may be affected. The proposal to introduce residential properties near to the Newbury PH must be considered with this context firmly in mind.
67. Thirdly, the appeal site is located in a town centre, with all of the attendant activities which are undertaken, and which can be expected, in such a town centre. This includes the presence of pubs and other licenced premises and the effect of uses associated with these. The impacts of activities at the Newbury PH and whether the relationship to residents is acceptable must be considered in that context too.
68. Fourthly, the LPA and indeed all parties wish to see the appeal site redeveloped and there is no objection to housing-led redevelopment. Indeed, the principle of redevelopment is accepted and supported by all main parties. The Newbury PH is “embedded” in the appeal site. As such, it is necessary in any scheme for the appeal site to address the Newbury and its activities. Given the relationship of appeal site to the Newbury and its terrace, some impact on future residents is inevitable if the appeal site is developed, as most participants at this inquiry seem to accept that it ought to be. Moreover, any concern about impact of the Newbury PH and its activities on future residents must be balanced against the opportunity presented by the appeal site as a

brownfield site in a highly sustainable town centre location. The decision maker should be careful before settling on an expectation in terms of the relationship between the Newbury and the amenity of residents which unreasonably blights the important opportunities that development potential of the site offers. This is not to say that the amenity of future residents here is any less important but a balanced and holistic view of all material considerations should be undertaken. In response to the Inspector's point during the RTD as to "whether planning should do better", it is of course necessary to consider the wider context, which here involves a town centre site, in a sustainable location which everyone (practically) wishes to see redeveloped and which can provide mitigation of an entirety routine form which will secure residential amenity on the occasions when live or recorded music is played on the Newbury PH terrace. Planning ultimately (or usually) involves a balance. We say the balance here can acceptably be struck in favour of the grant of planning permission.

69. Fifthly, it is the case that the Newbury PH has not been complying with its licence conditions. The licensing authority can of course take enforcement action in response, including by the triggering of a premises licence review. It is agreed that for the purposes of the assessment here it should be assumed that the Newbury PH will operate in accordance with its licence conditions.

70. Those points addressed, there are two issues which arise.

71. First, there are internal living conditions. The noise monitoring and modelling which has been undertaken confirms that, without mitigation, some of the proposed residential units will be affected internally by noise from the use of the Newbury PH terrace for the playing of live and recorded music. Apart from the times that the Newbury PH is so used, the position in terms of internal noise is agreed to be acceptable. The number of units affected by the Newbury is approx. 100. The Appellant has responded to this by making provision for acoustic insulation to the relevant parts of the building fabric, acoustic glazing and winter gardens, (i.e. closable balconies). Comfort cooling will be provided, which delivers cooling and fresh air. The LPA accepts that with these measures in place, acceptable living conditions will be achieved. These are entirely normal measures which are routinely provided in residential properties which are affected by noise, including where that noise source is continuous (which is not the case here) and are accepted as a means by which acceptable internal living conditions can be secured. It is of course the case that it will only be when the Newbury PH terrace is playing live or recorded music that windows and balconies of the most affected units may need to be closed. Thus, the need to do so is far from continuous; the Newbury PH terrace is used now only on a few occasions

a week and there is no reason to expect this to change. As such and considered in the context of the matters referred to above, with the mitigation measure proposed, the resultant internal living conditions are acceptable and no “unacceptable” harm through noise will arise so as to lead to a conflict with policy DM30 or SP7. Moreover, the NPPF para.198 is met in that noise has been shown not to “give rise to significant adverse effects on health or the quality of life” of new residents. So far as para.200 is concerned suitable mitigation can be provided to ensure that the proposed development is integrated with the Newbury PH and that the Newbury will not have unreasonable restrictions imposed on it. So far as the PPG Noise Exposure Categories are concerned, taken at its highest, the effects here will be LOAEL, where the expected action is mitigation. Appropriate mitigation has been secured by the measures agreed.

72. So far as the effect of the use of the Newbury PH terrace on proposed external space, it is agreed that, when in use for the playing of live and recorded music, noise levels experience on one area of podium space – area 1, as shown on Plan 1 in the Topic 3 SofCG (CD 5.9) – will exceed WHO and BS8233 guideline levels (see Joe Baggaley Proof (CD 5.18) p.8). However, BS8233 acknowledges that these levels “cannot be achievable in all circumstances where development may be desirable” and that a “compromise” may be necessary (ibid.). The ProPG guidance published by the Institute of Acoustics and others advises that where some areas of communal space are affected by noise, then this can be addressed inter alia by provision of alternative unaffected areas (ibid.). That of course is the position here. Any resident who does not wish to use amenity area 1 as a result of the use of the Newbury PH terrace is able to use any of the other amenity areas in the development, which, it is agreed, are unaffected. SBW explained how the other spaces are accessible to all residents. Moreover, in terms of amenity space, the Newbury PH terrace is used for the playing of music on a few evenings a week. This is likely, for most of the year, to coincide with the period in which external amenity space within the development is less likely to be used. This relationship is acceptable, we say, and no conflict with DM30 or SP7 arises in terms of noise impacts on amenity space 1.

73. Before moving on, we address the Inspector’s questions.

74. First, there is proposed to be a noise management plan. This is secured by draft condition 38. This plan will ensure that new residents are made aware of the operations at the Newbury PH and how to address any noise issues which arise, including for affected units, the opportunity to close windows and balconies when required. As a managed development, and as JB confirmed, it is to be expected that a point of contact will be identified to whom residents can direct concerns and who will

then liaise with the Newbury PH, should the need to do so arise. These are all sensible and standard mitigation measures. There is no reason why these should not be given full weight.

75. Second, we do not consider, and the evidence does not suggest, that the day or day living conditions of residents will be unacceptable affected for reasons already addressed. The use of the Newbury PH terrace for the playing of live and recorded music is far from continuous or indeed frequent. Mitigation of the nature identified and agreed, of an entirely standard form, is provided for use when needed and the conditions when this mitigation is deployed is acceptable.
76. Thirdly, and as we have submitted, the deregulation of licenced premises introduced by the 2012 Act applies generally (unless removed by licence condition following review). It is possible that there will be other similar sources of noise in the town centre. However, given the conscious decision of Parliament to deregulate the playing of live and recorded music, this prospect cannot be an objection to new development and in particular new development in a town centre. Were it to be so, then development opportunities in many town centres will be blighted. Notably, the LPA raises no concern about the relationship of the proposed development to the Catherine Wheel PH.
77. Finally, it is notable and important that the LPA planning officers did not consider that the relationship of the Newbury PH to new residents and impact on residential amenity to be a basis to refuse planning permission. Rather the balanced view taken by officers is that with mitigation, the relationship is acceptable. This is clear from the Officers Report (CD 1.5 (Jan 2025 officer report) paras.15.20-15.36).

#### Main Issue 6 – 5-year housing land supply

78. The LPA adopted its new Local Plan on 10 June 2025. As such, it is common ground that the LPA is now able to demonstrate a 5 YHLS of 5.7 years (Ms. Bassett proof para.3.47). The para.11(d) tilted balance falls away.
79. However, at this stage, we make the following related points.
80. The new LP was prepared, examined and adopted under the transitional provisions set out in NPPF (2024) para.234(b). The new LP has used the 2021 standard method to generate its local housing need. As LB confirmed, in accordance with NPPF para.236, the LPA is required to begin immediately the preparation of a new local plan which is consistent with the 2024 NPPF. This will generate an annual housing need

figure of 1,070 dpa (LB proof para.3.5), which is over double the current LHN annualised figure of 515 dpa.

81. The LPA has an enormous challenge ahead of it in meeting the LHN derived from the 2024 NPPF. It is notable that, in the process of preparation of its new LP, the LPA considered increasing the housing requirement beyond the minimum to meet its transitional LHN in order to deliver more affordable homes. It did not do so due to lack of suitable sites and environmental impact (see LP Inspector's report (CD 4.25) para.38-39). West Berkshire has a number of constraints, including North Wessex Downs National Landscape, the two Atomic Weapons Establishments and extensive areas at risk of flooding. Even to meet its current, much reduced, LHN in its new plan, the LPA is relying on greenfield site allocations.
82. All this points to the critical importance of realising in full the opportunity presented by the appeal site – a brownfield site in the town centre and with exceptional links to public transport and services.

### The Benefits of the Scheme

83. It is common ground that the proposal will deliver a number of planning benefits. These are recited in the SofCG CD 5.7 (para.7.34). The issue, in most respects, concerns the weight to be attached to those benefits.
84. The Inspector has SBW's evidence on the planning benefits and the weight to be attached to these. SBW attaches great weight to the delivery of new homes, to the delivery of BTR rent units, to the use of a sustainable brownfield site, to the delivery of much improved public realm and permeability and to the delivery of new commercial floorspace. SBW has attached significant weight to other benefits including economic benefits.
85. SBW's assessment reflects generally the view of planning officers as set out in CD 1.5 (Jan 2025 officer report) at para.23 (pp.72-74). We note that in respect of improved legibility and connectivity through the town centre, the officers conclude that the changes brought about by the development "cannot be understated in term of planning benefit to Newbury" (ibid. para.23.7) and officers attach "great positive weight" to this benefit, as they do to delivery of new homes that "would contribute to meeting the future housing needs of the district and nationally" (ibid. para.23.5). Notably, the officers were of the same view as to the weight to be attached to these and other benefits whether or not the para.11(d) tilted balance was engaged (see the

October and November 2024 reports for the assessment without the tilted balance being engaged).

86. SC's assessment became very muddled. She has moderated weight to regeneration benefits and to expanded retail offer by reason of an assertion that the proposal is not "the only viable proposal to regenerate this area, given the new planning application" (SC proof para.5.2) yet she conceded that only very limited weight should be given to that planning application. Her approach in this respect made no sense and she acknowledged this. In other respect, when the view of fellow officers view as set out in CD 1.5 was put to SC, she altered her view. She moved from absence of affordable housing as a significant negative factor to a neutral one, when challenged, but did not consider any adjustment to her overall conclusion on the balance to reflect this. SC's assessment is not, we submit, to be relied on and should be given no weight.
87. SC's refusal (at least initially) to accept that s.106 contributions to public open space, Variable Message Signage (VMS) system upgrades and improvements to the Market Street/Newbury Station MSCP are not benefits, in principle, is untenable. Although accepted to be mitigation for the development, they nevertheless are public facing and benefit the wider public. The same applies to CIL and to the carbon reductions arising from the development, even though the latter may not meet the requirements of new policies (which the LPA does not say, on the grounds of transitional considerations, should be applied to this development anyway). SC's failure to account for these matters in her assessment further undermines the value of that assessment.
88. We address here Cllr Abbs' position. His case seems to be that the economic benefits of redevelopment of the Kennet Centre are overstated since (a) officers included an error in comparative vacancy rates at or with Parkway and (b) the Kennet Centre could be run more efficiently and attract more tenants. In respect of the first matter, officer's acknowledged Cllr. Abbs point but maintained unchanged their assessment of the economic benefits of the scheme (see CD 1.5 p.10 (minutes of 13 November 2024 District Planning Committee meeting; see also Jan 2025 report para.11 (view of Economic Development Team) and para.23.9 (economic benefits as part of overall planning balance); the Jan 2025 officers report post-dates Cllr. Abbs comments). As such, Cllr. Abbs first point goes nowhere. As to his second point, SBW has explained the real challenges with the Kennet Centre in attracting new occupants, due in part to floorplates which are not attractive or suitable to modern retail formats or occupants, nor are they flexible in respect of size and configuration. The Appellant has provided a report (CD 1.81) prepared by the asset managers for the Kennet Centre – Rivington Hark – which explains in detail the challenges presented commercially by the Kennet

Centre, including as a result of the introduction of the Parkway shopping centre in 2012 and other out of centre retail parks. Rivington Hark identifies also the benefits and attractiveness to the prospective occupants of the small and flexible retail and commercial units which the proposed development will deliver. In any event there are wider benefits to removal and redevelopment of the Kennet Centre, including townscape benefits, which are unrelated to economic matters, and which plainly attract much weight. Cllr Abbs suggestion that the Kennet Centre could be retained by being reconfigured externally to address its appearance is pure assertion. There is no such scheme before the Inspector and no such scheme in existence.

89. Finally, in terms of benefits, we have already made submissions about the scheme currently at application stage before the LPA. No weight can be attached to this, and this is not a case where there is a need or any basis to consider alternatives by reason of heritage impact. Moreover, and as has been agreed with the LPA (SC xx), the quantum of development of the proposal is required for this scheme to be deliverable (as explained in CD 1.216, which is not challenged). Notably, in the officer report (CD 1.5 (Jan 2025 report), at para.13.34 (p.51), confirms this and SC confirmed that this remains the LPA's position. As such, there is no basis at all for it to be contended that the current scheme but reduced by a further storey or two is available or could or would be delivered; the evidence, accepted by the LPA, is to the contrary. Nor is there such a scheme in existence let alone before the Inspector. It follows therefore also that for the benefits of the scheme are to be secured, this scheme is needed.

#### Other Matters

90. In terms of affordable housing, it is common ground that with the LPA that the scheme cannot viably deliver any AH. The application was accompanied by a financial viability appraisal. This was reviewed by the LPA's own external consultants, and its conclusion was found to be sound. SC confirmed that the LPA does not challenge the conclusions as to scheme viability and that it is accepted that AH cannot be provided. No other party takes a different position. A review mechanism has been agreed and included in the planning obligation, which will capture any enhanced viability as the scheme progresses.
91. Although there is an up-to-date plan, no party has suggested that the site-specific viability assessment undertaken (and reviewed by the LPA) should now be set aside

or undertaken again or on a different basis. A site-specific viability appraisal is plainly justified and has been shown by its outputs to be justified, in this case.

92. The planning obligation has now been agreed.

93. In terms of the concerns about drainage and sewer capacity, the Inspector has the conclusions of Thames Water. TW have no objection subject to the imposition of standard conditions. There is no reason why TW should not be relied on, either as to the accuracy of their response or in terms of the discharge, in the future, of their statutory functions. There is no reason to conclude that adequate surface water drainage arrangements and connections to sewer infrastructure with adequate capacity cannot or will not be available when required to meet the demands of the development. Mr. Hoddinott (sp?) concerns do not amount to a basis for dismissal of the appeal.

94. Cllr. Colston (sp?) points about heritage have been addressed above.

#### Main Issue 7 and The Planning Balances

95. The Inspector is required to conduct a number of planning balances.

96. We begin with the heritage balance, as set out in policy SP9 and NPPF para.215. Our case is that, on the basis of an internal heritage balance, no harm to the significance of heritage asset arises. If the Inspector were to accept this, then there is no requirement for the heritage balance to be undertaken. If he does not, then the view of the LPA is that a low level of LTSH arises (see view of Conservation Officer CD 2.5). The heritage balance then falls to be undertaken and, when so undertaken, public benefits outweigh that low level of harm. This was of course the view of professional planning officers of the LPA, as recorded separately in all three officer reports (see CD 1.5 (Jan 2025 officer report) at para.23.19 (p.75). We invite the Inspector to reach the same conclusion.

97. We then turn to the statutory test. Our case is that the proposal complies with the development plan, taken as a whole. We have addressed development plan policy by reference to each of the main matters above. Moreover, the proposals meet the wider strategy of the adopted local plan as development on previously developed land in a highly sustainable location in Newbury, the settlement where the LP focuses new housing and commercial development (see policies SP1 and SP3 and para.4.31). That the proposal strongly conforms to and advances the strategy of the new plan is an important point in its favour in term of development plan compliance.

98. The statutory presumption in favour of the grant of planning permission arises.
99. In terms of other material considerations, there is of course the NPPF. As with development plan policies, we have addressed conformity with the NPPF when considering each of the main issues. We consider that in respect of those main issues, the proposals meet the policies of the NPPF. There are however other important parts of the NPPF. First, there is the central objective of boosting significantly the supply of homes (para.61). This proposal contributes significantly to the supply of homes in Newbury and, as LPA officers' recognised, this should be given great weight. Para.125(c) is engaged, it is agreed. This provides that planning decisions should "give substantial weight to the value of using suitable brownfield land within settlements for homes ..., proposals for which should be approved unless substantial harm would be caused ...". The proposal is clearly using brownfield land which is suitable for development and is located in a settlement. It is proposed for development to deliver new homes. As such, substantial weight should be attached to the proposal, and it should be approved "unless substantial harm would be caused". We say no harm, let alone substantial harm, would arise here. As such this policy lends important further weight to the proposal. However, if the Inspector does find some harm, then, by applying (as he is required to do) NPPF para.125(c), that harm should not lead to the dismissal of the appeal unless it is substantial. Thus, even if there is a development plan conflict, unless the harm leading to that conflict and arising from it is substantial, the NPPF policy required planning permission to be given, nonetheless.
100. Additionally, there are the ample, wide ranging and weighty planning benefits. These too are strong material considerations which support the grant of planning permission if the statutory presumption arising from development plan compliance arises and are of themselves (and even more so when taken together with the NPPF) sufficient to rebut that presumption if non-compliance overall with the development plan is found.
101. Either way, the balance should be struck in favour of the grant of planning permission for this appeal. And we invite the Inspector to do so.
102. We take a step back for a moment. The proposal here is one which was prepared following full and extensive pre-application engagement with LPA officers and others. It was prepared to overcome concerns of the LPA about the earlier taller scheme. It was prepared by the Appellant conscientiously and in good faith. As a result, it secured the full-throated support of officers at all levels, following a thorough assessment and for reasons which are clearly and fully explained in three successive and separate officer reports. We submit that much reliance should be placed on the officer

assessment and conclusions. Indeed, that SC struggled as she did to make any kind of positive or even remotely credible case to the contrary is telling. This is a scheme which should have been approved. Although for good pragmatic reasons the Appellant has not advanced a case of unreasonable behaviour on the part of members in refusing the application against the clear advice of officers given on three separate occasions, the elected members' decision should be seen for what it is. The Inspector is asked to remedy this unjustified refusal of planning permission by allowing this appeal.

103. The Inspector is asked to allow the appeal and to grant planning permission subject to conditions and a planning obligation, which has been agreed.

DOUGLAS EDWARDS KC

12 JUNE 2025