



Town and Country Planning Act 1990 – Section 78

Town and Country Planning (Development Management Procedure) (England)

Order 2015

Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Application by Homes England for:

Application for Outline Planning Permission with some matters reserved -

Development of up to 260 new residential dwellings (Class C3 use) together with pedestrian, cycle and vehicular access, cycle and car parking, public open space and associated infrastructure. Approval sought for access with all other matters reserved.

LOCAL PLANNING AUTHORITY STATEMENT OF CASE

APPEAL REFERENCE: APP/Z0116/W/21/3308537

LPA REFERENCE: 22/01878/P

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Appendix 1: Report to Planning Committee 7th December 2022

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1. INTRODUCTION

1.1 This statement of case has been produced by Bristol City Council (“the Council”), the Local Planning Authority (LPA), in accordance with the following regulations and guidance:

- Town and County Planning (Inquiries Procedure) (England) Rules 2000;
- The Planning Inspectorate Procedural Guide: Planning Appeals 2022.

1.2 The Statement of Case is prepared in response to the appeal against non-determination which has been submitted by Homes England (“the Appellant”). This followed the failure of Bristol City Council to determine the application for outline planning permission ref 22/01878/P within the statutory determination period

1.3 The application was presented to Development Control Committee B on the 7th December 2022. Members of the Planning Committee agreed with the Officer Recommendations for the reasons on which the planning application would have been refused if the Committee had been able to make a decision. It was agreed by Members that the application should be refused for the following reasons:

- 1) The proposed development is considered to result in significant harm to biodiversity, for which it provides neither adequate mitigation nor compensation (whether on or off site). The application is therefore considered contrary to the development considerations of allocation BSA1201 of the Site Allocations and Development Management (2014), policy BCS9 of Bristol Development Framework Core strategy (2014), policy BCS9 of Bristol Development Framework Core strategy (2011) policies SA1, DM17 and DM19 of the Site Allocations and

Development Management (2014), and paragraphs 174, 179 and 180a of the NPPF (2021).

- 2) The proposed development fails to retain important hedgerows and trees within the proposal site and is therefore considered contrary to the development considerations of allocation BSA1201 of the Site Allocations and Development Management (2014), policy BCS9 of Bristol Development Framework Core strategy (2011) policies SA1, DM15, DM17 and DM19 of the Site Allocations and Development Management (2014).
- 3) The proposal would lead to the loss and deterioration of Irreplaceable Habitat without either a wholly exceptional reason or a suitable compensation strategy. It is therefore contrary to the development considerations of allocation BSA1201 of the Site Allocations and Development Management (2014), policy BCS9 of Bristol Development Framework Core strategy (2011) policies SA1, DM15, DM17 and DM19 of the Site Allocations and Development Management (2014) and paragraph 180c of the NPPF.
- 4) The proposed development fails to adhere to the landscape and urban design policy considerations by virtue of excessive damage to the existing features on the site. The proposed plans and supporting documents present unsympathetic responses to the natural assets on the site and surrounding context and would prejudice the future design and delivery of an appropriate scheme. The proposal will fail to meet the requirements of the NPPF; policy BCS21 of the Core Strategy 2011;

and policies SA1, DM26, DM27, DM28 and BSA1201 of the Site Allocations and Development Management Policies 2014.

5) In the absence of an appropriate agreement under s106 of the Town and Country Planning Act 1990, the proposed development fails to make provision for the following:

- Affordable Housing,
- Ecological Mitigation (including BNG Biodiversity Off Setting),
- Financial Contributions towards Fire Hydrants, Public Transport Facilities, amending Traffic Regulation Orders, Tree Planting, Training and Employment Initiatives,
- Management and Maintenance of on-site Public Open Space,
- Travel Plan Audit Fee and contribution,
- Highway works including cycle and pedestrian works though Bonville Trading Estate.

These are required in order to mitigate the impacts of the development. The proposal is therefore contrary to policies BCS10, BCS11 and BCS17 of the Bristol Local Plan: Core Strategy (2011) policies DM15, DM16, DM17, DM19, DM23 of the Bristol Local Plan: Development Management Policies (2014) and the Planning Obligations SPD (Adopted 2012).

1.4 Accordingly, and in light of the Statement of Case produced by the Appellant in October 2022 the following matters are considered likely to constitute the main issues for this appeal:

- The extent to which the proposed development is consistent with the development plan for the area viewed as a whole.

- The extent to which the Council is currently unable to demonstrate a 5 year supply of housing
- Whether the proposed development would lead to the loss and deterioration of Irreplaceable Habitat without either a wholly exceptional reason or suitable compensation strategy
- Whether the proposed development will cause significant harm to biodiversity for which it provides neither adequate mitigation nor compensation (whether on or off site)
- Whether the proposed development would fail to retain sufficient important hedgerows and trees
- Whether the proposed development would fail to adhere to important landscape and urban design policy considerations by virtue of excessive damage to the existing features on the site.
- Whether a suitable s106 undertaking exists to secure necessary obligations
- Whether the overall planning balance indicates that the appeal should be dismissed.

2. BACKGROUND

2.1 The Council in collaboration with the appellant, is in the process of agreeing a Statement of Common Ground (SOCG), which will set out those issues that are agreed between the parties. This is to be submitted shortly after this Statement of Case and will include the following:

- A description of the site and proposed development
- Relevant planning policies;
- A list of other material considerations;

- Reasons as to why the proposal would be refused if the Planning Committee was required to issue a decision
- Draft list of conditions
- Details of the agreed planning obligations

2.2 At present it is anticipated that the Council will call five witnesses to support their decision on the application. These will be as follows:

- Planning Matters: The witness will provide evidence on the planning case as a whole, including the content and status of development plan and other policies, (including emerging policies), the effect of other material considerations relevant to the appeal proposal, and the extent to which the development complies or fails to comply with policy.
- Ecology: The witness will provide evidence regarding the adverse impact on ecology, habitats and the inadequate mitigation and compensation measures for biodiversity loss from of the proposed development.
- Arboriculture: The witness will provide evidence regarding the loss of important hedgerows and trees that would arise from the proposed development
- Landscape: The witness will provide evidence regarding landscape issues associated with the proposed development.
- Design: The witness will provide evidence regarding design issues associated with the proposed development.
- In addition, the LPA reserves the right to call additional witnesses to address any other issues raised by the Inspector or Rule 6 parties prior to the Inquiry.

3. THE CASE OF THE COUNCIL

3.1 Reference will be made to section 38(6) of the Planning and Compulsory Purchase Act 2004 (2004 Act) which requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise. The Council will explain that the proposal is not considered to accord with the development plan when viewed as a whole. Further material considerations (including an application of the tilted balance in paragraph 11 of the NPPF) do not indicate that the appeal should be allowed.

3.2 The evidence will introduce the qualifications and experience of the witnesses

3.3 As identified above, it is anticipated that certain matters will be agreed with the relevant parties prior to the Inquiry and documented within the SOCG. However, in the event that any matters are not agreed to the satisfaction of the LPA, or where further expansion is required, the LPA's case will address the following:

1. Site Description: The evidence prepared by the LPA will contain any elaboration required in respect of the description of the application site and its surroundings.

2. Relevant Planning History: The evidence will set out the relevant planning history of the site. This will include the pre-application advice that was provided to the applicant by the LPA and details of relevant planning history in the area, including the site itself.

3. Consultation Responses: Consultation responses are summarised within the Officer's Committee report. If further elaboration on any point is required, this will be detailed within the LPA's evidence.

4. Relevant Planning Policy: The evidence will identify relevant parts of Planning Legislation, the National Planning Policy Framework, Planning Practice Guidance as well as relevant policies contained within the Development Plan for the site. In addition, it will identify and elaborate on any additional Supplementary Planning Documents and other guidance which is material to the decision on the application, and which will be defined in the Statement of Common Ground.

3.4 The Council's case will identify the key issues that were taken into account when the application was recommended for refusal. These issues are covered in detail in the Officer's Committee report recommending refusal appended to this statement of case. Specific issues to be covered in respect of this application are set out in the following paragraphs.

3.5 Ecology, Habitats and Biodiversity

3.5.1 The LPA will provide evidence that the proposed development will lead to an unacceptable loss of important hedgerows that are agreed by the applicant to be Habitats of Principal Importance. Species of conservation concern and veteran and important trees will be affected by hedgerow and tree loss of this scale. This level of loss is in conflict with the site development allocation development considerations, principally being the policy requirement that important hedgerows and trees should be retained in SA1 and BSA1201, and

also with national and local planning policy, including paragraph 180(a) of the NPPF, policy BCS9 of the Bristol Core Strategy, and policies DM17 and DM19 of the BCC Local Plan

3.5.2 In addition to the above considerations, the Officer's recommendation to refuse planning permission was informed by:

- the excessive loss of and fragmentation of hedgerows associated with the current proposal, and the failure of the applicant to adequately address these impacts;
- the inadequacy of the applicant's proposals for mitigation of impacts on hedgerows and associated trees, which take insufficient account of the historic nature of the existing hedges and their consequent ecological value, the ecological connectivity currently provided by the hedgerow network and the importance of the existing hedgerows and associated scrub for a range of threatened and locally notable species. The proposed mitigation and compensation measures fail to adequately address the protection of retained hedgerows and trees and to replicate in new hedge planting the range of habitats and species currently present.
- the risks to retained features, notably veteran and important trees;
- insufficient consideration of impacts on species that are locally notable and/or of conservation concern;
- failure to consider impacts on the retained areas of the Brislington Meadows SNCI;
- the failure to provide an adequate green link to Eastwood Farm as set out in Site allocation BSA1201 Development Considerations – the link shown on the site layout is fragmented and of insufficient width; and

- considerable uncertainty over the feasibility of mitigation and enhancement proposals. It is agreed that detailed proposals need not be brought forward at this stage, however the applicant has failed to demonstrate that sufficient land has been identified to recreate lost habitats and to accommodate species of note that will be lost. The principle that the agreed level of Biodiversity Net Gain can be achieved has not been demonstrated.

3.5.3 The LPA will provide evidence to state why, given the above considerations, the application fails to meet with the requirements of National and Local Planning Policy.

3.6 Arboriculture

3.6.1 The LPA will provide evidence that important, ancient and other veteran trees would be subject to loss and deterioration, contrary to the protective policy set out at paragraph 180c of the NPPF.

3.6.2 It is common ground that it appears that approximately 74% of the important historic hedgerows within the Appeal Site are proposed for removal. The Appellant has failed to demonstrate that this quantum of loss is unavoidable or acceptable in the context of delivery of the allocation, and the LPA considers it to be excessive and contrary to the public interest.

3.6.3 In addition to the above considerations, Officer's recommendation to refuse planning permission was informed by the loss of important trees subject to a recently made Tree Preservation Order. This Order protected certain trees because the Council considered that it was expedient in the interests of amenity to do so, a matter not challenged by the Applicant. The Applicant has failed to

demonstrate that the allocation cannot be delivered without such loss, and accordingly this is considered to be contrary to the development plan allocation

- 3.6.4 The LPA will provide evidence to state why, given the above considerations, the application fails to meet with the requirements of National and Local Planning Policy.

3.7 Landscape and Design

- 3.7.1 In accordance with the site allocation, it is accepted that Brislington Meadow is a development site for housing. The SNCI status now suspended due to the site allocation for housing established Brislington Meadows as a sensitive landscape with high value landscape features. The site remains one of city wide ecological importance

- 3.7.2 The 300 units in the site allocation is an estimate. Accordingly, the appropriate number of houses that can be accommodated on site needs to be consistent with the site allocation design considerations and planning policy. The Parameter Plans and Design Codes (which the Appellant seeks to incorporate as part of the grant of planning permission and so forms the basis upon which the future application falls to be considered) should provide confidence that the constraints of the natural features (hedgerows and important trees) are retained and incorporated into the proposals to limit the impact on the landscape character.

- 3.7.3 The vision set out in the Design Codes stating the masterplan approach to the site is 'landscape-led' is supported. However, the landscape proposals are not considered appropriate to the landscape context.

3.7.4 The key concerns in respect of the landscape issues relates to the information set out in the Landscape Parament Plan and Design Code. The key landscape concerns are as follows;

- a. Removal of a majority of the hedgerows which lacks adherence to the Site Allocation development consideration and the first principle stated in the Design Code to 'retain and enhance existing green corridors' and poor integration of the remaining hedgerows;
- b. Impact on landscape character created by the earthworks for the SUDs features set out in design principle 2 in the Design Code 'Create a biodiverse wetland meadow';
- c. Question if principle three of the Design Code 'Set homes within the landscape' can achieve the dual use of providing amenity space for the apartments and also a wildlife corridor;
- d. Approach to the setting of housing into the topography and Earthworks proposals related to Section 7 of the Design Codes;
- e. Street Codes Section 6 of Design Codes - Efficient use of land to reduce impacts on landscape character and increase street tree planting.

3.7.5 Comments on the Masterplan Principle 1. 'retain and enhance existing green corridors'

3.7.6 The stated aim of the Masterplan Principle 1 'retain and enhance existing green corridors' is supported. However, the proposals remove around 74% (as stated in the Landscape rebuttal comments from the applicant) of the existing hedgerows along with the associated trees within the hedgerow and other trees throughout the site. This approach is inappropriate to the landscape context based on the landscape character and understanding of the site features. This

approach runs contrary to site allocation development consideration which states;

'retain or incorporate important trees and hedgerows within the development which will be identified by a tree survey'.

And Policy DM17 Development Involving Existing Green Infrastructure which states;

'Proposals which would harm important features such as green hillsides, promontories, ridges, valleys, gorges, areas of substantial tree cover and distinctive manmade landscapes will not be permitted.'

3.7.7 The majority of the hedgerows and trees stated to be retained along the northern boundary are also proposed to have the ground level reduced by 0.5m on the Isopachytes Plan. This would result in the hedgerow roots being exposed and result in the loss of these hedgerows. This would further increase the percentage of hedgerows lost.

3.7.8 The retained hedgerows are considered to lack positive integration into the proposed scheme shown on the Illustrative Masterplan. This approach fails to comply with planning policy DM27 Layout and Form which states under the heading Landscape Design;

In contributing to green infrastructure, design should incorporate valuable existing

natural and manmade landscape features, while reinforcing it with new structural tree planting where appropriate.

3.7.9 In some landscape character areas identified in the design codes hedgerows/hedges are mentioned. However, the majority of the hedges are along built frontages and therefore derived for human considerations and will

therefore not be mitigation for the native existing mature and ecologically rich hedgerow field boundaries which are to be lost.

3.8.10 The back gardens have been proposed as part of the ecology network throughout the site. This cannot be considered as providing a green corridor with native garden trees species as there is no control on how these areas will be managed. Some residents will choose to remove trees and pave over gardens which will undermine the ecological value and fail to provide the continuum of a green corridor.

3.8.11 Comments on the Masterplan Principle 2. 'Create a biodiverse wetland meadow'

3.8.12 The masterplan principle 2 to 'Create a biodiverse wetland meadow' creates an area with the stated aim on page 52 of the Appellant's Statement of case as;

'primarily aimed at enhancing ecological aspects and walk and cycling routes including broadwalks across the SUDs'.

3.8.13 Well-designed landscape areas should be integrated into the site physically socially and visually, to create multi-functional green spaces. The desire of the residents to use this space recreationally could potentially impact the primary ecology aspects.

3.8.14 This area along the southern boundary and should be a multi-functional area of public realm that can accommodate both recreation and ecology.

3.8.15 The earthworks that are shown on the Proposed Contours and Retaining Walls Plan are poorly integrated with the existing landform and fail to create a positive landscape feature which integrates the Brook. Section 120 of the NPPF states decisions should;

‘recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production

The Council is concerned that approval of the outline application which includes approval of a design code for this area would confirm agreement with the unsatisfactory arrangement. Further flood mitigation requirements may preclude further negotiations and improvements to the space.

3.8.16 While the flood risk officer was satisfied that the proposed SUDs preformed adequate attenuation for flood risk, every effort to reduce the size of the SUDs ponds with alternative at source filtration methods such as of green roofs, rain gardens and permeable paving could be employed. This approach would allow opportunities to reduce the size of the SUDs features allowing them to blend more appropriately with the existing landscape to deliver a more multifunctional green space. However, as noted above the Council’s ability to undertake discussions on this matter may be prejudiced by any approval.

3.8.17 Comments on the Masterplan Principle 3. ‘Set homes within the landscape’

3.8.18 The masterplan principle 3 ‘Set homes within the landscape’ proposes a landscape edge along Bonville Road connecting with the Area of Important

Open Space. The Design Codes Regulating Plan identifies these areas as Bonville Glade and The Greenway.

3.8.19 It is acknowledged and supported that a wildlife corridor has been created along this edge connecting with The Greenway. However, given the earthworks required around the apartment blocks and dual use of this area of landscape as a wildlife corridor and amenity area for the apartments, it is a concern that the width of this area is sufficient to deliver an optimal recreation area for the residents and an ecology robust to human activity. While this is an outline application, should this area of landscape prove too narrow in the later stage of the design process, this could prejudice the landscape approach embedded in the Design Code as an approved principle.

3.8.20 Similarly, the 12m minimum landscape/ecology corridor of The Gateway which includes the main footpath may prove too limited to be work as a positive landscape entrance feature and ecology corridor incorporating the existing trees and hedgerow.

3.8.21 Approving this key masterplan approach would require future reserved matters applications to also comply with this approach. Accordingly, assurance is needed at this design stage to ensure this key principle is appropriate and deliverable. The Council is concerned that compromises will be required at a later stage as the competing principles and objectives set out in the design code could be difficult to realise

3.8.22 Approach to the setting the housing into the topography and Earthworks proposals covered in Chapter 7 of the Design Code

3.8.23 Bristol has numerous examples of the distinctive approach to visually prominent steep sites (both historic and recent), with terraces following the topography retaining the existing landform and designing out the need for retaining walls in landscaped areas as much as possible. For example, the houses in the Cliftonwood area and more recently Bridge View at Novers Hill.

3.8.24 To accommodate a standard housing typology with single flat finish floor level the site is proposed to be reprofiled with substantial earthworks as shown in the Isopachytes Plan. Only small areas around retained areas of hedgerow remain without re-profiling.

3.8.25 This approach is an overly engineered approach required to accommodate a standard housing typology which delivers extensive retaining walls with extensive cut and fill impacts. This approach is contrary to the National Design Guide which states that development should;

‘Understand and relate well to the site, its local and wider context. Well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. It enhances positive qualities and improves negative ones. Some features are physical, including:

■ *landform, topography, geography and ground conditions;’*

3.8.26 Street Codes Section 6 of Design Codes - Efficient use of land to reduce impacts on landscape character

3.8.27 The Design Codes shows a streetscape with predominately on-plot and perpendicular parking arrangements. The Illustrative Masterplan shows parking provided at the side of detached and semi-detached dwellings.

3.8.28 The surrounding townscape includes areas developed as short terraces of between 4 and 8 properties. A tighter grain of development with a bespoke housing typologies approach and more creative and bespoke car parking options would play an important role in efficient use of land to reduce the development area. This approach would potentially allow more of the natural assets to be retained and an enhanced blending of SUDs into the landform, in accordance with Section 125 of the NPPF, which states;

'Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.'

BSC20 which also states;

'New development will maximise opportunities to re-use previously developed land.'

'Where development is planned opportunities will be sought to use land more efficiently across the city. Imaginative design solutions will be encouraged at all sites to ensure optimum efficiency in the use of land is achieved.'

3.8.29 The design codes that have been put forward for approval set out principles which validate the illustrative masterplan. If the application is approved, the Council will be unable to ensure such an approach can be resisted given the plans/codes sought to be approved at this stage that are not illustrative

Streets and spaces

3.8.30 The intended design arrangement for delivery of SUDS, utilities and GI as outlined in the design code document can be challenging at the detailed design stage. Confidence has not been provided that the streets can be delivered as proposed. The challenges will be further compounded if the spaces are expected to be managed by the Council, as the adoption standards are strictly defined and may not allow the needed flexibility. Further, the costs of delivering the technical solution for arrangement and the ongoing management can be significant.

3.8.31 It is recommended that the ownership and management of the public realm and green space needs to be clarified. Further, early discussions with the highway adoption and management team would be necessary to determine the feasibility of delivering the intentions presented in the design code.

Landscape summary

3.8.32 The landscape design intent set out in the Design Codes raise the concerns outlined above. Accordingly, the Design Codes constrain flexibility and scope for suitably designed solutions and give insufficient assurance that the principles, which future reserved matters applications must comply with, are appropriate.

3.8.32 The landscape sensitivity of the site necessitates proposals should reduce where possible the impact on the landscape character. This has not been adequately demonstrated within the Landscape Parameter Plan and Design Codes.

3.8.33 The Design Codes should outline development structure, layout and housing typologies in order to demonstrate a more efficient use of land allowing a more sensitive approach to the existing landscape character.

Urban Design Consideration

3.8.34 The site benefits from an allocation for housing and its development is supported in principle. However, when designing any proposal on this site it is important to satisfactorily address the considerations set out in national, local and site allocation planning policies.

3.8.35 The policies seek retention and incorporation of the existing features on site (which includes trees, hedges, landform/topography) and should form the basis for designing the scheme.

3.8.36 The proposal presents excessive disruption to the existing on site features which is contrary to the design related policies as detailed NPPF para 134; BCS21, DM26, DM27 and SA1 ref. BSA1201.

3.8.37 The comments from the arboriculture, ecology and landscape officers further support these observations and raise fundamental concerns about the excessive disruption to the existing features on the site from their respective point of view.

3.8.38 Further, the design parameter plans, the design code and supporting materials such as drawings, DAS and LVIA show design principles which are unsympathetic to the context on the site and its surroundings. While the current application seeks outline consent with only access to be determined, the

documents put forward for approval, together with the supporting material, set out principles and intended design arrangements which do not conform with policies and will prejudice future negotiations for design and development of the site. The details of the considerations, policy references and recommendations are outlined in comments below. It is to be noted that these comments cover the proposal in limited details in accordance with the outline application and do not cover all aspects of the scheme.

3.8.39 The Council objects to the application due to excessive damage to the existing features on the site, unsympathetic response to assets on the site and unresolved urban design principles which would prejudice further design and delivery of an appropriate scheme. The policy references for this objection are policy BCS21 of the Core Strategy 2011; policies DM26, DM27, DM28; and SA1 ref. BSA1201 of the Site Allocations and Development Management Policies 2014 and the NPPF

The site

3.8.40 The site is an undeveloped parcel of land known as Brislington Meadows in a suburban location. The sloping landform hosts a collection of small fields enclosed by mature hedgerows, areas of trees and vegetation and high voltage overhead electric cables with pylons along the southern boundary of the site. It is surrounded by suburban housing to the north, housing and allotments to the west, light industrial/warehouse uses to east and Victory Park to the south.

3.8.41 The site hosts a number of valuable assets in the form of mature hedgerows and vegetation, ecological habitats with rich biodiversity, natural landscape and

settings, archaeology and public footpaths as identified in the allocation policy SA1 ref. BSA1201.

3.8.42 The proposal benefits from prior pre-application engagement where the above-mentioned aspects, need for improved connectivity to the neighbouring areas and design considerations were highlighted. The Urban Design comments below build on the prior feedback and information submitted with the planning application.

Existing trees and hedgerows

3.8.43 The site hosts a number of noteworthy features in the form of mature and important hedgerows and trees, bio-diversity rich habitats and mature natural landscape settings as highlighted by allocation policy SA1 ref. BSA1201.

3.8.44 The design policy DM26 seeks *“incorporating of existing land forms, (and) green infrastructure assets”*. The policy further states *“development will not be permitted where it would be harmful to local character and distinctiveness or where it would fail to take the opportunities available to improve the character and quality of the area and the way it functions”*.

3.8.45 The design policy DM27 expands further by stating *“in contributing to green infrastructure, design should incorporate valuable existing natural and manmade landscape features”*.

3.8.46 The detailed policies are informed and underpinned by higher level policies like BCS9, BCS21 and NPPF paras 8c, 130, 131, 134, 174 and 180.

- 3.8.47 Paras 126 and 127 of NPPF emphasise the importance of setting out clear vision and expectations from development which has been highlighted in the detailed policy references noted above.
- 3.8.48 The pre-application feedback further emphasised that prior to designing the layout there was a need to agree a baseline position and appropriate response on these aspects which concerned Officers
- 3.8.49 However, the proposal seeks removal of around 74% of important hedgerows as stated in the Landscape rebuttal comments by the Appellant. The approach does not conform to the policy considerations identified above and cannot be supported from an urban design perspective. Whilst some impact on the existing assets on the site is expected, the loss of approximately 74% of important hedgerows is considered to be excessive and inappropriate.
- 3.8.50 The comments from the Council's arboriculture, ecology and landscape officers highlight severe concerns about the excessive loss of the valued assets which further support the observations from an urban design perspective.

Design response to the trees and hedgerow

- 3.8.51 From an urban design perspective, the mapping of potentials and constraints establishes the context to which the design needs to respond. The lack of an established baseline position on the above-mentioned aspects presents a significant urban design risk, as lack of correctly identified priorities risks setting inappropriate direction, objectives and principles for designing the site.

- 3.8.52 The potentials and constraints map presented on page 68 to 71 of the Design and Access Statement does not set an agreed baseline for designing the layout. It needs further development and resolution with greater detail and clarity. For instance, not all the trees and vegetation identified in light green carry equal weight, meaning agreement needs to be reached on appropriate assessment and retention of trees and hedgerows.
- 3.8.53 A different potential and constraints map will generate a different design response. As an example, the illustrative masterplan on page 76 of DAS offers better retention of existing hedgerows when compared to the current layout.
- 3.8.54 Layout offering better retention and integration of the existing vegetation should be developed especially when considering the policies cited above. It is acknowledged that the housing numbers may be different than the policy estimate or the current proposal, but the context (site conditions and settings) should determine the design of the proposal rather than a number led approach.
- 3.8.55 The parameters plans and design code establish the principle for removal of hedgerows and trees which cannot be legitimately challenged or reversed at subsequent stages. The application therefore is considered contrary to policies NPPF para 134, BCS21, DM26, DM27 and SA1 ref. BSA1201

Height Parameter Plan

- 3.8.56 The pre-app engagement had highlighted concerns about appropriateness of the proposed height, scale and massing and the potential visual impact from the development. The engagement led to a discussion about TVIA and

viewpoints were subsequently agreed. The photomontages were to be developed as per guidance in the UL SPD document and to show the proposed groundworks with and without soft landscaping to assess the impact of the proposed changes.

3.8.57 The Council is disappointed that most of photomontages for TVIA agreed with the applicants upon special request have not been provided. Out of the 16 views that were identified only 2 have been developed into photomontages.

3.8.58 The 2 photomontages that has been provided illustrate the dominance of the buildings on top of steeply rising topography. The regimented 3 storey high gable end houses present an abrupt response to the suburban informal and verdant setting. While examples of houses on steep hill/escarpment can be found in Bristol, the suburban context of the site requires a calmer and less intensive response. The observers will experience the views in a suburban context and will be in a higher state of sensitivity against dramatic changes especially while enjoying mature landscape settings of parkland to the south. The arrangement is not in keeping with policy DM28 and needs to be reconsidered.

3.8.59 Further, significant aspects like the 4 storey high blocks and blocks set on top of steeply rising topography remain unclear due to lack of information.

3.8.60 The Height Parameter plan cannot be supported on the basis of the currently available information. The lack of photomontages for agreed views is disappointing and further information is needed to ascertain the appropriateness of the massing outlined in the height parameter plan.

3.8.61 Movement and connectivity

3.8.62 The proposal does not deliver a multimodal link to School Road as sought by the allocation policy SA1 ref. BSA1201. Adverse topography along the short frontage of School Road and sensitivities relating to delivering a route through the allotments have been explained as the key reasons preventing the connection. The lack of the link that has been identified in allocation policy SA1 ref. BSA1201 is noted. It lays greater emphasis on the other connections to be delivered to a high design quality and standards.

3.8.63 A new pedestrian/cycle link along Bloomfield School is proposed. Further, improvements and strengthening of existing pedestrian links to Bonville Road, Belroyal Avenue and School Road are offered.

3.8.64 The proposed enhancements to pedestrian and cycle connectivity are welcomed but the routes remain constrained due to limited width, unpaved surface, rear defensive boundaries, lack of positive frontages and passive surveillance. Thorough consideration for effective design and management of the connections will be needed at an early stage to address the concerns

Comments on the Proposed Layout

3.8.65 The parameters plans and the design codes set out principles for landscape and public realm, built form, boundary treatment etc. which support the arrangement shown in detailed plans. The Council's ability to challenge and seek changes in relation to the detailed design arrangement on issues highlighted below will be predetermined if the documents are approved.

3.8.66 The layout and blocks appear to be orthogonally arranged. The site may benefit from a more flexible block arrangement which offer better relation to the contours and natural features of the site.

- The hedges running in N-S direction can be better retained with minor changes to the blocks and layout.
- The hedges running in E-W direction can be retained by a redesign of the blocks and roads. The layout presented on page 76 of DAS can be a good starting point to develop suitable design arrangement.
- The N-W corner of the site can better address the site boundaries and features
- The lower/southern edge of the site can benefit from more organic and softer interface with the landscape space.
- Policy DM27 seeks blocks and plots with public fronts and private backs. The single rows of houses along the southern/lower edge address public road and green space on its front and back.

3.8.67 The parameters plans and the design codes set the principle for accommodating level changes in landscape areas which support the arrangement shown in detailed plans. The Council's ability to challenge and seek changes in relation to the detailed design arrangement on issues highlighted below will be predetermined if the documents are approved

3.8.68 The proposal presents significant cut and fill causing significant changes to the landform. These are most apparent in the Proposed Contours & Retaining Walls Plan. The approach is contrary to DM26 which seeks development to respond appropriately to existing landform. Some examples of the changes are;

- Flood attenuation ponds require significant groundworks and level changes in area set out as biodiverse wetland meadow, addressing retained natural landscape and along the southern building edge.
- Groundworks proposed around the apartment blocks along the eastern edge of development which is identified as Bonville Glade.
- Feedback from arboriculture and ecology officers has highlighted concerns about the development/groundworks and its impact on the vegetation and ecological habitats.

3.8.69 Redesigning the house types as split-level units to accommodate part of the level changes needs to be considered. The current arrangement places all the level changes to outdoor areas and exerts excessive pressure on the landscape to absorb the level changes. The approach is contrary to DM26 which seeks development to respond appropriately to existing landform.

- The Sections Drawing provided on 29 July 2022 and Contour and Retaining Walls plan provided on 12 April 2022 illustrate the issue. The areas of tightly packed contours show level changes of 2 to 3 meters near some of the proposed buildings. The level changes are especially significant near the south and east edges of development.
- The Isopathytes drawing provided on 29 July 2022 further confirms the intensity of groundworks noted above.
- It is recommended that split level house types should be considered areas with steeper contours and the pressure on outdoors/landscape areas is reduced.

3.8.70 There are concerns about the 4-storey high island apartment blocks near Bonville Road. These risks appearing as unsympathetic and abrupt insertion into the landscape settings.

- As noted above the form, scale and massing of the apartment blocks will be significantly larger than immediate suburban context and it will rise abruptly against the leafy settings. The impact on views from the south and east direction are of particular concern. The TVIA views which were agreed during the pre-app engagement have not been provided. The blocks present a high risk of non-compliance with policy DM26. The lack of information is unhelpful and impedes comprehensive assessment to be concluded.
- The ecology led rationale for the layout is unconvincing as enabling ground works, parking and services will fundamentally alter the space between and around the blocks. The design of the replacement landscape between the buildings will be driven by level changes, access, amenity and service considerations while ecological value will be of secondary importance and of a limited benefit. The arrangement will allow for a limited width of landscaped area where biodiversity and ecological considerations can be prioritised. However, these will also face pressure from outlook, access and amenity provision for the residents of the blocks and the users of the path running through the space. Overall the landscape and ecological value from the corridor will be limited.

Closing comments

3.8.71 The application seeks outline consent for access to be determined and all other matters are reserved for latter stage. And the supporting material illustrates the design arrangement that is envisaged for delivery and the impact of the development on the features of the site and the surroundings.

3.8.72 The comments above highlight significant concerns about the lack of an established baseline position with arboriculture and ecological considerations.

These present a fundamental Urban Design risk for designing the site and non-compliance with policies BCS21 and DM26.

3.8.73 The documents put forward for approval and the supporting material set out principles and intended design arrangements which do not conform with policies and will prejudice future negotiations for design and development of the site. The lack of information supporting height parameters plan, extent and intensity of groundworks and orthogonal design arrangement of the blocks gives rise to significant urban design concerns in relation to non-compliance with policies set out in NPPF, BCS21, DM26, DM27 and DM28.

3.8.74 The application cannot be supported from urban design point of view due to the concerns explained above. Revisions to the baseline position established on the basis of arboriculture and ecology assessments and changes to the design response are recommended to address the issues.

4 PLANNING MATTERS

4.1 The planning balance, requires weight to be apportioned to a scheme's benefits and to any harm caused and a judgement to be made as to whether the harm, as weighted, sufficiently outweighs the benefits so as to require refusal of the planning application

4.2 The location of housing in this location on an allocated site accords with the Council's Core Strategy's aspiration of regenerating South Bristol and the proposal is recognized as making a significant and valuable contribution to the supply of housing (approx.260 units with 30% being affordable) on a sustainably located site. This accords with policy BCS5 of the Core Strategy

and allocation BSA1201 and is awarded significant weight in the planning balance.

- 4.3 In terms of emerging plan policy, as part of the local plan review it will be proposed that site allocation BSA1201 should no longer be allocated for residential development.
- 4.4 It is understood that further Regulation 18 consultation on the local plan review started on 28th November and will run to 20th January 2023. The consultation will be open for comments which will need to be taken into account before the next stage of the local plan is produced. That stage will not be until Summer 2023 when the publication version of the local plan will be made available for representations. The new local plan is timetabled to be adopted in Autumn 2024.
- 4.5 As the Draft Local Plan is yet to progress through the Regulation 19 stage, the intention to remove the site from the allocation for housing can only be afforded limited weight in the planning balance and assessment of this planning application. Therefore, the proposal site is within an allocated site meaning the relevant local and national policy requirements in this respect remain applicable
- 4.6 On 14th January 2022, the government published the results of its 2021 Housing Delivery Test, which aims to measure how effectively each local authority is delivering housing against NPPF requirement to demonstrate a five-year supply of deliverable housing sites plus five per cent land supply buffer. Bristol was found to be delivering only 74% of the housing requirement (approximately 3.7 years of supply). More recent estimates indicate that the current housing land supply is not greater than 3.3 years.
- 4.7 The Appellant's Statement of Case draws attention to a recent call in decision at Silverthorne Lane (APP/Z0116/V/20/3264641 and 3264642) which indicates

that the 3.7 year figure could be lower being at the upper range of 2.59-2.96 years. However, considering the Council's more recent 3.3 year estimate, the Council believes it sensible to agree with the Appellant a range between 2.59-3.3 years supply so as to avoid the need to take up valuable Inquiry time agreeing such matters.

- 4.8 In view of the fact that the LPA is not able to demonstrate a five year housing land supply, paragraph 11(d) of the NPPF is engaged, and the tilted balance applies meaning the presumption in favour of sustainable development as set out in paragraph 11d of the NPPF is applicable. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole:

“d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

- 4.9 The relevance of this is that it could be argued that less weight should be attributed to the proposal's downsides, and more weight should be attributed to the proposal's housing benefits. The fact that policies have to be considered out-of-date does not mean that they can carry no weight. To carry weight, policies must be consistent with the NPPF and the local plan policies that this proposal has been found to be contrary to are considered consistent with the NPPF. As such, whilst these policies may be considered out-of-date for reasons of inadequate housing land supply, they still carry significant weight.

4.10 Further, when considering the purpose of the planning system is to achieve sustainable development as set out by paragraph 7 of the NPPF, the Council considers that approving this development would fail to meet the NPPF's social and environmental objectives set out in paragraph 8, by nature of its unacceptable impact on ecology, trees, hedgerows and landscape & design.

4.11 Against this identified harm the proposal's benefits have been weighed. In terms of the benefits of the development, the proposal would make a substantial contribution to the area's housing stock and mix of housing (including 30% affordable housing). The provision of a range of dwelling sizes and types would meet the needs of different occupiers and will assist in creating a strong and balanced community. The proposal site is in a sustainable location with convenient and direct walking and cycling connections helping to access and sustain local services and business. The scheme would provide a significant amount and variety of landscaped open space and enhanced links to the existing public open space to the south of the site comprising Victory Park and to the north, comprising Eastwood Farm.

4.12 In terms of economic benefits, the proposals would contribute to the economic role of sustainable development by delivering land to improve choice and competition in the residential marketplace. The proposed development would contribute to economic growth both during construction and over the life of the development. Construction of the development would support jobs directly on site as well as indirect support to additional jobs in the supply chain. Additionally, during the construction phases, the development of the site would support the construction sector which will include local businesses. The construction of new housing creates a range of employment opportunities

within the local and wider economy and has been acknowledged by the Government as a key driver for boosting housing delivery as required by the NPPF.

4.13 The development would also be subject to specific S106 financial contributions towards specific improvement works directly associated with the development of the site. As set out in Appendix A of the Statement of Common Ground and Planning Officer's Committee Report these are as follows:

1) Provision and timing of up to 30% affordable housing

2) Financial contributions towards:

- off-site ecological mitigation
- fire hydrants
- public transport facilities
- amending Traffic Regulation Orders
- [tree planting]
- [training and employment initiatives]

3) Management and maintenance of on-site public open space

4) Travel Plan:

- audit fee
- contribution

5) Highways – cycle and pedestrian works through Bonville trading estate

- 4.14 It is to be noted that finalized contributions are yet to be agreed between the Council and Appellant
- 4.15 As detailed above in Section 3 of this Statement of Case, the Committee Report (please see Appendix 1) and Reasons for Refusal detailed in section 1.3 of this Statement, the proposal is not considered to adequately satisfy the development considerations for allocation BSA1201 or other relevant local and national plan policies
- 4.16 On balance, the identified issues and conflicts with policy are considered to significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the NPPF as a whole, which the Council considers to be sufficient to justify the refusal of permission even when the tilted balance is applied.

5. RELEVANT DOCUMENTS

- 5.1 The following list of documents provides a guide to the likely references to be used at the Inquiry. The Council reserves the right to refer to other documents not identified below.

5.2 Legislation

- Town and Country Planning Act 1990
- Town and Country Planning (Tree Preservation) (England) Regulations 2012
- Planning and Compulsory Purchase Act 2004
- Hedgerow Regulations 1997
- Natural Environment and Rural Communities Act 2006

5.3 Planning Policy

- The adopted development plan, including:
 - Bristol Local Plan: Core Strategy (June 2011)
 - Bristol Local Plan: Site Allocations and Development Management Policies (July 2014)
- National Planning Policy Framework
- Planning Practice Guidance

5.4 Emerging Planning Policy

- Bristol Local Plan Review: Draft Policies and Development Allocations (March 2019)
- Bristol Local Plan Review consultation, March 2019: Summary of Consultation Responses
- Bristol Local Plan Review: Draft Policies and Development Allocations (November 2022)
- Reviewing the demographic evidence for the City of Bristol to establish local housing need (November 2022)

5.5 Supplementary Planning Documents and Guidance

- SPD Planning Obligations (September 2012)
- Urban Living SPD (2018)
- BS5837:2012 *Trees in Relation to Design, Demolition & Construction*
– Recommendations Forestry Commission Information Not Estimating the Age of Large and Veteran Trees in Britain (November 1998)

- Natural England/ Forestry Commission ‘Standing Advice’ Ancient woodland, ancient trees and veteran trees: advice for making planning decision

5.6 Other Documents

- Planning Application documents
- Committee Report
- Consultee Responses. Those applicable to this Statement of Case include:
 - Council Ecology Officer comments dated 23.11.22
 - Council Arboriculture Officer comments dated 24.11.12
 - Council Landscape Officer comments undated
 - Council Urban Design Officer comments dated 19.10.22
- Ecological Emergency Action Plan 2021-2025
- Climate Change Emergency Action Plan 2022-2025

5.7 Relevant Appeal Decisions

- Appeal decision Land adjacent to Oakhurst Rise, Cheltenham dismissed on 11 May 2021 (APP/B1605/W/20/3262254)
- Appeal decision Land at Ash Manor, Ash Green Road, Ash, Guildford dismissed on 10th May 2022 (APP/Y3615/W/21/3273305)

6. CONCLUSION

- 6.1 The Council's evidence will conclude, having considered the appeal application in the context of the development plan, national guidance and all other material considerations (including emerging policy), that a decision to refuse planning

permission for the proposed development would be justified by the circumstances of the case.

- 6.2 The LPA reserves the right to add to present evidence on matters not directly referred to in the Statement in the light of further information received and any further information provided within the statements of case produced by other parties.