

Brislington Meadows Planning Proof of Evidence of Mr Paul Connelly, Director at LDA Design

Appeal ref. 3308537

10 January 2023

Volume 1 – Main Planning Proof of Evidence

A Kings Wharf
The Quay
Exeter, EX2 4AN
United Kingdom
T 01392 260 430

W www.lda-design.co.uk

LDA Design Consulting Ltd
Registered No. 09312403
17 Minster Precincts, Peterborough, PE1 1XX

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1. SUMMARY PROOF

- 1.1 This appeal is against the non-determination of outline planning application ref. 22/01878/P by Bristol City Council for development of land at Broom Hill / Brislington Meadows, Broomhill Road, Brislington *for 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.*
- 1.2 The public benefits which the proposed scheme would deliver include: market housing to meet local need in the context of very substantial shortfall in housing supply in the city; a policy compliant level of 78 affordable homes; integration of new development into the existing neighbourhood in a highly sustainable location; the provision of safe, convenient and accessible walking and cycling links that enhance the connections to and between local services, facilities and land uses; a 10% net gain in biodiversity and a long term management that will enhance retained habitats; improved surface water management to reduce local flood risk, highway safety improvements and economic benefits.
- 1.3 The Appeal Site is an allocated site in the development plan. It forms part of the planned growth of South Bristol in accordance with Policy BCS1 in the adopted Core Strategy and is allocated in the Sites and Allocations Development Management Policies (DMP) under Policy SA1 and Site Allocation Reference BSA1201 for an estimated 300 homes. The policy has 'priced in' an acceptance of inevitable loss of natural assets commensurate with a 300 home development, a loss which is to be mitigated and compensated in accordance with the development considerations under BSA1201.
- 1.4 Given the specific relevance of the allocation under Policy SA1 and the requirement that development accords with the development considerations laid out in site allocation BSA1201, this policy has the most direct relevance to consideration of the Appeal Scheme. In my opinion, it is critical to read other relevant development plan policies in the light of Policy SA1 and BSA1201. The other policies plainly fall to be applied in the context of, and consistently with, the principles and parameters set by SA1 and BSA1201 and cannot properly be used to undermine the allocation.

- 1.5 The Bristol Local Plan Review is at a very early stage. There is no certainty on housing numbers, no certainty on the potentially controversial proposal to substitute existing allocations with new allocations on land which is currently in the Green Belt, and the proposed deallocation of the Appeal Site is the subject of a significant unresolved objection from Homes England. In my judgement, in the context of NPPF paragraph 48, there is exceptionally low certainty in the outcome of the Local Plan Review at this stage and it should be afforded no weight in the decision making process for this appeal.
- 1.6 In addition to the housing crisis in Bristol, the Council has declared a climate emergency and an ecological emergency; and strategies have been prepared in relation to both. I consider that the extent to which these strategies and associated action plans are material planning considerations is not beyond doubt. My preferred view is that, given the nature, content and method of production, the strategies and action plans should be afforded no weight in determining this appeal.
- 1.7 I conclude, on the basis of evidence to the Inquiry from Lambert Smith Hampton, that the Council's proposed position that they have a 3.3 year supply of housing should be disregarded in favour of a land supply of only 2.24 years, which equates to a very substantial supply shortfall of 11,233 new homes. The Appeal Scheme would bring forward a supply of much needed new homes in Bristol, in a form which would provide both affordable housing and a mix of housing which would meet identified need and which have not been adequately met in recent years.
- 1.8 On the basis of the absence of the Site of Nature Conservation Interest (SNCI) classification from the Appeal Site in the Policies Map and the evidence from the Council that the previous policy that classified the site as SNCI has been superseded, I conclude that, for the purposes of this appeal, the development plan process has removed the SNCI designation that relates to the Appeal Site. In drawing that conclusion, I do not underplay the value of the natural assets on the Appeal Site. Homes England acknowledges that the site has biodiversity value and the Appeal Scheme provides appropriate mitigation and compensation, and a commitment to deliver a 10% net gain in biodiversity which exceeds the policy requirement. Subject to the Council's

agreement, the scheme would deliver enhancements to the retained areas of the SNCI on adjacent land. In that context, should the Inspector conclude that the site is still an SNCI, I am of the opinion that the development considerations attached to site allocation BSA1201 provide an appropriate level of protection in any event.

- 1.9 I find that tree and hedgerow loss is avoided insofar as is possible given the site allocation for an estimated 300 homes, and is managed, mitigated and compensated in a way that is compliant with the requirements of policies SA1, DM15, DM17 and DM19. I have seen no evidence from the Council or Rule 6 Party that would bring me to a different conclusion. I disagree with the Council that the Appeal Scheme does not accord with those policies and with its conclusions that non-compliance with those policies is grounds for refusal in this case.
- 1.10 In respect of tree loss specifically, I conclude that care has been taken to retain trees wherever possible given the housing allocation and associated estimate of 300 homes, that tree loss has been minimised to Category B and C trees and the Category A trees, identified as being important by Homes England's tree survey, are all retained as per the development consideration under BSA1201.
- 1.11 Taking design suitability as a whole, I am of the view that the proposed scheme has been carefully thought through in response to the site and its surroundings, by means of an iterative landscape-led masterplanning approach. I find the Council's claim that approval of the Design Code could prejudice the design delivery of a future scheme not to be sufficient reason for refusal because the Inspector could, if she were so minded, apply a planning condition requiring a revised or replacement Design Code. I do not agree with the Council's claim that the proposal fails to adhere to the landscape and urban design policy considerations by virtue of excessive damage to the existing features of the site. I have seen no evidence from the Council of what constitutes excessive damage and I do not agree that damage is excessive in the context of an allocated site for the delivery of an estimated 300 homes and the inevitable harm implied within Policy SA1. In my opinion, the Appeal Scheme, at the outline planning stage,

responds appropriately and adequately to the policy requirements and expectations of policies BCS21, DM26, DM27 and DM28.

- 1.12 In my opinion, the effects on heritage assets and the historic environment are acceptable and the Appeal Scheme is compliant with policies BCS22 and DM31 and I note that the Council has not raised concerns in connection with these matters in the Officer's Report or reasons for refusal.
- 1.13 I am satisfied that each of the planning obligations set out in Appendix A of the draft SoCG is necessary, reasonable and related to the development and that will adequately address the requirements of policies referred to by the Council in its fifth reason for refusal.
- 1.14 I find that the Appeal Scheme accords with the development plan taken as a whole, reflecting that Policy SA1 and site allocation BSA1201 are the paramount policy considerations but also taking account of the other relevant policies, and that, having regard to paragraph 11 of the NPPF, this appeal should be allowed.
- 1.15 The Council is unable to demonstrate a five year housing land supply, rendering the Local Plan out-of-date and bringing paragraph 11(d) of the NPPF into effect. It is my judgement that there is not a clear reason for refusal in respect of the protection of assets of particular importance because none would be harmed by the Appeal Scheme. In the event that the Inspector finds there are additional assets of particular importance, their protection can be controlled by planning condition such that there remains no clear reason for refusal which is in accordance with the provisions of NPPF paragraph 11(d)(i).
- 1.16 In respect of NPPF paragraph 11(d)(ii), the adverse impacts of the proposed development can be adequately mitigated and compensated through a combination of onsite and offsite measures which can be the subject of planning conditions. The adverse impacts of the Appeal Scheme would not, in my judgement, significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as a whole.
- 1.17 I conclude that planning permission should be granted.

2. QUALIFICATIONS AND EXPERIENCE

Qualifications

- 2.1 I am Paul Connelly and I am instructed by Homes England (the Appellant) in respect of the Appeal Scheme on land at Broom Hill / Brislington Meadows, Broomhill Road, Brislington ('the Appeal Site').
- 2.2 I am a Chartered Town Planner and Director of Planning and Regeneration at LDA Design.
- 2.3 I have a Diploma in Urban Planning from Oxford Brookes University (1992) and an Honours Degree in Geography from Leicester University (1988). I became a Member of the Royal Town Planning Institute in 1995.

Experience

- 2.4 I have been working continuously as a consultant Town Planner for over 27 years. During that time, I have provided development planning advice in connection with a wide range of land uses, acting for both private and public sector clients and across development sectors.
- 2.5 As Director of Planning and Regeneration at LDA Design, I have led and overseen numerous planning applications, and have provided strategic and detailed planning advice, in connection with residential, mixed-use, commercial, leisure, recreation, education, infrastructure, transport and energy development. I have authored numerous town centre and town-wide regeneration strategies and drafted supplementary planning documents for local authorities.
- 2.6 Prior to joining LDA Design as a Director in 2006 I was a consultant Town Planner at Scott Wilson (now part of the AECOM group of companies) and prior to that was a town planner at Entec, now part of WSP.
- 2.7 During my career I have been involved in a number of appeals, in a variety of capacities.

My Involvement in the Appeal Scheme

- 2.8 I am familiar with the Appeal Site and surrounding area and the relevant national and local policy framework.
- 2.9 My involvement in the Appeal Scheme began in June 2020 when LDA Design was appointed by the Appellant, Homes England, to

lead a multi-disciplinary team of consultants in the development of a comprehensive masterplan for the Appeal Site, and the preparation of an outline planning application in accordance with the Local Plan policy allocation.

- 2.10 My involvement has been extensive, and my roles were, and remain, those of Lead Consultant and Town and Country Planning Lead.
- 2.11 Prior to my involvement, my understanding is that Homes England had been approached by Bristol City Council ('the Council') to help to deliver housing on the Appeal Site in accordance with the allocation. Homes England undertook due diligence work including among other services; planning and transport assessments, geotechnical and ecological survey and the drafting by Barton Willmore of an indicative masterplan for 300 homes (Item 1 of the Design Evolution document appended to the Landscape and Urban Design proof). The indicative masterplan was submitted by Homes England as part of a request to the Council for pre-application advice, resulting in a pre-application letter from the Council in January 2020 (CD7.1).
- 2.12 In March 2020, Homes England completed its acquisition of the Appeal Site from three landowners, including the Council.
- 2.13 LDA Design was appointed in June 2020, to lead a team including specialists in biodiversity, arboriculture and heritage from The Environment Partnership, engineers from CampbellReith and highways and transport consultants from Key Transport Consulting, among others. The team's appointment reflected, in large part, our reputation for landscape-led, environmentally aware placemaking in recognition by Homes England of the particular site conditions and the need for a carefully considered design response and appropriate biodiversity mitigation and compensation strategy.

LDA Design

- 2.14 LDA Design is one of the UK's leading design and environmental consultancies providing services in landscape architecture, planning, masterplanning, urban design, environmental planning, environmental impact assessment and ecology. We work on development and regeneration projects of all kinds in both urban and rural locations, ranging from regional-scale studies to individual small development sites. Our work covers all stages of the development process from strategies and appraisals through

visioning and design to implementation and ongoing management of sites.

- 2.15 We work for a wide range of private and public sector clients and provide advice to national and local government, government agencies, developers, landowners and others on design and sustainable development. The practice has won numerous design, landscape, planning and other awards for its work.

Declaration of truth

- 2.16 The evidence which I have prepared and provided for this appeal is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.

3. SCOPE OF EVIDENCE

- 3.1 This appeal is against the non-determination of outline planning application ref. 22/01878/P (registered as a valid application on 27th April 2022) by the Council for development of land at Broom Hill / Brislington Meadows, Broomhill Road, Brislington ('the Appeal Site') for *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.* ('the Appeal Scheme').
- 3.2 The Appeal Site is an allocated housing site in the adopted Site Allocations and Development Management Policies Local Plan (CD5.3) and contributes to the achievement of the Council's Core Strategy (CD5.5) intended direction of growth in South Bristol.
- 3.3 Homes England submitted notification of its intention to lodge an appeal against the Council's non-determination of the planning application on 5th September 2022. The statutory determination date for the application by the Council was 27th July 2022.
- 3.4 The Council subsequently took the application to Planning Committee on 7th December 2022 resulting in a resolution that, if the Committee had the power to determine the application, it would refuse planning permission, in line with the Officer's recommendation.
- 3.5 The Officer's Committee Report Amendment Sheet 7 December 2022 (CD10.2) gives five putative reasons for refusal, as follows:
 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 (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).

- 3.6 There is written agreement between Homes England and the Council in paragraph 8.19 of the draft Statement of Common Ground (SoCG) to the principle of residential development on the Appeal Site although, in my judgement, the approach adopted by the Council in its reasons for refusal and its approach to the loss of natural assets on the Appeal Site are not compatible with an acceptance of its allocation for an estimated 300 homes.
- 3.7 The matters disputed between Homes England and the Council can be summarised in relation to the following:
 - 3.7.1 The principle of the allocation (with reference to point 3.6 above).
 - 3.7.2 There is disagreement about the extent of the loss of habitat and species that will result from the development proposals compared to the loss envisaged by the Council when the Appeal Site was allocated.
 - 3.7.3 There is disagreement about the level of confidence that can be attributed to the biodiversity mitigation and compensation measures proposed.
 - 3.7.4 Homes England and the Council disagree on the appropriateness of the design response to the natural assets on the Appeal Site.
 - 3.7.5 Whilst there is agreement about the Council's inadequate five year housing land supply, there is disagreement about the scale of the shortfall.
 - 3.7.6 There is disagreement about the material weight that should be afforded to the emerging Bristol Local Plan.
 - 3.7.7 There is no agreement to planning obligations under S106 of the Town and Country Planning Act 1990.
- 3.8 The additional matters disputed between Homes England and the Rule 6 party can be summarised as:
 - 3.8.1 Challenging the status of the Appeal Site as a Site of Nature Conservation Interest (SNCI). Homes England and the Council agree that for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the site is

not within the SNCI as evidenced by the Local Plan Policies Map (CD5.4);

3.8.2 Questioning whether any degree of harm has been 'priced in' to the site allocation;

3.8.3 Questioning the significance of archaeological remains on the Appeal Site, although the Council's Archaeology Officer concludes that appropriate archaeological works can be secured through attaching the standard archaeological pre-commencement condition to any consent for development;

3.8.4 Claiming the emerging Bristol Local Plan Review to be 'well-advanced'; and

3.8.5 Queries regarding site access and flood risk management.

3.9 The Inspector's summary of the main matters for the Inquiry, as recorded in paragraph 5 of the Inspector's note of the Case Management Conference held on 14 December 2022, is as follows:

3.9.1 *'The impact on the well-being of biodiversity, including the loss of trees and hedgerows, as well as other species in the context of the adequacy, merits and deliverability of proffered mitigation.'*

3.9.2 *'The context of the designation of the site as being of Nature Conservation Interest was identified by the Rule 6 party as being unclear.'*

3.9.3 *'The loss of trees and hedgerows...relating to the impact on the amenity of the locality, including the nature of the vegetation as being veteran (or ancient....) in the absence of wholly exceptional reasons and the existence of a suitable compensation strategy.'*

3.9.4 *'...the design suitability of the scheme measured against the proposed parameter plans, which the Appellant wishes to secure through a condition. This feeds into the Design Code and raises issues around urban design and landscape...'*

3.9.5 *'...the impact of the proposal on the landscape in respect of its archaeological features with heritage implications...'*

3.9.6 *'Whether the proposal would be sustainable development for the purposes of the National Planning Policy Framework (The Framework) and development plan policy may or may*

not engage the Framework paragraph 11 planning balance.'

- 3.10 I will return to these main matters in the body of my evidence, with reference to the evidence of my colleagues as appropriate and to the agreed Core Documents.
- 3.11 The documents which comprise the statutory adopted development plan are listed in Section 5 of the agreed SoCG. The parties agree that the following documents are of direct relevance to the main matters of this appeal:
 - 3.11.1 Bristol Local Plan: Core Strategy (adopted June 2011) (CD5.5);
 - 3.11.2 the Bristol Local Plan: Site Allocations and Development Management Policies Plan (CD5.2) and Annex: Site Allocations Information (adopted July 2014) (CD5.3); and
 - 3.11.3 the Policies Map (adopted July 2014) (CD5.4).
- 3.12 These are the Development Plan documents upon which I predominantly focus within my evidence.
- 3.13 Both parties agree that the Local Plan Review is at an early stage (Regulation 18 consultation). In my opinion there remains very considerable uncertainty about the outcome of the plan-making process at this stage as to have no material weight in the decision making for this appeal.
- 3.14 Topic-specific proofs of evidence have been provided by other members of Homes England's professional team relating to the following matters:
 - 3.14.1 Landscape and Urban Design – Mr Charles Crawford of LDA Design
 - 3.14.2 Biodiversity, Arboriculture and Heritage – Mr Francis Hesketh of The Environment Partnership. Mr Hesketh appends statements from:
 - 3.14.3 Mr Amir Bassir, Principal Historic Environment Consultant at The Environment Partnership in respect of historic hedgerow matters; and
 - 3.14.4 Mr Tom Popplewell, Associate Arboricultural Consultant at The Environment Partnership in respect of veteran tree issues.

- 3.15 Supplementary technical evidence is appended to my proof addressing the following:
- 3.15.1 Heritage and Archaeology (Response to Rule 6 Statement of Case), authored by Amir Bassir, Principal Historic Environment Consultant at The Environment Partnership
 - 3.15.2 Transport Matters, authored by David Tingay, Director at Key Transport Consultants Ltd;
 - 3.15.3 Housing Need and Housing Land Supply, authored by Alex Roberts, Director at Lambert Smith Hampton, Planning Consultancy; and
 - 3.15.4 Drainage Technical Note, authored by Blessing Farirai, Associate Engineer at CampbellReith Consulting Engineers.

4. THE APPELLANT, APPEAL SCHEME AND HISTORY

Homes England

- 4.1 The Appellant is Homes England, the Government's housing accelerator, tasked with delivering homes, including affordable homes, especially in circumstances where other approaches to housing delivery have failed. This is the case at Brislington Meadows.
- 4.2 By releasing more land to developers who have the appetite to deliver high quality developments, Homes England is making possible the new homes that England needs, helping to improve neighbourhoods and grow communities.
- 4.3 The Appeal Site is allocated in the adopted development plan to deliver desperately needed housing in an area that is suffering a housing emergency, with a persistent under delivery of homes and an inadequate supply of housing land.
- 4.4 The importance to the Council of delivering housing on the Appeal Site is not only apparent from the allocation in the development plan but was also reaffirmed subsequently by the Council's own actions as it attempted to deliver housing on the Appeal Site via a joint venture agreement with the other principal landowner. That landowner's site was landlocked without use of the Council's assets, leading to the Council's Cabinet Report (1st November 2016) and accompanying plan N5954e (CD8.11) authorising primary vehicle access into the allocated site from Broomhill Road "...for the purposes of enabling 300 new homes to be built."
- 4.5 Development was not brought forward by the Council or the other principal landowner either in isolation or through joint venture, despite the allocation and despite the housing emergency.
- 4.6 With the failure of the joint venture approach, the Council approached Homes England. In my view it was obvious why the Council turned to Homes England, given its role to deliver homes, including affordable homes, where other approaches to housing delivery have failed. The Council, having failed to achieve development on the open market, sought Homes England's involvement to accelerate housing delivery in line with the development plan and in response to the housing emergency.
- 4.7 It is obvious to me from the matters in paragraphs 4.4 to 4.6 above that the Council was committed to bringing forward housing

development on this allocated site and worked hard to achieve it, reverting to Homes England when other approaches had failed. Homes England has subsequently implemented the role with which it is tasked by both Government and the Council.

- 4.8 Following detailed due diligence work and conclusion of an initial pre-application process with the Council, Homes England acquired the Council's interest in the land in March 2020, along with the interests of two adjoining landowners, combining them to form the Appeal Site.
- 4.9 Contractual arrangements are in place with the Council in the form of a Sale Agreement (CD8.16) in relation to the delivery of the Appeal Site, which include commitments to protecting public rights of way, the provision of a new pedestrian and cycle link from the site to Allison Road and the use of Victory Park for off-site ecological enhancements subject to further discussions.
- 4.10 The terms of the Sale Agreement, Site Allocation BSA1201, the 1st November 2016 Cabinet Report and the Council's January 2020 pre-application response (CD7.1) were all essential prerequisites to Homes England's acquisition of the Appeal Site, and informed the scope, priorities and design of the Appeal Scheme.
- 4.11 Homes England acquired the Appeal Site so as to deliver the allocation and to achieve what the Council was unable to do previously. This is an opportunity which the Council should welcome given it is entirely consistent with its own aspirations, as expressed in the development plan and its participation in the earlier joint venture.

The Appeal Scheme

- 4.12 The Appeal Scheme is described in full in Section 3 of Homes England's Statement of Case (SoC) and as agreed with the Council in the draft SoCG.
- 4.13 The application is 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 is sought for access with all other matters reserved.
- 4.14 The proposed scheme includes provision for 30% of homes to be affordable homes, which is compliant with Core Strategy Policy BCS17.

L D Ã D E S I G N

- 4.15 The proposals include a commitment to provide 10% Biodiversity Net Gain (BNG) through a combination of on-site and off-site measures to be agreed with the Council.
- 4.16 The full suite of documents submitted to the Council with the planning application and during the determination period is listed in Section 2.1 of the draft SoCG and provided in the Core Documents.
- 4.17 The outline application is supported by four parameters plans ('the Parameters Plans'):
- Land Use - LDA Design Drawing No. 7456_103 PL1 (CD1.2)
 - Buildings Heights - LDA Design Drawing No. 7456_104 PL1 (CD1.3)
 - Landscape - LDA Design Drawing No. 7456_102 PL1 (CD1.5)
 - Access and Movement - LDA Design Drawing No. 7456_101 PL1 (CD1.4)
- 4.18 In preparing his evidence, Mr Crawford has identified a number of minor discrepancies on the parameter plans and the regulating plan in the Design Code, as referenced in paragraph 3.5.1 of his proof. He provides updated versions of those plans with a schedule of the proposed changes and amended drawings in Appendix 1 to his proof and invites the Inspector to determine the appeal on the basis of the amended plans. In my view there is no reason why the appeal should not be determined on the basis of the amended plans, given the very minor nature of the amendments and the fact that no prejudice arises to any party.
- 4.19 The matters that would be fixed if the scheme is consented are set out on the:
- application form (CD1.11);
 - the site location drawing (CD1.1);
 - the Parameters Plans (as amended by reference to Appendix 1 of Mr Crawford's proof);
 - the site access drawings (CD1.6 – CD1.9); and
 - in the Design Code (CD1.14).
- 4.20 Other design material submitted in support of the application, such as the illustrative masterplan (CD1.10) and the Design and Access Statement (CD1.13) is for illustrative purposes, is not determinative and would not be fixed by an outline planning consent.

- 4.21 In addressing the concerns raised by the Council in this appeal, it is important to focus on those aspects of the design which would be fixed within the outline consent if the appeal is allowed (including any consequences for subsequent reserved matters approval). This matter is addressed in the Landscape and Urban Design proof prepared by Mr Crawford (paragraph 4.4.3).
- 4.22 Pre-application advice was sought from the Council prior to both Homes England's acquisition of the Appeal Site and LDA Design's appointment. The request was accompanied by an illustrative masterplan for a 300 home scheme prepared by Barton Willmore (Item 1 of the Design Evolution document appended to the Landscape and Urban Design proof). The Council responded with a Pre-Application Response letter (CD7.1).
- 4.23 A request for an Environmental Impact Assessment (EIA) Screening Opinion (CD7.5) for the development of up to 300 homes with provision of 30% affordable homes, with primary access via Broomhill Road and a network of pedestrian and cycle routes through and into the site was submitted to the Council on 12th November 2020. A response was received from the Council on 11th December 2020 (CD7.6) in which the Council concluded that the proposed development did not constitute EIA Development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 4.24 Pre-application engagement and discussion between Homes England, the Council and other stakeholders, including the specifically formed Brislington Meadows Advisory Group (BMAG) comprising Ward Councillors and a small cross-section of neighbours and interested local parties, took place between July 2020 and July 2021, culminating in a public exhibition in December 2021.

The Surrounding Area

- 4.25 A description of the Appeal Site and surrounding area is provided within Section 2 of Homes England's Statement of Case (CD9.1).

Engagement with the Council

- 4.26 During my involvement in Brislington Meadows, it is clear to me that the Council has made a U-turn in respect of its attitude towards delivering housing on the allocated site. I suggest that it is relevant to consider the Council's change in position because it helps to explain:

- 4.26.1 why the Council has adopted an incorrect approach to the assessment of impacts (to such an extent that the Council's approach tacitly contradicts its express acceptance of the principle of the development, as set out in paragraph 8.18 of the draft SoCG); and
 - 4.26.2 why it has proved so difficult for Homes England to resolve outstanding matters in the outline application and in the lead up to this Inquiry.
- 4.27 Prior to my involvement in the Appeal Scheme, my understanding is that Homes England, in its capacity as the Government's accelerated housing delivery agency, was approached by the Council under the Mayor's leadership to help to deliver on the allocation following the failure of the joint venture approach. Following detailed due diligence that took account of the site's allocated status, the Council's estimated number of homes and ecological survey, Homes England acquired the site from the Council and two other landowners.
- 4.28 The Council's intentions for the Appeal Site were very clearly demonstrated by its engagement with Homes England, given the latter's purpose to accelerate the delivery of housing.
- 4.29 It is my understanding that at no point was it suggested by the Council during the land sale negotiations with Homes England that the estimate of 300 homes should be treated with caution, nor was it suggested by the Council that it might not support any development at all on the site.
- 4.30 The Council's expectation remained, at that stage, that Homes England would deliver in the region of 300 homes whilst taking into account the development considerations under site allocation ref. BSA1201. The Council's acceptance and promotion of the principle of development for circa 300 homes on the Appeal Site remained intact at that point in time.
- 4.31 The formal pre-application response letter (CD7.1) did raise concerns about the impact of the Barton Willmore masterplan on trees and hedgerows and early informal pre-application discussions following Homes England acquisition of the site discussed the challenges of delivering the scheme, but was still supportive of the principle of development in accordance with the allocation. At the same time, the Council was active in disposal of the site to Homes

England for the delivery of 300 homes, despite the declaration of its ecological emergency a few weeks before.

- 4.32 Following LDA Design's appointment, plans identifying the constraints to development and the opportunities for high quality placemaking that incorporated as many natural assets as possible were shared by Homes England in a series of informal on-line meetings with Officers and local Councillors with broad support for adopting a landscape-led approach that took reasonable care to accommodate ecological assets.
- 4.33 Acknowledgement of Homes England's landscape-led masterplan approach was subsequently received in positive independent reviews of the proposals by both the Design West Design Review panel (CD7.2) and Building with Nature (CD2.4)¹. The reviews point to further scheme design resolution but I am of the opinion that the further work sits comfortably in the scope of reserved matters and does not need to be resolved at the outline planning stage.
- 4.34 Then came a change of direction by the Council. In April 2021, as part of his re-election campaign, the Mayor publicly declared his opposition to housing development on the allocated site through an interview reported on-line by Bristol Live (16th April 2021) (Appendix 10). There is no accompanying press release. In the interview, the Mayor is reported to have announced the decision to not build on Brislington Meadows, citing the 'ecological emergency' declared by the Council in February 2020 as 'the key priority'. The Mayor is reported to have said that he had now determined that the impact developing the land would have on the natural

¹ In August 2022, following Building with Nature's Design Award for the Appeal Scheme, they received a third party request to review the decision and, in line with its Complaints and Appeals procedure, Building with Nature has convened a panel to review the assessment of the outline design and the audit that led to the Award decision, in the context of the uncertainty as to whether or not the Appeal Site is still part of an SNCI. The review will consider any new information emerging from the Public Inquiry before deciding on whether any change in Award status is required. The Award has therefore been suspended while the review is completed.

environment and wildlife is 'too great, as the ecological importance of the area became clear'.

- 4.35 The declaration was made without any change to the development plan or, to the best of my knowledge, any attempt to identify material planning considerations that justified a wholesale and in-principle departure from the allocation. The ecological importance of the area should already have been clear because the site was previously part of the Brislington Meadows SNCI.
- 4.36 The Mayor was not simply expressing his own opposition but stated the Council's commitment to prevent development at the Appeal Site. He is quoted by Bristol Live in the same bulletin as saying 'We were the first council to declare an ecological emergency. Brislington Meadows region is rich in biodiversity and supports a thriving ecosystem – we're protecting our natural environment, while delivering on our housing goals.'
- 4.37 In my opinion the Council's change of position has placed it in an irreconcilable position between its support for housing on the site in accordance with the development plan allocation, and its public statements rejecting any development on the site as a matter of principle.
- 4.38 Subsequent to the Mayor's declaration, the Council's position changed from one of collaboration and support for the principle of development, to one of 'apparent' support for the principle of development with a very evident determination to frustrate and prevent development of the site for housing, demonstrated by:
 - 4.38.1 the nature of reasons for refusal 1, 2 and 4 which would make it wholly impractical to deliver housing on the Appeal Site and therefore cannot be said to be supporting the principle of development;
 - 4.38.2 the implication of reasons for refusal 1, 2, 3 and 4 that matters of detail should be addressed at this outline stage when in fact conditions could be applied to make development acceptable (and when the Council could have required those details to be provided but did not do so); and
 - 4.38.3 the early indication in the Regulation 18 Local Plan consultation that the Council intends to deallocate the site. Whilst the latter has no weight in my opinion given the extremely early stage, it does demonstrate that the Council

does not support the principle of development on the Appeal Site.

- 4.39 The Council, in my opinion, has demonstrated its rejection of the principle of development and its position is contrary to development plan policy SA1 which, in respect of the Appeal Site, is the paramount policy in this appeal.
- 4.40 If the Council was still committed to the principle of development, consistent with development plan policy, it would have continued in the positive vein of its early engagement with Homes England regarding appropriate mitigation and compensation. Key to positive engagement would have been continued collaborative working to find the most suitable solution for the mitigation and compensation of ecological impacts, upon which the Council expressed a constructive view in BSA1201, its pre-application letter (CD7.1) and initial conversations with the Biodiversity Officer following acquisition of the site regarding scope for compensatory enhancement of the adjoining Council-owned land, and to which Homes England is wholly committed to the extent of delivering 10% BNG, which exceeds policy requirements.
- 4.41 Progress on this key matter was being made in that regard prior to the Mayor's declaration but the Council has been unwilling to engage since then, preventing Homes England from specifying a strategy which, in turn the Council claims undermines their confidence in the acceptability of mitigation and compensation proposals. Homes England is caught in a 'Catch 22' situation.

5. LOCAL PLAN POLICY AND GUIDANCE

Context

- 5.1 When determining this appeal it is necessary to have regard inter alia to the development plan and any other material considerations: see section 70(2) of the Town and Country Planning Act 1990. Further, this appeal should be determined in accordance with the development plan unless material considerations indicate otherwise: see Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.2 I start my assessment with consideration of the development plan.
- 5.3 Homes England and the Council have agreed the relevant planning policy context within which the Appeal Scheme is to be considered, as set out in Section 5 of the SoCG.
- 5.4 The statutory Development Plan, insofar as is relevant to this appeal, comprises the:
 - Bristol Local Plan: Core Strategy adopted June 2011 (CD5.5)
 - Bristol Local Plan: Site Allocations and Development Management Policies (CD5.2) and Annex: Site Allocations Information adopted July 2014 (DMP) (CD5.3)
 - Bristol Local Plan Policies Map (July 2014) (CD5.4).
- 5.5 I consider that the following policies in the Development Plan are relevant to the consideration of this appeal:

Bristol Local Plan: Core Strategy adopted June 2011 ('the Core Strategy')

- Policy BCS1 – Spatial Strategy: South Bristol
- Policy BCS5 – Housing Provision
- Policy BCS7 - Centres and Retailing
- Policy BCS9 – Green Infrastructure
- Policy BCS10 - Transport and Access Improvements
- Policy BCS11 - Infrastructure and Developer Contributions
- Policy BCS13 – Climate Change
- Policy BCS16 – Flood Risk and Water Management
- Policy BCS17 – Affordable Housing Provision
- Policy BCS21 – Quality Urban Design
- Policy BCS22 – Conservation and the Historic Environment

***Site Allocations and Development Management Policies
(adopted July 2014) ('the DMP')***

- Policy SA1 - Site allocation
- Site Allocation BSA1201 - Land at Broomhill
- Policy DM9 – Local Centres
- Policy DM15 – Green Infrastructure Provision
- Policy DM16 – Open Space for Recreation
- Policy DM17 – Development Involving Green Infrastructure
- Policy DM19 – Development and Nature Conservation
- Policy DM22 - Development Adjacent to Waterways
- Policy DM23 – Transport Development Management
- Policy DM26 - Local Character and Distinctiveness
- Policy DM27 – Layout and Form
- Policy DM28 - Public Realm
- Policy DM31 – Heritage Assets

- 5.6 I have expanded below on what I consider to be the most important development plan policies in the context of the main matters under consideration in this appeal. Other policies that I consider to be relevant are included in Appendix 1 to this proof.

Bristol Local Plan: Core Strategy adopted June 2011

Policy BCS1 – Spatial Strategy: South Bristol

- 5.7 Policy BCS1 states that South Bristol, which includes Brislington, will be a priority focus for development and comprehensive regeneration. Development will be for a mix of uses, including the provision of around 8,000 new homes. The policy acknowledges that the delivery of new homes and regeneration will require the planned release of some open space sites which do not need to be retained as part of the area's green infrastructure provision. Site allocation BSA1201 is one such site, as referenced in paragraph 5.32 below.
- 5.8 The South Bristol Key Diagram (Diagram 4.1.1) is provided in the Core Strategy (CD5.5).

Policy BCS5 – Housing Provision

- 5.9 Policy BCS5 states the aim to deliver new homes within the built-up area to contribute towards accommodating a growing number of people and households in the city, in accordance with the spatial strategy for Bristol set out in this Core Strategy. It is envisaged

that 30,600 new homes will be provided in Bristol between 2006 and 2026.

- 5.10 Additional provision which accords with the spatial strategy may be appropriate within the plan period. The minimum target will be 26,400 homes between 2006 and 2026. The appropriate level of new homes will be reviewed within 5 years of the adoption of the Core Strategy.
- 5.11 The policy states that whilst the development of new homes will primarily be on previously developed sites, some new homes will be developed on open space which does not need to be retained as part of the city's green infrastructure provision. As referenced in paragraph 5.32 of this proof, the allocated Appeal Site was identified by the Council as no longer being required for green infrastructure or open space provision.

Policy BCS9 – Green Infrastructure

- 5.12 Policy BCS9 makes clear that *"The integrity and connectivity of the strategic green infrastructure network will be maintained, protected and enhanced. Opportunities to extend the coverage and connectivity of the existing strategic green infrastructure network should be taken."*
- 5.13 Importantly in the context of the Appeal Site's allocation and the corresponding contribution towards the achievement of Core Strategy aims, Policy BCS9 goes on to state that *"Individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy."*
- 5.14 *Appropriate mitigation of the lost green infrastructure assets will be required. Development should incorporate new and/or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off site."*
- 5.15 In respect of Open Space, Policy BCS9 states that *"Some areas of open space may be released, through the development plan process, for appropriate development where:*

- *They are no longer important for recreation, leisure and community use, townscape and landscape quality and visual amenity;*
- *Development of all or part of an open space would result in improved urban form or an enhancement to existing open space areas."*

- 5.16 The Council's DMP Allocations and Designations Process (Submission version July 2013) (CD8.12) records the process that led to the conclusion that the Appeal Site was no longer important for recreation, leisure and community use, townscape and landscape quality and visual amenity and could be released for allocation and housing development.
- 5.17 The explanatory text with Site Allocation BSA1201 further clarifies that *"The housing allocation is appropriate as...it reflects the Core Strategy approach to the location of new housing be developing new homes on land which does not need to be retained as part of the city's green infrastructure/open space provision."*
- 5.18 Policy BCS9 is referred to in the first, second and third reasons for refusal.
- 5.19 The policy and alleged conflicts with it are dealt with in more detail in the proof of evidence of Mr Francis Hesketh of The Environment Partnership.

Policy BCS17 – Affordable Housing Provision

- 5.20 Policy BCS17 seeks a target of 30% affordable housing provision for residential developments of 15 dwellings or more in this area of the city.
- 5.21 The Appeal Scheme incorporates a policy compliant provision of 30% affordable housing. That provision is included within the draft heads of terms of any planning obligations set out in Appendix A of the SoCG.
- 5.22 Policy BCS17 is referred to in the fifth reason for refusal in the absence of a formal agreement to the obligations under S106 of the Town and Country Planning Act 1990.

Policy BCS21 – Quality Urban Design

- 5.23 Policy BCS21 states that *“New development in Bristol should deliver high quality urban design. Development in Bristol will be expected to:*
- *Contribute positively to an area’s character and identity, creating or reinforcing local distinctiveness.*
 - *Promote accessibility and permeability by creating places that connect with each other and are easy to move through.*
 - *Promote legibility through the provision of recognisable and understandable places, routes, intersections and points of reference.*
 - *Deliver a coherently structured, integrated and efficient built form that clearly defines public and private space.*
 - *Deliver a safe, healthy, attractive, usable, durable and well-managed built environment comprising high quality inclusive buildings and spaces that integrate green infrastructure.*
 - *Create a multi-functional, lively and well-maintained public realm that integrates different modes of transport, parking and servicing.*
 - *Enable the delivery of permanent and temporary public art.*
 - *Safeguard the amenity of existing development and create a high quality environment for future occupiers.*
 - *Promote diversity and choice through the delivery of a balanced mix of compatible buildings and uses.*
 - *Create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions.*
- 5.24 Policy BCS21 is referred to in the fourth reason for refusal on the basis that the Appeal Scheme, in the Council’s opinion, fails to adhere to the landscape and urban design policy considerations and that 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.
- 5.25 The policy goes on to state that, in order to demonstrate the delivery of high quality urban design, *“...major development proposals with a residential component should be assessed against ‘Building for Life’ (or equivalent methodology).”*
- 5.26 Mr Crawford will address urban design matters in his proof.

Policy BCS22 – Conservation and the Historic Environment

- 5.27 Policy BCS22 requires development proposals to safeguard or enhance heritage assets and the character and setting of areas of acknowledged importance.
- 5.28 Heritage and archaeology matters are addressed in the technical note from The Environment Partnership appended to this proof (Appendix 2).

Site Allocations and Development Management Policies (DMP)

- 5.29 The Appeal Site is an allocated site in the development plan. It forms part of the planned growth of South Bristol in accordance with BCS1 in the adopted Core Strategy and is allocated in the DMP under Policy SA1 and Site Allocation Reference BSA1201 'Land at Broomhill' for an estimated 300 homes.

Policy SA1 – Site Allocations

- 5.30 Policy SA1 states that *"The sites listed below and shown on the Policies Map will be developed for the uses identified and in accordance with the accompanying development considerations set out in the Annex 'Site allocations information' and with all other relevant development plan policies."*
- 5.31 The sites listed include BSA1201 Land at Broom Hill, Brislington with an allocation for housing, which is relevant to the Appeal Scheme.
- 5.32 Policy SA1 sets out specific development considerations for the allocated sites with which development will accord, referred to under the site reference in the Site Allocations Information annex, as set out under Site allocation ref. BSA1201 below.

Site Allocation BSA1201 'Land at Broom Hill, Brislington'

- 5.33 The explanatory text for the BSA1201 housing allocation explains that *"A housing allocation is appropriate as:*
- *The site is in a sustainable location close to the supermarket and shops of Broomhill Road / Fermain Avenue Local Centre, shops on the Brislington Retail Park, community facilities, employment areas and public transport infrastructure, with a residential context to the north and west.*

- *It will contribute to meeting the Core Strategy minimum target of providing 26,400 new homes in the period 2006-2026.*
- *It reflects the Core Strategy approach to the location of new housing by developing new homes on land which does not need to be retained as part of the city's green infrastructure / open space provision."*

5.34 Policy SA1 requires that development proposals should accord with the development considerations provided in the Site Allocations Information annex for BSA1201 and reproduced here.

"Development should:

- *be led by a comprehensive masterplan of the whole site, guided by community involvement;*
- *provide suitable access, which may include access off School Road through the existing allotments and ensure that any allotments affected are reprovided on the site or on nearby land;*
- *be informed by an ecological survey of the site and make provision for mitigation and compensation measures, including enhancement to the grazing land adjacent to Victory Park and compensation for the loss of semi-improved neutral grassland and damp grassland (the site currently has city-wide importance for nature conservation due to the presence and condition of particular species, habitats and / or features);*
- *retain or incorporate important trees and hedgerows within the development which will be identified by a tree survey;*
- *provide a green infrastructure link with Eastwood Farm Open Space to the north-east;*
- *take account of the overhead power lines;*
- *retain and where appropriate improve the public rights of way on the site and provide pedestrian / cycle links with Brislington Trading Estate;*
- *seek to provide pedestrian / cycle links with Eastwood Farm Open Space to the north-east via the site of Sinnott House Police Station;*
- *ensure that any scheme provides for any necessary improvements to the surrounding highway / transport network;*
- *address any potential noise, pollution and nuisance issues from nearby industrial uses through the design and layout of*

new development and incorporation of measures to prevent any noise or other pollution affecting new development;

- *be informed by a site-specific flood risk assessment as the area of the site is greater than 1 hectare. This is a requirement of the Government's National Planning Policy Framework. The flood risk assessment should consider the impacts on the wider Brislington catchment, and lead to a reduction of the flood risk to existing properties and, where necessary, improvements to existing drainage infrastructure;*
- *incorporate appropriate Sustainable Drainage Systems to minimise surface water runoff and the risk of flooding;*
- *be informed by a Health Impact Assessment. This should include how the proposals have been discussed with local primary health care providers regarding impacts on primary health care services."*

5.35 Policy SA1 and site allocation BSA1201 are referred to in the first, second, third and fourth reasons for refusal:

- *the first reason on the basis that development would "...result in significant harm to biodiversity for which it provides neither adequate mitigation nor compensation.";*
- *the second reason because "The proposed development fails to retain important hedgerows and trees within the proposal site...";*
- *the third reason because "The proposal would lead to a loss and deterioration of Irreplaceable Habitat without either a wholly exceptional reason or a suitable compensation strategy."; and*
- *the fourth reason because "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."*

5.36 I will respond to each of the BSA1201 development considerations in Section 9 of this proof.

5.37 Given the specific relevance of the allocation under Policy SA1 and the requirement that development be in accordance with the development considerations laid out in site allocation BSA1201,

this policy has, in my opinion, the most direct relevance to consideration of the Appeal Scheme. Many of those other policies do have some relevance though and are set out in the following paragraphs. It is critical, however, to read these other policies in the light of Policy SA1 and the development considerations in site allocation BSA1201. The other policies plainly fall to be applied in the context of, and consistently with, the principles and parameters set by SA1 and BSA1201. They cannot properly be used to undermine the allocation. Legal submissions will in due course also be made about this.

Policy DM15 – Green Infrastructure Provision

- 5.38 Under the sub-heading 'Multifunctional Green Infrastructure Assets', policy DM15 expects new green infrastructure assets to be designed and located to maximise the range of green infrastructure functions and benefits achieved, wherever practicable and viable.
- 5.39 Under the sub-heading 'Trees', *"The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development."*
- 5.40 Policy DM15 is referred to in the second, third and fifth reasons for refusal.
- 5.41 The policy and alleged conflicts with it are dealt with in more detail in the proof of evidence of Mr Francis Hesketh of The Environment Partnership (see particularly paragraph 9.52 – 9.56).

Policy DM17 – Development Involving Green Infrastructure

- 5.42 Under the sub-heading 'Important Open Spaces', the policy states that *"Development on part, or all, of an Important Open Space as designated on the Policies Map will not be permitted unless the development is ancillary to the open space use."*
- 5.43 Two small areas of the Appeal Site are designated as Important Open Spaces. The smaller of those is a Public Right of Way (PRoW) and will retain that function under the Appeal Scheme but with improvements to permit cycle access in addition. The larger area is the strip of land connecting the allocated site to Broomhill Road through which the Appeal Scheme's primary vehicle access is proposed. Cabinet approval was given for that specific use on that land on 1st November 2016 (CD8.11).

- 5.44 Under the sub-heading 'Urban landscape', 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. The location of those landscapes is identified on Map 4 under paragraph 2.17.5 in the DMP and the Appeal Site is not included.
- 5.45 Under the sub-heading 'Trees', "*All new development should integrate important existing trees. Development which would result in the loss of Ancient Woodland, Aged trees or Veteran trees will not be permitted. Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard...*" provided within the policy. In paragraph 6.7 of his proof, Mr Hesketh confirms that no Category A trees will be lost as a consequence of the Appeal Scheme and all can be incorporated into the layout with adequate root and canopy protection. At paragraph 9.23 of his evidence, Mr Hesketh confirms that there are no "ancient" trees on site and only one veteran tree (T6) which would be retained.
- 5.46 Policy DM17 is referred to in the first, second, third and fifth reasons for refusal. The first reason alleges inadequate mitigation and compensation measures. The second reason cites insufficient retention of important hedgerows and trees. The third reason is the loss of irreplaceable habitat without exceptional reason or suitable compensation. The fifth reason refers to the lack of agreed compensation in a S106 agreement.
- 5.47 The perceived conflicts with policy are dealt with in more detail in the proof of evidence of Mr Francis Hesketh of The Environment Partnership (see particularly paragraph 9.57-9.61).

Policy DM19 – Development and Nature Conservation

- 5.48 This policy builds on the adopted Core Strategy policy BCS9, providing more detailed criteria for the consideration of development proposals that affect nature conservation sites and features of value.
- 5.49 The policy states that "*Development which would be likely to have any impact upon habitat, species or features, which contribute to nature conservation in Bristol will be expected to:*
- i. Be informed by an appropriate survey and assessment of impacts; and*

- ii. *Be designed and sited, in so far as practicably and viably possible, to avoid any harm to identified habitats, species and features of importance; and*
 - iii. *Take opportunities to connect any identified on-site habitats, species or features to nearby corridors in the Wildlife Network.*
- 5.50 Under the sub-heading 'Sites of Nature Conservation Interest', the policy states that "*Development which would have a harmful impact on the nature conservation value of a Site of Nature Conservation Interest will not be permitted.*" The Council has confirmed that the Appeal Site is not an SNCI in terms of planning policy such that this part of Policy DM19 does not apply, as referenced in paragraph 5.71 above.
- 5.51 Under the sub-heading 'Wildlife Corridors', Policy DM19 states that "*Development which would have a harmful impact on the connectivity and function of sites in Wildlife Corridors will only be permitted where the loss in connectivity, or function, of an existing Wildlife Corridor is mitigated in line with the following hierarchy: a. Creation of a new wildlife corridor within the development site; b. Enhancement of an existing corridor or creation of a new corridor off-site to maintain the connectivity of the Bristol Wildlife Network.*"
- 5.52 Policy DM19 is referred to in the first, second, third and fifth reasons for refusal.
- 5.53 The policy and alleged conflicts with it are dealt with in more detail in the proof of evidence of Mr Francis Hesketh of The Environment Partnership (see particularly paragraph 9.62-9.67).

Policy DM26 - Local Character and Distinctiveness

- 5.54 This policy expands upon the requirement in Core Strategy Policy BCS21 that development should contribute positively to an area's character and identity, creating or reinforcing local distinctiveness. Policy DM26 sets out the criteria against which a development's response to local character and distinctiveness will be assessed.
- 5.55 Under the sub-heading 'General Principles', the policy sets out the eight criteria to which it expects development proposals to contribute.
- 5.56 The policy states that "*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."

5.57 Policy DM26 is referred to in the fourth reason for refusal on the basis that *"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."*

5.58 Mr Crawford will address landscape and urban design matters in his proof.

Policy DM27 – Layout and Form

5.59 Policy DM27 states that *"The layout, form, pattern and arrangement of streets, open spaces, development blocks, buildings and landscapes should contribute to the creation of quality urban design and healthy, safe and sustainable places. It should make efficient use of land, provide inclusive access and take account of local climatic conditions."*

5.60 The requirements that development will be expected to meet are set out under the sub-headings of:

- Streets and Spaces
- Blocks and Plots
- Height, Scale and Massing
- Landscape Design
- Servicing and Management.

5.61 Policy DM27 is referred to in the fourth reason for refusal.

5.62 Mr Crawford will address landscape and urban design matters in his proof.

Policy DM28 – Public Realm

5.63 This policy states that *"Development should create or contribute to a safe, attractive, high quality, inclusive and legible public realm that contributes positively to local character and identity and encourages appropriate levels of activity and social interaction."*

5.64 Policy DM28 is referred to in the fourth reason for refusal.

5.65 Mr Crawford will address landscape and urban design matters in his proof.

Policy DM31 – Heritage Assets

- 5.66 Policy DM31 expects development that has an impact upon a heritage asset to conserve and, where appropriate, enhance the asset or its setting.
- 5.67 The historical importance of hedgerows has been questioned by landscape, arboricultural and ecology officers in the context of those matters and is addressed in the evidence of Mr Hesketh, specifically including a note on hedgerow at Appendix D origins prepared by Mr Amir Bassir, Principal Heritage Consultant at The Environment Partnership.
- 5.68 There are no designated or locally listed heritage assets on the Appeal Site, although some minor heritage harms (within the spectrum of less than substantial harm) has been identified which I address in my planning balance. The effects of the Appeal Scheme on heritage assets is not identified by the Council as a reason for refusal and thus it appears to be common ground with the Council that any heritage harm is outweighed by public benefits and does not lead to conflict with Policy DM31 (or the NPPF).
- 5.69 The Rule 6 Party has raised some matters in their SoC and I have appended a note to this proof in response, prepared by Mr Bassir of The Environment Partnership (Appendix 2).

Sites of Nature Conservation Interest (SNCI)

- 5.70 It is appropriate at this juncture to consider whether the Appeal Site should be considered to be a SNCI in planning policy terms.
- 5.71 Homes England's primary position is that the Appeal Site is not designated as SNCI for any purpose. This position does not appear to be shared by the Council (and it is not shared by the Rule 6 Party) but it is not necessary for this position to be adopted in order for planning permission to be granted. That is because Homes England and the Council are agreed that the Appeal Site is not considered, in planning policy terms, to be within the Brislington Meadows SNCI. This is Homes England's secondary position. The fact that the Appeal Site is not an SNCI in planning policy terms is evidenced on the Bristol Local Plan Policies Map (Core Document ref). On page 2 of the Officer's Report, the Case Officer advised Members that *"In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, for the purposes of this assessment the proposal site is not considered to be within the SNCI as it is not shown as being so on the Local Plan Policies*

Map." My consideration of the Appeal Scheme (and the consideration by Homes England's other witnesses) adopts this secondary position in common with the Council and without prejudice to Homes England's primary position.

- 5.72 The Rule 6 Party contends that the site remains SNCI and that the provisions of Policy DM19 of the DMP that protect SNCIs apply and, accordingly, argue that development should not be permitted. I disagree for the following reasons.

Prescribed designation process

- 5.73 SNCIs are non-statutory designations made at a local level and are generally selected by Local Sites Partnerships (which may include local planning authority representatives).
- 5.74 I am not aware that there is a prescribed designation process but DEFRA provided good practice guidance in 'Local Sites: Guidance on their Identification, Selection and Management' (2006) (reference extracts in Appendix 3). Notably the DEFRA guidance states in paragraph 5 that "*Local Development Frameworks should identify all local nature conservation areas on the proposals map*" (by reference to PPS 12).
- 5.75 Now withdrawn PPS 12 'Local Development Frameworks' (2004) paragraph 2.21 (reference extract in Appendix 4) stated that "*The adopted proposals map should... identify areas of protection, such as nationally protected landscape and local nature conservation areas...*"
- 5.76 SNCIs are to be protected as a matter of planning policy through the development plan process. Under the sub-heading of 'Locally and regionally protected sites', now withdrawn PPS 9 'Planning for Biodiversity and Geological Conservation: A Guide to Good Practice' (reference extract in Appendix 5) stated in paragraph 4.40 that "*Local authorities should consider how local sites can be protected and enhanced. The Core Strategy will indicate how the authority and its partners intend to promote biodiversity and geological conservation. Good practice would be to include a strategy for local sites which would include positive proposals for protection and enhancement and how they will work to this end with landowners and developers of these sites. They should be identified within Site Specific Allocations DPDs so that they appear on the adopted proposals map and should include site specific policies for them*".

- 5.77 NPPF paragraph 175 states that *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*
- 5.78 NPPF paragraph 179(a) states that *"...plans should: identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation."*
- 5.79 At the local level, it is evident to me that the Council has applied NPPF paragraphs 175 and 179(a) and the approach outlined above by determining the environmental status of the allocated site through the development plan-making process.
- 5.80 My conclusion is derived from the Council's explanatory text in its Core Strategy in relation to Policy BCS9 (CD5.5).
- 5.81 On page 76 under the heading 'Policy Delivery' and sub-heading 'Nature Conservation' the Council states that: ***"The Site Allocations & Development Management DPD and Bristol Central Area Action Plan will designate local Sites of Nature Conservation Interest. The Proposals Map will also show international, national and local biological and geological conservation sites designated outside the development plan process."*** [my emphasis].
- 5.82 In paragraph 4.9.9 (p. 76), the Council states that *"As explained in PPS9 'Biodiversity and Geological Conservation' [2006] the level of protection afforded to biological and geological conservation sites is dependent on whether they are of international, national or local importance, those of international and national importance being afforded more protection than those of local importance (reference extract in Appendix 5). In Bristol, Sites of Nature Conservation Interest are designated through the Development Plan process as local sites. These are accompanied by Local Nature Reserves and Regionally Important Geological Sites which are local sites designated through separate processes. Land with a function*

as a corridor for wildlife, along with the locally designated Sites of Nature Conservation Interest, form the Bristol Wildlife Network. The Network either links the designated local sites to each other or to the wider countryside.” [my emphasis].

5.83 My interpretation of these statements is that:

5.83.1 the designation of local SNCIs is a matter for the Council’s development plan-making process; and

5.83.2 the Policies Map [Proposals Map] which forms part of the development plan will identify the SNCIs.

5.84 There is no question that the Appeal Site was part of an SNCI prior to adoption of the development plan in 2014, and it is also evident to me that the SNCI status was removed from the site by adoption of the development plan, as recorded in paragraph 5.84 of Homes England’s SoC (CD9.1): *“The Appeal Site was previously shown as an SNCI on the Council’s 1997 Local Plan Proposals Map and corresponding Local Plan (1997) Policy NE5: Sites of Nature Conservation Interest. An extract of Policy NE5 is enclosed (Appendix A – CD5.9) which includes a schedule setting out the sites allocated as an SNCI, at that time. The Brislington Meadows site was designated as an SNCI under Policy NE5 and allocated reference GBNCS 17. However, the extent of the Brislington Meadows SNCI under the previous Bristol Local Plan (1997) was superseded by the revised SNCI boundaries shown on the adopted Policies Map accompanying the DMP (Appendix A – CD5.4), adopted by the Council in 2014. Appendix 3 of the DMP contains a ‘Schedule of Superseded Local Plan Policies’ and confirms that Policy NE5 is superseded following adoption of the Site Allocations and Development Management Policies (2014).”*

5.85 SNCIs form part of the city’s green infrastructure, as defined in paragraph 4.9.4 of the Core Strategy (CD5.5) but Policy BCS9 states that *“Individual green assets should be retained wherever possible and integrated into new development. **Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy.** Appropriate mitigation of the lost green infrastructure will be required.”* [my emphasis].

5.86 Further, Policy BCS9 states that *“National and local sites of biological and geological conservation importance will be protected having regard to the hierarchy of designations and the potential for*

appropriate mitigation." In my view, allocation of the former SNCI reflects its relatively low local position in the hierarchy of designations and the provisions for mitigation and compensation made under Policy SA1 site allocation BSA1201 permit the site to be allocated under BCS9.

- 5.87 In my opinion that also complies with NPPF paragraph 174(a) under which "*Planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)*" [my emphasis].
- 5.88 In conclusion, in my opinion and irrespective of the Council's agreement that the Appeal Site is not an SNCI in planning policy terms, the explanatory text of Policy BCS9 (paragraph 4.9.9 and the Policy Delivery section on page 77) makes it clear that the responsibility for designating SNCIs in the Council's area is with the development plan process.
- 5.89 On the basis of the absence of the SNCI classification from the Appeal Site in the Policies Map (CD5.4) and the evidence that the previous Policy NE5 has been superseded, I conclude that, for the purposes of this appeal, the development plan process has removed the SNCI designation that relates to the Appeal Site.
- 5.90 In drawing that conclusion, I do not wish to underplay the value of the natural assets on the Appeal Site. Homes England acknowledges that the site has biodiversity value and the Appeal Scheme provides appropriate mitigation and compensation as set out in the combined measures in the submitted Outline Ecology Impact Assessment (EcIA) (CD1.21) and Outline Biodiversity Net Gain (BNG) (CD1.22) (and with reference to the updated versions included at Appendix C of Mr Hesketh's proof), including the commitment to deliver a 10% net gain in biodiversity which exceeds the policy requirement. The proposed measures reflect a comprehensive understanding of the assets following robust survey and interpretation.
- 5.91 In that context, should the Inspector conclude that the site is still an SNCI, I am of the opinion that the development considerations attached to site allocation BSA1201 provide an appropriate level of protection in any event and compliance with Policy SA1 is the paramount consideration in this appeal.

6. OTHER MATERIAL CONSIDERATIONS

National policy

National Planning Policy Framework (July 2021) (NPPF)

National Planning Practice Guidance (launched March 2014) (PPG).

- 6.1 The relevant paragraphs of the NPPF are set out in section 7 of this proof, with reference to the PPG.

Environment Act 2021

- 6.2 The Environment Act 2021 received Royal Assent on 9th November 2021 and includes a mandatory 10% Biodiversity Net Gain on all Town and Country Planning Act 1990 developments. The 10% requirement will not become mandated across England until statutory instruments and regulations have been agreed and the Town and Country Planning Act 1990 has been amended.

- 6.3 The Council does not yet have local policy in place relating to Biodiversity Net Gain.

Local Guidance

Planning Obligations SPD (adopted September 2012)

- 6.4 The Planning Obligations SPD sets out the Council's approach to planning obligations and the types of obligation that the Council may seek to secure.
- 6.5 The SPD is referred to in the fifth reason for refusal on the basis that there is no agreement to planning obligations under S106 of the Town and Country Planning Act 1990.
- 6.6 Draft heads of terms of any planning obligations set out in Appendix A of the draft SoCG.

Urban Living SPD (adopted November 2018)

- 6.7 The Urban Living SPD sets out a series of questions that planning applicants are encouraged to consider throughout the design development of a scheme.

- 6.8 Regard has been had to the SPD document and the Appeal Scheme has a high level of compliance with it appropriate to the outline stage of the application. The Council does not refer to the SPD in its SoC or reasons for refusal.

Local Strategies

Bristol One City Climate Strategy

- 6.9 The One City Climate Strategy (2020) (CD5.5) is a strategy, developed by Bristol's Environment Board, for a carbon neutral, climate resilient Bristol by 2030. This is a city-wide, shared vision and not owned by any single organisation. The strategy outlines ten key areas where climate action is needed to achieve the vision for Bristol in 2030.
- 6.10 I consider that the extent to which this Strategy is a material planning consideration is not beyond doubt. My preferred view is that, given the nature, content and method of production, the Strategy should be afforded no weight in determining this appeal.
- 6.11 However, even if the Strategy is taken into account as a material planning consideration, my overall conclusions are unchanged because I am of the opinion that the Appeal Scheme is compatible with the strategic objective of adapting to climate change because of its highly sustainable location, given its proximity to Local Centres and a wide range of services, facilities and land uses, enabling minimum use of the private car and optimising opportunities for active travel and healthy living.

Bristol One City Ecological Emergency Strategy

- 6.12 In February 2020, the Council and One City partners declared an ecological emergency in response to the decline in wildlife in Bristol. Following publication of an Ecological Emergency Strategy for the city, the Council produced the Ecological Emergency Action Plan 2021-2025 (CD8.14), a council-wide programme of activities to deliver on the ambitions of the One City Ecological Emergency Strategy and relevant aspects of the One City Climate Strategy.
- 6.13 Again, I consider that the extent to which this Strategy is a material planning consideration is not beyond doubt. My preferred view is that, given the nature, content and method of production, the Strategy should be afforded no weight in determining this appeal.

- 6.14 However, even if the Strategy is taken into account as a material planning consideration, my overall conclusions are unchanged because some 45% of the Appeal Site will be retained, managed and enhanced as multi-functional green infrastructure which I judge to be compatible with the Strategy's aim for at least 30% of land in Bristol to be managed for the benefit of wildlife by 2030 (page 5). The Appeal Scheme does not conflict with the actions set out in the appendix to the Action Plan,
- 6.15 Further, in respect of both of the One City strategies, I have not seen any evidence that the Council has stated that the climate emergency or ecological emergency should exceed the housing emergency in importance or priority, and there is certainly no evidence of that in the development plan against which this appeal must be considered.

The Council's Green Spaces Motion

- 6.16 Bristol Full Council made a Motion in September 2021 for the protection of the Green Belt and Bristol's Green Spaces (CD8.1).
- 6.17 This is not a material planning consideration for this appeal and is a political declaration only, with no weight in the planning and decision-making process.
- 6.18 In any event, the Appeal Scheme has no inconsistency with this Motion which only instructs officers to consider adoption of the Appeal Site as Local Green Space. No such adoption has been made to date.

7. NATIONAL PLANNING POLICY AND GUIDANCE

- 7.1 The National Planning Policy Framework (NPPF) (CD5.1) is a relevant material consideration in the determination of this appeal.

Achieving sustainable development

- 7.2 Paragraph 7 summarises the objective of sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

- 7.3 Paragraph 8 describes the economic, social and environmental objectives in more detail.

- 7.4 Paragraph 10 states that a presumption in favour of sustainable development is at the heart of the Framework so that sustainable development is pursued in a positive way.

- 7.5 The presumption in favour of sustainable development is set out in paragraph 11: *"Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

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:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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."

- 7.6 The Council acknowledges that five year housing land supply is inadequate rendering it out of date such that paragraphs 11(d)(i) and (ii) must be considered.

Decision-making: Planning conditions and obligations

- 7.7 NPPF paragraph 57 sets out the three tests that need to be met before planning obligations are sought, with reference to Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and in connection with the Council's fifth reason for refusal.

Promoting sustainable transport: Considering development proposals

- 7.8 Paragraph 105 states that *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes."*
- 7.1 Paragraph 111 states that *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

Making effective use of land

- 7.9 Paragraph 120 says that planning policies and decisions should, among other things:
- a) *encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
 - b) *recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production"*
- 7.10 The Officer's Report (CD10.2) (page 24) makes reference to the Landscape Officer's opinion that the earthworks are poorly integrated into the existing landform and that more gently sloped SuDS features would be better integrated, allow additional plant variety, visual enhancement and recreational use, increasing its multi-functionality.

Achieving well-designed places

- 7.11 The Council's SoC (paragraph 3.8.36) (CD10.1) alleges that the Appeal Scheme presents excessive disruption to the existing on-site features which it says is contrary to NPPF Paragraph 134.
- 7.12 Paragraph 134 states that "*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design [National Design Guide and National Model Design Code], taking into account any local design guidance and supplementary planning documents such as design guides and codes.*" Conversely, significant weight should be given to development which reflects that policy and guidance and/or which "*...help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*"

Conserving and enhancing the natural environment

- 7.13 Paragraph 174 states that "*Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);...*
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures..."*
- 7.14 NPPF paragraph 174 is referred to in the Council's first reason for refusal.
- 7.15 In Section 6.3 of Mr Crawford's proof, he makes the point that the Appeal Site is not considered to be a valued landscape.
- 7.16 The site does have biodiversity value but is only of local interest and is not an SNCI for the purposes of planning decision making. The Appeal Scheme proposes a significant net gain in biodiversity.

Habitats and biodiversity

- 7.17 NPPF paragraph 179 is referred to in the first reason for refusal. The Framework states that "*To protect and enhance biodiversity and geodiversity, plans should:*
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance*

for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

7.18 Given the focus of the paragraph is on plan making, I am of the view that the Council's policies have provided the direction and requirements and the Appeal Scheme will be assessed against those policies.

7.19 Paragraph 180 of the NPPF states that "*When determining planning applications, local planning authorities should apply the following principles:*

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists."

7.20 NPPF Paragraph 180a is referred to in the first reason for refusal. Paragraph 180c is referred to in the third reason for refusal. The Rule 6 Party's SoC (CD11.0) refers to NPPF paragraph 180, in paragraph 9.3.1.16.

Conserving and enhancing the historic environment:

Considering potential impacts

7.21 The potential for the Appeal Scheme to cause less than substantial harm to the significance of a designated heritage asset has been identified. Paragraph 202 requires that "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

- 7.22 A non-designated heritage asset has also been identified on site. NPPF paragraph 203 states that *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 7.23 NPPF paragraph 205 obliges Local Planning Authorities to *"...require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible."*

8. HOUSING SUPPLY AND DELIVERY

Housing Context

Housing Crisis

- 8.1 Evidence set out in the report by Mr Roberts of Lambert Smith Hampton (LSH) and appended to my proof (Appendix 6) demonstrates that there has been a chronic under delivery of market and affordable housing in Bristol for a number of years. The effect of this has been to worsen affordability ratios in the city, and also to make it the least affordable area within the wider housing market, pushing the need for affordable housing to an even greater level than when the Council's extant plan was adopted.
- 8.2 The Government is clear on its ambitions to deliver more homes to address the housing crisis in England. The role of cities like Bristol is important to achieving the delivery of 300,000 new homes a year and will be reinforced through the proposed changes to the NPPF.
- 8.3 The housing crisis has arisen largely as a result of the discrepancy between the number of homes built and the need. As far back as the Barker Review in 2004, it was identified that there was a need to build circa 250,000 homes per annum nationally to prevent spiralling house prices and a shortage of affordable homes.
- 8.4 This demonstrates that housing delivery nationally has not come close to meeting Government objectives over the previous 15 years in any single year. Since 2004 there have been a total of 3,188,961 completions as compared to a need for 4,250,000 based on just the need for 250,000 identified in the Barker Review. This is a shortfall of over a million homes in 17 years.

LSH review of the Council's Five Year Housing Land Supply position

- 8.5 Section 8 of the appended LSH report provides an overview of the disputed sites contained within the Council's Five Year Land Supply Assessment 2020-2025 (June 2021). It compares the Council's assessment with that undertaken in December 2022 by LSH for the sites in dispute. The sites were considered in the context of providing a supply of new homes in Bristol for the period 2020 to 2025, and not a revised five year period from the 1st April 2022.

- 8.6 The review of the supply undertaken by LSH proposes the following:
- 8.6.1 702 general market² homes be removed from the housing land supply due to lack of implementation, expiry and deliverability prior to the end of March 2025.
 - 8.6.2 775 student accommodation units be removed from the housing land supply due to lack of evidence that NPPF and PPG have been followed in relation to their inclusion in the supply.
- 8.7 Therefore, it is proposed by Mr Roberts that a total of 1,477 dwellings be removed from the land supply as outlined above and below and as evidenced in his appended report.
- 8.8 The Bristol City Council Five Year Housing Land Supply Assessment suggests that a total of 10,579 dwellings were deliverable in the period 2020-2025. If 1,477 dwellings are removed from this supply as LSH propose, 9,102 dwellings remain in the supply. I agree with the evidence presented by Mr Roberts and consider that this is the only realistic assessment of five year housing land supply before the Inquiry.
- 8.9 Further, the review of additional sites reveals that the majority of the sites sampled had expired and in the case of several sites, before the base date of the assessment period. Consequentially, the reliability of the remainder of the supply at Appendix A of the Bristol City Council Five Year Housing Land Supply Assessment 2020-2025 is questionable.
- 8.10 The age of the assessment and the inaccuracies found in the review of a sample of sites reinforces the need for annual assessment in accordance with the NPPF.
- 8.11 Following the review undertaken by LSH, the five year housing land supply has been recalculated and represents a realistic position. The result of the calculation was as follows:

² Only general market housing not including student accommodation

Table 2. LSH Five Year Housing Land Supply Calculation 2020 – 2025, Position Statement (reproduction of Table 18 in the evidence of Mr Roberts in Appendix 6)

BCC 5YHLS Position Statement Calculation 2020-2025	
Calculation	Number
Five Year Local Housing Need (including 20% buffer)	20,335 ³
Five Year Supply 2020-2025	9,102 ⁴
Number of Years Supply	2.24 years

8.12 As a result of removing 1,477 dwellings from the supply, the five year housing land supply reduces to 9,102 dwellings and 2.24 years. This equates to what I consider to be a highly substantial shortfall of 11,233 homes in the Council’s supply.

8.13 Therefore, the 2.24 years proposed by LSH is the only correct five year housing land supply position to be used in this appeal. Furthermore, it should be treated as an absolute maximum due to a lack of evidence on supply since April 2020 and the questions regarding the reliability of the sites which remain in the supply.

Affordable Housing

8.14 The delivery of affordable housing in Bristol has fallen drastically short of the 1,500 affordable dwellings per annum identified in the Core Strategy. The Council’s own evidence identifies that the need since then has become more acute and that Bristol is the least affordable area within the housing market area (see section 10.3 of Mr Roberts evidence, Appendix 6).

8.15 The need for affordable housing in Bristol is chronic and the delivery of new affordable housing has fallen short year after year for at least the last 16 years.

³ LHN calculation uses 10 year period from 2023.

⁴ Remaining supply after LSH review.

- 8.16 The Appeal Scheme satisfies the Council's policy requirement of 30% affordable housing (Policy BCS17) which will deliver 78 affordable homes.
- 8.17 Paragraph 4.17.5 of the Core Strategy states that the level of affordable housing is very high, but that the target (1,500 per year, for 12 years) is adjusted to take into consideration a range of constraints to delivery. Therefore, this figure should be seen as an under-estimation of affordable need.
- 8.18 Volume 2 of the Council's Strategic Housing Market Assessment (SHMA) (referenced in Mr Roberts evidence) also provides insightful context into the affordability of homes in Bristol and the rest of the housing market area (HMA). In summary, Bristol had the highest levels of unaffordable rent for 1, 2, 3 and 4 bedroom properties out of all three HMA authorities (page 44 SHMA Volume 2). This means that residents in Bristol struggle the most within the HMA to be able to afford to rent properties, it is therefore necessary for these households to use affordable housing products. Figure 33, on page 45 of the SHMA identifies that in 2016 there were 11,770 households that would be unable to afford the rental target within Bristol.
- 8.19 This brief summary by LSH of the Council's own evidence demonstrates to me that the situation for affordable housing in Bristol has not improved since the adoption of the Core Strategy and that Bristol is the most expensive area in the HMA to rent property, which will undoubtedly require more households to need affordable housing.
- 8.20 Chapter 10 of the appended LSH report sets out the delivery record of affordable housing in Bristol. Whilst there is no data for 2006-07, the data in the Development Monitoring Report suggests that a total of just over 4,500 affordable dwellings have been delivered since the Core Strategy's inception. Bearing in mind that there should have been 1,500 homes delivered each year, the scale at which this target has been missed is very considerable indeed.
- 8.21 The annual average is just under 325 affordable dwellings per annum, this is a shortfall of 1,175 affordable homes per annum.

Housing Mix

- 8.22 The Appeal Scheme would deliver a mix of much needed private market and affordable homes that suit demand and identified need.
- 8.23 The scheme directly responds to the high demand and need for 1 and 2 bedroom properties and bolsters the supply of 3 bedroom homes. 3 bed+ homes in particular have seen a relatively low delivery in Bristol, but a relatively high identified need in the SHMA, whereas there has been a high level of delivery of 1 and 2 bed flats in Bristol, particularly in the city centre but not elsewhere.

Conclusions on the housing context

- 8.24 There is a housing crisis in England and Bristol is no different. Evidence set out in the appended LSH report demonstrates that there has been a chronic under delivery of market and affordable housing in Bristol for a number of years. The effect of this has been to worsen affordability ratios in the city, but also to make it the least affordable area within the wider housing market, pushing up the need for affordable housing beyond the level at the time the development plan was adopted.
- 8.25 The Government's clear ambition to deliver more housing to address the housing crisis in England would be reinforced through the proposed changes to the NPPF, subject to consultation. The role of cities like Bristol is important in achieving the required level of delivery required.
- 8.26 Local Planning Authorities should monitor the delivery of new homes and forecast, through a five year housing land supply assessment, the potential of deliverable sites within their area. The Council has failed to undertake this necessary requirement for a number of years, and has only recently published an action plan to address the very considerable shortfall in housing supply in the city. It would be appropriate for the Council to encourage and support the delivery of housing on the sites that is has allocated in the development plan for housing development. The scale of the Council's shortfall in housing delivery makes that all the more appropriate.
- 8.27 The Council's position that they have up to 3.3 years supply of housing is not tenable in the opinion of Mr Roberts and, having reviewed his evidence, I agree with his position. The Council's

proposed position should be disregarded in favour of the appended LSH report which shows that the Council have a land supply of only 2.24 years, which equates to a shortfall of 11,233 new homes within the supply. This very substantial shortfall in supply will inevitably mean housing delivery will continue to suffer in Bristol for years to come.

- 8.28 The Appeal Scheme would not only bring forward a supply of much needed new homes in Bristol, but in a form which would provide both affordable housing and a mix of housing which would meet identified needs and which have not been adequately met in recent years.
- 8.29 In my opinion, the scale of under-provision of market housing, under-provision of market housing for families and under-provision affordable housing are three related but distinct matters and, taken together, should be afforded very significant weight in the consideration of this appeal.

9. ASSESSMENT OF THE APPEAL SCHEME

- 9.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I start my assessment with the relevant policies of the development plan in respect of the principle of development. I will specifically reference policies BCS1 and BCS5 of the Core Strategy which establish the policy basis for allocating the Appeal Site for housing development, and Policy SA1 of the DMP which allocates the Appeal Site for housing development.
- 9.2 I then move on to consider other policies and other material considerations with reference to the main matters for consideration in this Inquiry and with reference to the putative reasons for refusal raised by the Council and key issues raised by the Rule 6 party.

Principle of Development

- 9.3 The principle of development is established by the development plan. I preface my in-turn consideration of the relevant policies under this heading with the following analysis.
- 9.4 The Appeal Scheme represents development in accordance with the allocation for housing development in Policy SA1 of the Site Allocations and Development Management Policies (CD5.3).
- 9.5 The Appeal Site is allocated for housing:
- 9.5.1 with good reason;
 - 9.5.2 in the full knowledge and understanding of the site conditions, natural assets and context; and
 - 9.5.3 after the Council having accepted that the site does not need to be retained as green infrastructure or open space (as evidenced in the explanatory text accompanying site allocation BSA1201 in the Site Allocations Information annex to the Site Allocations and Development Management Policies document (CD5.3).
- 9.6 The good reasons for which the housing allocation is appropriate are stated by the Council in the explanation that supports site allocation BSA1201, summarised here as:
- 9.6.1 being in a sustainable location in a residential context close to a Local Centre, other shops, community facilities, employment areas and public transport infrastructure;

- 9.6.2 making a contribution to meeting the Core Strategy housing target; and
- 9.6.3 being land that the Council has determined does not need to be retained as part as the city's green infrastructure and open space provision.
- 9.7 The development considerations (set out in BSA1201) (as well as the appraisal during the plan making process summarised in the evidence of Mr Crawford, Section 4.3) demonstrate the Council's awareness of the site's natural assets. BSA1201 makes specific reference to provision for habitat loss and compensation measures. The Council determined the site to be appropriate for housing, and estimated the number of homes that may be deliverable on site, in the full knowledge and understanding of the site conditions, constraints and considerations. Further, when estimating in the order of 300 homes for construction on the allocated site, it is inconceivable that the Council ignored the site conditions, constraints and considerations. I refer in this regard to Mr Crawford's evidence, which is consistent with my own experience and judgment.
- 9.8 Acceptance of an inevitable level of harm to the Appeal Site's natural assets is therefore implicit in the allocation and is priced in to the development plan. By allocating the Appeal Site, the Council has, in my opinion, confirmed that the anticipated ecological harm to both Brislington Meadows and the SNCI network from circa 300 homes was acceptable when developing the Appeal Site for housing.
- 9.9 Further evidence for the conclusion that the Council gave due consideration to its estimate of 300 homes comes from the previous appraisal of a larger site area and the conclusion in the Sustainability Appraisal 2013 (CD8.3) that supported the adoption of the DMP that the number of dwellings on BSA1201 had fallen to 300 in the Council's Preferred Approach (paragraph 4.91.2.1). The Sustainability Appraisal goes on to say in paragraph 4.91.4.1 that the development considerations for the site, introduced as part of the Preferred Approach, effectively require compensation and mitigation to re-provide the type of habitat that might be lost to development. The Council was therefore evidently fully aware of the implications of development on the existing habitats when estimating the capacity of the site for housing.

- 9.10 Taking the points above into account, it is inconceivable to me that the Council did not have a reasonable degree of confidence that the estimated 300 homes was a realistic number of units to be delivered on the Appeal Site, albeit subject to detailed testing and refinement. Further, the DMP was examined and a looser approximation of the number of homes would not have been found sound by the Examining Inspector.
- 9.11 It is obvious to me that anyone who knows the Appeal Site as the Council does would acknowledge that, even with a landscape-led masterplan approach, an element of hedgerow loss is unavoidable in the process of constructing access to the developable areas of the site, reprofiling of the slopes necessary for accessible homes, creating an accessible movement network and delivering circa 300 homes in line with the allocation.
- 9.12 Loss of habitat, including hedgerows, to facilitate the delivery of circa 300 homes is therefore baked into the allocation and is acceptable.
- 9.13 The Officer's Report (CD10.2) states on page 17 that the 300 homes referred to in BSA1201 is just "an estimated capacity for the site". It goes on to state that "...*the development considerations for the BSA1201 site allocation should be met i.e 'incorporate important trees and hedgerows' before the number of viable houses on this site can be confirmed...*". Given the obvious level of establishment of the hedgerows and trees at the time of the allocation it seems inevitable that they would be considered important but to retain all would, with reference to the Design Evolution document appended to the Landscape and Urban Design proof, result in closer to 100 homes, or taller apartment blocks which would not satisfy other policy. But the Council did not estimate capacity at 100 homes. It estimated three times that number, and that estimate was made in the full knowledge and understanding of the site and must therefore be an informed and considered estimate. Accordingly, I do not consider that it is correct (as the Officer's Report seeks to do) to subordinate the capacity of development (at or below 300 dwellings) to the development considerations in such a rigid manner.
- 9.14 For clarity, Homes England has not attempted to maximise the number of homes on the site. The Appeal Scheme proposes up to 260 homes, a number materially below the Council's own estimate, in order to deliver a high quality, landscape-led development that integrates and optimises the site's natural assets insofar as is

possible. The Appeal Scheme does not, in my opinion, exceed the level of harm necessary to deliver the allocation.

- 9.15 None of the above has materially changed since the allocation was made. The site conditions remain fundamentally the same and have changed in detail only. The physical context has not materially changed. Mr Hesketh confirms in paragraph 4.10 of his proof that the Outline Ecological Impact Assessment (CD1.21) that accompanied the outline application did not identify any material change in the ecological value of the allocated site since a review in 2010. The Council's adopted policy has not changed. The allocated site is still a sustainable location and is still not required for green infrastructure or open space provision. There is still a housing crisis in Bristol and, in fact, the housing need and shortfall is now greater than it was as demonstrated by the Council's 5YHLS shortfall and delivery record which affords the benefits of delivering housing even greater weight.
- 9.16 In my opinion, the only thing that has changed since allocation is the political will to deliver housing on the Appeal Site. I do not consider that this is a change in the material planning considerations that this Inquiry is required to consider.
- 9.17 The Council has declared a climate and ecological emergency. I consider those declarations in section 6 of my proof, but for present purposes, these matters do not change the development plan or the allocation. Accordingly, they do not change my analysis above.
- 9.18 The Bristol Local Plan Review is at a very early stage. There is no certainty on housing numbers. There is no certainty on the potentially controversial proposal to substitute existing allocations with new allocations on land which is currently in the Green Belt which does not accord with NPPF policy. The proposed deallocation of the Appeal Site is the subject of a significant unresolved objection from Homes England. In my judgement, in the context of NPPF paragraph 48, there is exceptionally low certainty in the outcome of the Local Plan Review at this stage and it should be afforded no weight in the decision making process for this appeal.
- 9.19 Given the points above, in my opinion it is clear that the Development Plan supports the principle of development for circa 300 homes on the Appeal Site and has an inherent acceptance of inevitable loss of natural assets commensurate with a 300 home development, a loss which is to be mitigated and compensated in

accordance with the development considerations of site allocation BSA1201. The balance of benefits (in terms of market housing, affordable housing and other benefits outlined in section 11 of this proof) against a harm that will be mitigated and compensated falls in favour of the development.

Policy BCS1 – Spatial Strategy: South Bristol

- 9.20 Policy BCS1 identifies South Bristol, which includes Broomhill and Brislington, as a “...*priority focus for development and comprehensive regeneration*” including the planned housing provision of around 8,000 homes.
- 9.21 The policy refers to the fact that the delivery of new homes and regeneration in South Bristol will “...*require the planned release of some open space sites which do not need to be retained as part of the area’s green infrastructure provision.*”
- 9.22 The Council’s DMP Allocations and Designations Process paper (Submission version July 2013) (CD8.12) outlines the process for identifying and assessing open space sites for release. As a consequence of the processes being applied, ‘Land at Broom Hill’, which very closely corresponds with the Appeal Site, was concluded to be “...*land that does not need to be retained as part of the city’s green infrastructure / open space provision*” as stated in the explanatory text to BSA1201.
- 9.23 Given the statement in Policy BCS1 that the city’s Spatial Strategy will be achieved, at least in part, by use of some open space sites, one of which was subsequently identified by the city as the Appeal Site, and given the policy includes no criteria which might restrict the delivery of housing at the Appeal Site, I find that Policy BCS1 should be afforded significant weight in this Inquiry.
- 9.24 I conclude that the Appeal Scheme is in accordance with the aspirations of the city’s Spatial Strategy as set out in Policy BCS1.

Policy BCS5: Housing Provision

- 9.25 Policy BCS5 sets a minimum target of 26,400 homes to be delivered between 2006 and 2026, based on completions, sites with planning permission and identified sites. This target is used in the calculation of five year housing land supply.
- 9.26 The policy identifies a further 4,200 homes that are assumed to come forward on small unidentified sites. These are part of the

larger 30,600 homes that the Council envisaged would be provided between 2006 and 2026.

- 9.27 The 'Policy Delivery' text accompanying Policy BCS5 (page 57) states that the "*additional developable sites for housing...will be allocated in both the Site Allocations and Development Management DPD and Bristol Central Area Action Plan*". Only the former is relevant to this Inquiry.
- 9.28 Subsequent to adoption of the Core Strategy and the implementation of the Council's Site Allocation and Development Management Process, the Appeal Site was identified as being appropriate for housing and was allocated under policy SA1 of the DMP.
- 9.29 Policy BCS5 establishes the housing target, which has not been met, and makes clear that additional sites will be allocated for housing delivery and those allocated sites include Land at Broom Hill which equates with the Appeal Scheme by agreement with the Council.
- 9.30 For all of these reasons I find that Policy BCS5 should be afforded significant weight in this Inquiry.
- 9.31 I conclude that the Appeal Scheme accords with Policy BCS5 and the 260 homes proposed would make a significant contribution towards the achievement of the city's housing provision, and particularly so given the very significant housing delivery shortfall referenced in section 8 and Appendix 6 of this proof.

Policy SA1 – Site Allocations

- 9.32 The introduction to the DMP (CD5.3, para 1.3) states that the document sets out planning policies, designations and site allocations. In respect of the latter, it states that "*The intention is to provide clarity to planning applicants and the community regarding the land uses that, in principle, are acceptable to the Council on specific sites.*"
- 9.33 The principle of development of the Appeal Site for housing use is therefore established by Policy SA1 and is not contended by the Council, although the reasons for refusal and actions of the Council suggest that the Council has actually rejected the principle of development.
- 9.34 Policy SA1 is the conclusion of processes established in Core Strategy policies BCS1 and BCS5 and is the only policy specifically

addressing the development of the Appeal Site. In my opinion it should therefore be afforded very significant weight.

9.35 I conclude that the housing development proposed by the Appeal Scheme is compliant with Policy SA1 which allocates the Appeal Site for housing provision.

9.36 Paragraph 1.7 of the DMP states that '*Decisions on planning applications on these sites should be made in accordance with the development considerations*' that are included with each site allocation.

9.37 I will consider each of these in turn below in relation to site allocation reference BSA1201 (CD5.3).

Site allocation ref. BSA1201

9.38 The minor anomalies between the allocated site and the Appeal Site have been explained in paragraphs 8.12 to 8.16 of Homes England's SoC (CD9.1). The additional areas of land are to accommodate pedestrian and cycle access and drainage and are accepted by the Council as being consistent with the explanation and aspiration underpinning the allocation (paragraphs 8.15 and 8.16 of the draft SoCG).

9.39 I have provided my opinion below on the 13 development considerations, numbered DC1-DC13 for ease of reference.

Development should be led by a comprehensive masterplan of the whole site, guided by community involvement (DC1)

9.40 It is evident from the Design Evolution document appended to the Landscape and Urban Design proof of Mr Crawford that the Appeal Scheme is the result of a comprehensive masterplanning exercise.

9.41 Section 4 of the submitted Design and Access Statement (CD1.13) outlines the public engagement process and demonstrates how design has been influenced by community involvement to some extent although, in the context of the level of local objection to the proposals, the general objection is to the principle of development which cannot be accommodated through the masterplan. Insofar as is possible in that context, I conclude that the Appeal Scheme accords with the expectations of this development consideration.

Development should provide suitable access, which may include access off School Road through the existing

allotments and ensure that any allotments affected are reprovided on the site or on nearby land (DC2)

- 9.42 Following allocation of the site in 2014, the Council's Cabinet Report (1st November 2016) and accompanying plan N5954e (CD8.11) authorised primary vehicle access into the allocated site from Bonville Road "*...for the purposes of enabling 300 new homes to be built*" and the corresponding parcel of land was acquired from the Council by Homes England for that purpose.
- 9.43 Homes England carried out options appraisal for access from School Road, as required by the Council's pre-application letter (CD7.1) and as summarised in the Design Evolution document appended to the Landscape and Urban Design proof of Mr Crawford.
- 9.44 The Officer's Report (CD10.2) confirms that the Council's Transport Development Management Officer has confirmed that "*...they are satisfied with the proposed access details subject to conditions. It is considered that any remaining highways works or related design issues could be adequately dealt with via conditions or by further details being provided at the Reserved Matters stage.*"
- 9.45 In the light of that confirmation, the access arrangements for the Appeal Scheme are considered suitable and accord with the development consideration.

Development should be informed by an ecological survey of the site and make provision for mitigation and compensation measures, including enhancement to the grazing land adjacent to Victory Park and compensation for the loss of semi-improved neutral grassland and damp grassland (the site currently has city-wide importance for nature conservation due to the presence and condition of particular species, habitats and / or features) (DC3)

- 9.46 It is clear from the documentation on ecological survey that comprehensive survey has been undertaken and the Council agrees with Homes England that the scope of the EcIA and associated technical appendices, submitted with the outline application, is appropriate (CD1.21). The methodology of the Outline EcIA is acceptable and is agreed, and the methodologies

used in producing the technical surveys in its appendices are also agreed (draft SoCG, paragraph 8.77).

- 9.47 The elements of this development consideration are addressed in detail by Mr Hesketh in Section 5 of his Ecology and Arboriculture proof in respect of the:
- Proposals being informed by ecological survey;
 - Making provision for mitigation and compensation measures; and
 - Including enhancement of grazing land adjacent to Victory Park and compensation for the loss of semi-improved neutral grassland and damp grassland.
- 9.48 I refer the Inspector to paragraphs 5.11 onwards in Mr Hesketh's proof and to the summary of mitigation and compensation measures in his Table 1.
- 9.49 I agree with Mr Hesketh (paragraph 5.19 of his proof) that a mechanism can be put in place at this outline planning stage to secure the details and delivery of a framework for mitigation and compensation.
- 9.50 The Sale Agreement between the Council and Homes England dated 20 March 2020 (CD8.16) supports the use of "Additional Mitigation Land" for off site ecological enhancements. "Additional Mitigation Land" is defined in the agreement as being any land adjoining the site which, at the date of the agreement was owned by the "Seller" (i.e. the Council), other than land which comprises adopted highway. Consequently, Victory Park, which adjoins the Appeal Site, would fall within the definition of Additional Mitigation Land under the Sale Agreement for off site ecological enhancements.
- 9.51 The terms of the Sale Agreement preclude detailed discussion in relation to off site ecological mitigation with the Council until outline planning consent has been granted which, in part, explains why the mitigation and compensation strategy and BNG proposals are not yet defined in more detail.
- 9.52 I refer to clause 21 of the Sale Agreement as evidence of commitment by the Council and Homes England to co-operate to agree a strategy in relation to the use of, and any access to, the Additional Mitigation Land *"Where a permission requires the use of any Additional Mitigation Land for the purposes of ecological, biodiversity mitigation or similar in order to satisfy any condition under a permission"*.

- 9.53 In the event of planning permission being granted, I would expect the Council to act reasonably in this matter given the Sale Agreement and, accordingly, I anticipate progress on the development of mitigation, compensation and BNG measures, which could be controlled by condition if considered necessary in the light of the Sale Agreement.
- 9.54 I note that Site Allocation BSA1124 Kingswear Road is subject to the same development considerations as the Appeal Site including *"Development should... be informed by an ecological survey of the site and make provision for compensation and mitigation measures, including compensation for the loss of neutral grassland and scrub habitats. The site currently has city-wide importance for nature conservation due to the presence and condition of particular species, habitats and / or features;"*. In respect of the full planning application for that scheme (LPA Ref. 21/00824/FB), the Officer stated the following in their report (Appendix 7) in relation to ecological impacts of the scheme and the approach to biodiversity net gain: *"The officer requested a biodiversity net gain assessment be provided and upon review of the submitted assessment it was noted that the report concludes a loss in biodiversity of approximately 19% would be incurred as a result of works. An officer was verbally consulted and noted that while this figure is not ideal, there is no such legally binding legislation in place currently to refuse the scheme on this basis. Nevertheless it is the opinion of the officer that loss can be further mitigated on site and in this regard it was recommended that a pre-commencement condition be added to any consent seeking further details of loss mitigation and how this will be achieved. There are no remaining concerns in this regard."*
- 9.55 This, along with other examples cited in Homes England's SoC (CD9.1, paragraphs 6.80 to 8.85) demonstrates that the Council has previously accepted that it is appropriate to secure details in relation to impact assessment and mitigation at the detailed design stage and that outline applications can be considered to be acceptable without those matters being fully resolved.
- 9.56 I consider that the additional scrutiny being applied by the Council to the Appeal Scheme in terms of its environmental impacts and the weight being applied to the development considerations is not consistent with the approach taken to other site allocations.

Development should retain or incorporate important trees and hedgerows within the development which will be identified by a tree survey (DC4)

- 9.57 This development consideration is addressed in detail by both Mr Hesketh in Sections 5 and 6 of his Ecology and Arboriculture proof, and Mr Crawford in section 4.5.6 of his Landscape and Urban Design proof.
- 9.58 My interpretation of this development consideration draws attention to use of the words “...*important trees...informed by a tree survey.*” The term “important” in the allocation policy is not defined by “importance” under the Hedgerow Regulations or by the presence of TPOs.
- 9.59 Section 6 of Mr Hesketh’s proof of evidence describes how the approach adopted by Homes England to the identification, retention and integration of important trees within the Appeal Scheme has been informed by a tree survey. In paragraphs 6.31 to 6.44, Mr Hesketh explains that “...*the most appropriate method of identification of importance is BS5837:2012 and its categorisation system, under which Category A trees are of highest importance.*”
- 9.60 TPO trees are a material consideration but are not determinative in the planning process since the Council can grant planning permission where loss of TPO trees is justified.
- 9.61 Further, Mr Hesketh’s section on Hedgerow Assessment starting at paragraph 6.45 clearly sets out the approach adopted to identifying the relative importance of hedgerows and how that approach has informed the Appeal Scheme.
- 9.62 It is clear to me that Homes England has acted responsibly in taking account of tree surveys and other survey results and has actively tried to retain all trees and hedgerows except where their loss is unavoidable for access, circulation or placemaking in the context of delivering a development in accordance with the allocation. Moreover, even applying the Council’s approach of focusing on the TPO trees, the Appeal Scheme is compliant with policy.
- 9.63 In my judgement, the loss of trees is not excessive: the great majority of mature trees, Category A trees and TPO trees are

retained. The majority of the tree loss affects very small trees (Mr Hesketh's proof paragraph 6.37).

- 9.64 Regarding hedgerow loss, Mr Hesketh's proof (paragraphs 3.43) with reference to his Drawing 2 has clarified that 55% of all hedgerows on the Appeal Site will definitely be retained, and that a further 17% could potentially be retained subject to detailed design at reserved matters. The percentage loss would therefore be in a range of 28% to 45%. I recognise that constitutes a loss but I do not consider it excessive in the context of the Council's decision to allocate the site for something an estimated 300 homes.
- 9.65 Further, I draw attention to the considerable compensatory replacement tree and hedgerow planting, estimated at c.250 individual trees and 1.05km of native hedge. This would result in net gains of circa 90 individual trees and at least 347m hedgerow on site.

Development should provide a green infrastructure link with Eastwood Farm Open Space to the north-east (DC5)

- 9.66 Mr Hesketh's Ecology and Arboriculture proof also addresses this development consideration (see for example paragraphs 5.33, 9.63 and 9.67).
- 9.67 He refers (paragraph 5.33) to the Appeal Scheme's unbroken (save for emergency access off Bonville Road) Green Infrastructure corridor along the full length of the east boundary of the Appeal Site, in accordance with BSA1201. Formal pre-application advice sought a minimum 10 metre wide corridor with a preference for 20 metres. Following pre-application advice from the Council, the corridor has a minimum width of 12 metres and is approximately 20 metres wide for half of its length.

Development should take account of the overhead power lines (DC6)

- 9.68 The Appeal Scheme incorporates a setback either side of the overhead power lines as required by the statutory undertaker.

Development should retain and where appropriate improve the public rights of way on the site and provide pedestrian / cycle links with Brislington Trading Estate (DC7)

- 9.69 The Appeal Scheme retains the two public rights of way that cross the site, as identified in the Access and Movement Parameter Plan (as amended by reference to Appendix 1 of Mr Crawford's proof). Improvements are proposed to the east-west route making the route more accessible for all and passable in all weathers. Detailed design will be addressed at reserved matters.

Development should seek to provide pedestrian / cycle links with Eastwood Farm Open Space to the north-east via the site of Sinnott House Police Station (DC8)

- 9.70 The Appeal Scheme incorporates a comprehensive network of pedestrian and cycle links, criss-crossing the site and enabling access north-south, east-west and on both diagonals. The connections include the stated link with Eastwood Farm Open Space via the site of the former Sinnott House Police Station. Design of the link will be resolved at reserved matters stage.

Development should ensure that any scheme provides for any necessary improvements to the surrounding highway / transport network (DC9)

- 9.71 A package of improvement works to the surrounding highway / transport network, necessary to make the Appeal Scheme acceptable, has been agreed with the Council's transport Development Management Officer (CD3.14). The works are incorporated into the draft heads of terms of any planning obligations set out in Appendix A of the draft SoCG.

Development should address any potential noise, pollution and nuisance issues from nearby industrial uses through the design and layout of new development and incorporation of measures to prevent any noise or other pollution affecting new development (DC10)

- 9.72 The outline planning application was accompanied by Noise Impact Assessment (CD1.23) that addresses the relationship to the

neighbouring industrial uses. The Council's Pollution Control Officer has no objection (CD3.15) to the Appeal Scheme subject to an appropriate condition which has been incorporated into the set of draft condition in Section 10 of the draft SoCG.

Development should be informed by a site-specific flood risk assessment as the area of the site is greater than 1 hectare. This is a requirement of the Government's National Planning Policy Framework. The flood risk assessment should consider the impacts on the wider Brislington catchment, and lead to a reduction of the flood risk to existing properties and, where necessary, improvements to existing drainage infrastructure (DC11)

- 9.73 The outline planning application was accompanied by a Flood Risk Assessment and Drainage Strategy (CD1.27). The Council's Flood Risk Officer has raised no objections to the findings of the report (CD3.2).

Development should incorporate appropriate Sustainable Drainage Systems to minimise surface water runoff and the risk of flooding (DC12)

- 9.74 The Council's Flood Risk Officer has raised no objections to the Drainage Strategy (CD3.2). They state in the Officer's Report (CD10.2) that *"The initial drainage plans submitted for this site are acceptable overall. The SuDS measures proposed will provide benefits in terms of water quality, amenity value and biodiversity. Keeping the discharge rates to the existing QBAR greenfield runoff rates will help manage water quantity. By containing large volumes on site will help avoid an increase in the downstream, off-site flood risk. This is important since there have been flooding problems on the lower levels Victory Park that flow over onto School Road."*

Development should be informed by a Health Impact Assessment. This should include how the proposals have been discussed with local primary health care providers regarding impacts on primary health care services (DC13)

- 9.75 The outline planning application was accompanied by a Health Impact Assessment (CD1.28). The Council has raised no objection to the findings of the report.

My conclusions in respect of Policy SA1 and site allocation reference BSA 1201

- 9.76 I conclude that the Appeal Scheme has been developed in the spirit of the site allocation and fully meets the expectations of Policy SA1 and site allocation BSA1201.
- 9.77 Where it has not been reasonably practical to avoid loss of habitats, including some trees and hedges categorised as important or of importance in respect of Hedgerow Regulations, the identification and retention of trees and hedgerows has been informed by tree survey and detailed ecological survey.
- 9.78 A comprehensive set of mitigation and compensation measures has been prepared for the Appeal Scheme and are recommended in the submitted Outline EcIA and Outline BNG (and with reference to the updated versions included at Appendix C of Mr Hesketh's proof) with the expectation that they will be secured by the proposed planning conditions (section 10 of the draft SOCG).
- 9.79 A lot of the mitigation and compensation will be delivered on site, but the provision of off site measures is also baked in to the Policy SA1 site allocation and I would expect the Council to act reasonably in making its adjacent land available in accordance with that policy and the terms of Clause 21 of the Sale Agreement between the Council and Homes England (CD8.16) referred to in my paragraphs 9.51 – 9.54 above.
- 9.80 The Council refers to policy SA1 and allocation BSA1201 in the first four reasons for refusal but I see no evidence of non-compliance.
- 9.81 In the context of the statement in paragraph 1.7 of the DMP that *"Decisions on planning applications on these [allocated] sites should be made in accordance with the development considerations' that are included with each site allocation"*, I conclude that a decision to grant conditional outline planning permission is the appropriate decision.

Main Issues for consideration

- 9.82 The Inspector's note on the outcome of the Case Management Conference identifies the main issues for consideration at the Inquiry. I address each below.

"The impact on the well-being of biodiversity, including the loss of trees and hedgerows, as well as other species in the context of the adequacy, merits and deliverability of proffered mitigation"

"...the adequacy, merits and deliverability of proffered mitigation"

- 9.83 I start with mitigation and compensation.
- 9.84 Section 6 of the Outline EcIA (CD1.21) and section 5 of the Outline BNG (CD1.22) (and with reference to the updated versions included at Appendix C of Mr Hesketh's proof) set out a comprehensive range of recommended avoidance, mitigation and compensation measures, as summarised by Mr Hesketh in paragraph 5.11 of his proof, to which can be added the Project Implementation Plan referred to in paragraph 5.18, which will be developed in detail through reserved matters design. The package of measures is extensive and, in my experience, goes beyond what would normally be committed at the outline planning stage.
- 9.85 Having regard to Mr Hesketh's evidence, in my opinion and drawing on my experience, this level of commitment to appropriate mitigation and compensation measures and the demonstration of how measures could be delivered is appropriate to an outline planning application and is sufficient to give the Inspector confidence that the required outcomes will be achieved. I see no evidence that the Council has considered the adequacy of the proposed measures when drawing its conclusion that mitigation and compensation are inadequate.
- 9.86 Mr Hesketh concludes in paragraph 5.19 that *"The combined measures of recommendations in the Outline EcIA and Outline BNG provide a framework for mitigation and compensation, on and offsite. The details and delivery of the required mitigation and compensation are secured through the proposed planning conditions, under which a strategy, informed by the framework, is required to be approved, and an implementation plan to deliver the approved strategy is also required to be approved, in order to*

secure the required mitigation and compensation and planning obligation." I agree that outline planning consent could be granted and these matters addressed in detail in accordance with the proposed planning conditions, addressing the Council's fifth reason for refusal in respect of policies DM15, DM17 and DM19.

- 9.87 That also seems to me to be the practical approach given the terms of the Sale Agreement between Homes England and the Council (CD8.16) which preclude detailed discussion in relation to off-site ecological mitigation with the Council unless and until outline planning consent has been granted. The granting of consent will enable meaningful discussions to take place and I would expect the Council to act reasonably in accordance with the Sale Agreement and Policy SA1. If a reasonable agreement cannot be made regarding delivery on land owned by the Council or its partners, Homes England can secure off-site BNG credits through biodiversity offset providers elsewhere.
- 9.88 As stated in the third development consideration under BSA1201, *"...development should make provision for mitigation and compensation measures..."*. Policy BCS9 states that *"...appropriate mitigation of the lost GI assets will be required..."* and *"...where on-site provision of GI is not possible, contributions will be sought for off-site provision..."*.
- 9.89 Policy DM19 states that *"Where loss of nature conservation value would arise, development would be expected to provide mitigation on site and where this is not possible provide mitigation off site"*. That policy goes on to state that *"Development on or adjacent to sites of nature conservation value will be expected to enhance the site's nature conservation value through the design and placement of any green infrastructure provided."* The Council cites all three policies in its first three reasons for refusal but, in my opinion, the Appeal Scheme complies with the requirements of each in respect of mitigation and compensation.
- 9.90 Further, Policy DM15 states that *"The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development."* The Appeal Scheme incorporates both additional tree and hedgerow planting and improved management of retained trees and hedgerows which, in my opinion, complies with that part of policy DM15.
- 9.91 The evaluation, impacts, mitigation, compensation and enhancement of ecological features, as set out in Mr Hesketh's

proof, appear to me to be comprehensive and to go as far as they reasonably can in advance of detailed proposals for the housing scheme design. They amount to more than a 'statement of intent' and have sufficient substance to form the basis of planning conditions and obligations that meet the required tests.

- 9.92 The measures as set out should, in my opinion, provide the Inspector with an acceptable level of assurance about Homes England's environmentally responsible approach to development and an appropriate level of confidence, at this outline stage, that measures are adequate, have merit, are deliverable and can be secured by planning condition and planning obligation. The absence of a detailed scheme for ecological mitigation is not a reason for refusal of outline planning consent.
- 9.93 Given the points made in my paragraphs 9.85 to 9.94 above, I do not agree with the Council that policies BCS9, DM15 or DM19 provide grounds for refusal of the Appeal Scheme under the reasons for refusal set out in its SoC (CD10.1).

"The impact on the well-being of biodiversity, including the loss of trees and hedgerows, as well as other species..."

- 9.94 The comprehensive and extensive surveys commissioned by Homes England demonstrates to me that they have approached the development of the Appeal Site with the aim of understanding constraints and avoiding harm where possible whilst aiming to deliver on the Council's housing requirement. They have acknowledged throughout the process and through engagement with the local community, stakeholders, Council Officers and Members that the site has biodiversity value. From the time of acquiring the Appeal Site, Homes England has committed to delivering a 10% net gain in biodiversity in addition to necessary mitigations and compensations.
- 9.95 Building with Nature presented Homes England with a Design Award for the Appeal Scheme in July 2022 (CD2.4). As referenced in footnote 1 of this proof, the award has been temporarily suspended pending review in relation to uncertainty about the site's SNCI status but the conclusions drawn in respect of the design approach remain valid in my opinion. With reference to the summary on page two, *"Building with Nature is a benchmark for high quality green infrastructure, setting the standard for the design, implementation, and maintenance of high quality green features in new development across the UK."* *"The Project has*

been successfully accredited with the Building with Nature Design Award. As such this outline planning application represents an exemplar in the design, delivery and maintenance of high-quality green infrastructure for the benefit of people and wildlife, now and long into the future."

- 9.96 In addition, an independent review of the Appeal Scheme by Design West's panel of experts including a senior ecologist, stated in their letter of 7 February 2022 (CD7.2) that "*HE [Homes England] recognises that biodiversity protection/enhancement must be one of the primary stated aims of the project.*" "*The team is clearly addressing these issues carefully within areas of retained habitat and the scheme offers great potential for well-integrated ecological and landscape design. The Panel believe the project has the potential to be an exemplar scheme in these terms, and as such could help raise future development standards in the region. Although there is already much to admire, we would encourage the team to maintain their efforts and use the application documents to help ensure the landscape potential of the scheme is fully realised.*"
- 9.97 I make these two references because I believe it is important to understand the lengths to which Homes England has gone to understand, acknowledge and appropriately address the loss of biodiversity that would result from development.
- 9.98 With reference to my assessment in paragraphs 9.11 - 9.13 of this proof, I am firmly of the opinion that acceptance of a level of harm to the site's natural assets is implicit and inevitable in the allocation for an estimated 300 homes. By adopting that policy, Council and the Local Plan Examining Inspector have confirmed that ecological harm was outweighed by the positive benefits of developing housing on this site. As a consequence, some loss of biodiversity is necessary and inevitable to provide an estimated 300 homes and is priced into the development plan.
- 9.99 As I mention in paragraph 9.16, nothing has materially changed in planning terms since the allocation, except the housing crisis has become even more of an emergency.
- 9.100 I conclude therefore that the Council's position, in terms of the development plan, must continue to be acceptance that the benefits of housing provision on the site outweigh the mitigated and compensated impact on the wellbeing of biodiversity, including a loss of trees and hedgerows.

- 9.101 I have not seen the Council's evidence behind its conclusion that the proposed development will cause "*excessive damage to the existing features of the site*" (fourth reason for refusal) and what the Council would consider to be not excessive in the context of the site allocation.
- 9.102 In respect of the impact on wildlife specifically, as Mr Hesketh points out in paragraph 8.18 of his proof, "*It is impractical to think that any greenfield site could be developed without a degree of disturbance and displacement of the resident wildlife. However, the proposed development would not result in permanent displacement of the species noted from the whole of the Appeal Site.*"
- 9.103 Habitat connectivity and permeability for wildlife have been considered by the EcIA, with recommended measures to provide for wildlife within the new development outlined under paragraph 8.22 of Mr Hesketh's proof, in compliance with Policy DM19.
- 9.104 In paragraph 8.19 Mr Hesketh points out that the EcIA (CD1.24) has site-specific measures appropriate to each species of conservation concern. Recommendations to reduce the effect of construction and operational stage disturbance and displacement impacts include measures for retained habitats, for wildlife supported by retained habitats, and for habitats affected by the proposals.
- 9.105 Mr Hesketh confirms in paragraph 8.21 that "*A substantial portion of the site (c45%) is identified for green infrastructure. The construction stage would result in removal of, or disturbance to, about half the existing hedgerows, but a strong framework of vegetated field and site boundaries would be retained in situ around and within the site, with the majority of these proposed for enhancement, for example through species diversification.*"
- 9.106 Enhancement of the majority of the retained hedgerows, improved tree management, provision of new hedgerow and tree planting on site and the creation of a substantial area of wet grassland habitat demonstrate Homes England's commitment to retaining, incorporating and enhancing green infrastructure in new development where possible, in accordance with policies BCS9 and DM15 when considered in the context of the housing allocation.
- 9.107 Homes England expects to produce a Construction Environment Management Plan (CEMP) and the EcIA recommends production of ecological mitigation and protection management plans for each of the species or species groups that would be affected by the

proposals, to provide the required protections. The CEMP and ecological mitigation and protection management plans can be controlled by planning condition.

9.108 In the context of both the site allocation accepting a degree of harm to biodiversity, including trees and hedgerows, and there being sufficient confidence in the adequacy, merits and deliverability of the proffered mitigation and compensation measures, I find the impact on the well-being of biodiversity, including the loss of trees and hedgerows as well as other species, to be acceptable.

9.109 I conclude this sub-section with reference to Policy BCS9 which states that *"Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy."* The principle of a loss of green infrastructure on the allocated site is therefore accepted.

"The context of the designation of the site as being of Nature Conservation Interest was identified by the Rule 6 party as being unclear"

9.110 The Rule 6 Party has put forward a case that SNCI status means the relevant part of Policy DM19 applies and development should not be permitted.

9.111 As stated in paragraph 5.87 of this proof and with reference in particular to the Council's Core Strategy and the explanation of Policy BCS9, I have concluded that SNCI status no longer pertains to the Appeal Site.

9.112 Should the Inspector be minded to conclude that the Appeal Site is still part of the wider SNCI, I would raise four points:

9.112.1 SNCI status does not materially alter the findings of the EcIA or the corresponding recommendations because the site has been surveyed and assessed on its merits and recommendations made accordingly, irrespective of its status as SNCI;

9.112.2 There would be no change in the level of harm if the site were still part of an SNCI⁵;

⁵ Amended Outline BNG assessment, taking account of SNCI status, at Appendix C of Mr Hesketh's proof. An amended Outline EcIA is also enclosed at Appendix C of Mr Hesketh's proof taking

9.112.3 Policy SA1 is, in my opinion, the paramount consideration in this appeal given that it is specific to the Appeal Site and the Council has identified the site-specific issues and considerations that need to be addressed at the site. Policy DM19 is a general policy by comparison; and

9.112.4 SNCI status would not alter my conclusion that the Appeal Scheme is compliant with the development plan as a whole because conflict with one part of Policy DM19 is insufficient, in my opinion, to lead to the conclusion that there is conflict with the development plan taken as a whole.

9.113 In my opinion, the Appeal Scheme should be granted consent irrespective of the conclusion regarding SNCI status.

"The loss of trees and hedgerows...relating to the impact on the amenity of the locality, including the nature of the vegetation as being veteran (or ancient....) in the absence of wholly exceptional reasons and the existence of a suitable compensation strategy"

Tree Loss

9.114 It appears to me that the Council is attributing disproportionate weight to the retention of trees that are the subject of the Tree Preservation Order 1404 (**CD8.7**) when the fourth development consideration under BSA1201 requires that 'important' trees and hedgerows be identified by tree survey. I refer below to the best practice approach adopted by Homes England in identifying important trees.

9.115 In his proof of evidence, Mr Hesketh explains in paragraph 6.2 that the avoidance of adverse effects on Category A trees has been one of the key considerations of the design process and confirms in paragraph 6.7 that no Category A trees would be lost to development and that all can be incorporated into the Appeal Scheme with adequate root and canopy protection.

9.116 Mr Hesketh confirms in paragraph 6.8 of his proof of evidence that there is only one veteran tree (T6) on the Appeal Site and that this is located on the Parameter Plan (as amended and attached at

account of updated survey work (see Appendix B of his proof) and the updated Outline BNG assessment.

Appendix 1 of Mr Crawford's proof) and will be retained with an appropriate 15m buffer.

- 9.117 He goes on to describe TPO 1404 and its identification of 16 individual trees, three groups of trees and one woodland, the fact that the Appeal Scheme would result in the loss of three individual TPO trees (paragraphs 6.12 to 6.22) and the point that all three are Category B trees of moderate quality (6.16).
- 9.118 With reference to Mr Crawford's Landscape and Urban Design proof, Mr Hesketh makes the point (6.17) that the loss of the three TPO trees is necessary given the need for site access, internal circulation on a steep site and good placemaking.
- 9.119 In my opinion, these losses fall into the category of 'inevitable harm' that is embedded in the site allocation. Mr Crawford's proof demonstrates that considerable effort was made through an iterative design process to minimise tree and hedgerow loss but some loss was inevitable nonetheless given the Council's estimated capacity of the site for 300 home. In my opinion, the loss of the three Category B TPO trees of moderate quality is more than countered by the benefits of opening up the site for the delivery of 260 homes, including 78 affordable homes.
- 9.120 I note that the scale of loss of the TPO trees is small in comparison to the 16 individual trees, three groups of trees and one woodland that make up the TPO. Accordingly, I agree with Mr Hesketh's conclusions in paragraphs 6.22 and 6.38 respectively that "*The amenity provided by the TPO as a whole can be sustained...*" and that "*The integrity of the TPO as a whole would be maintained and its contribution to amenity maintained through the tree replacement scheme.*"
- 9.121 In respect of other, non-TPO trees lost to development, a worst case assessment that does not make allowance for potential additional tree retention as a result of detailed design measures, concludes that 162 Category B and C trees may be lost (Mr Hesketh evidence, paragraph 3.33), although Mr Hesketh points out that this is primarily made up of very small trees (paragraph 6.37).
- 9.122 Tree loss would result in compensatory replacement tree planting in accordance with the Bristol Tree Replacement Standard. It is estimated that 250 trees (6.41) would be planted on site and Homes England is committed to that provision (as per the HOT in

the draft SOCG), although a proportion could be planted off-site if that were preferable.

- 9.123 In respect of tree loss, I conclude that care has been taken to retain trees wherever possible given the housing allocation and associated estimate of 300 homes, that tree loss has been minimised to Category B and C trees and the Category A trees, identified as being important by the tree survey, are all retained, as per the development consideration under BSA1201.

Hedgerow Loss

- 9.124 I continue to refer to Mr Hesketh's proof in respect of hedgerow loss. He helpfully provides clarity on the relevance of the different criteria commonly used for evaluating the importance of hedgerows with reference to the National Environment and Rural Communities Act 2006 and the Hedgerow Regulations 1997. He points out in paragraph 6.51 that almost all of the hedgerows on the Appeal Site are 'important' in terms of the Hedgerows Regulations criteria, and that that fact alone does not make them particularly special.
- 9.125 In my opinion, the development considerations under BSA1201 specifically require 'important' trees and hedges to be identified "...by tree survey..." because, without that specific qualification, almost all trees and hedges would have to be retained and that would not be compatible with the Council's informed estimate of delivering 300 homes on the site.
- 9.126 In that context, the tree survey revealed the 'important' trees within the hedgerows but a different method was required for identifying the 'important' hedgerows. Mr Hesketh identifies ecological surveys as the means of allowing a more fine-grained assessment of the relative importance of hedgerows (paragraph 6.62) using a range of different factors. He concludes which hedgerows are of greatest significance and relative importance in paragraph 6.96.
- 9.127 In respect of hedgerow loss, I conclude that hedgerows identified as being the most important by the tree survey and ecological survey are retained, as per the development consideration under BSA1201. Further, extensive hedgerow planting will compensate for the loss over time.
- 9.128 Given the Council's acceptance (draft SOCG, para 8.84) that some hedgerow loss is inevitable for delivery of an estimated 300 homes on the allocated site, I am of the opinion that the methodology

adopted, the extensive survey and the design response to the results are evidence of Homes England's considerable efforts to identify important trees and hedgerows and to retain them wherever possible whilst still aiming for a number of homes in the region of the Council's expectations.

- 9.129 I cannot agree with the Council's conclusion that the loss of trees and hedgerows is 'excessive' (reason for refusal 4).
- 9.130 In my experience, the development industry tends to promote house numbers to the maximum allowable by policy, and local planning authorities plan on that basis, so I find that Homes England's proposal for up to 260 homes, which is materially less than the allocation estimate, is evidence of the considered approach taken to landscape-led placemaking and incorporation of as many retained trees and hedgerows as practical.
- 9.131 The replacement planting proposals relate to individual trees and beyond that, there would be planting of new hedgerows, scrub and woodland on site which will also push the scheme into net positive on site for trees, hedgerows and woodlands. The off-site BNG commitment will add further scrub and woodland.
- 9.132 I find that whilst there will be tree and hedgerow loss, the loss would not be non-compliant given the impact on natural assets baked into Policy SA1 under site allocation BSA1201. When account is taken of the targeted tree and hedgerow loss as informed by detailed survey, and the extensive mitigation and compensation measures proposed, I find that the Appeal Scheme complies with the BSA1201 development considerations and Policy SA1 which should be the paramount policy consideration in this case.
- 9.133 The provisions of Policy DM17 overlap to some extent with Policy SA1 and the third and fourth development considerations under site allocation BSA1201, in respect of the integration of important existing trees. The policy states that "*Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard...*" provided within the policy. In my opinion, the Appeal Scheme constitutes appropriate development on the basis that it accords with the allocation for housing development on the site.
- 9.134 The Appeal Scheme will result in unavoidable tree loss necessary to allow for the allocated development, but replacement tree

planting is proposed in accordance with the requirements of Policy DM17.

- 9.135 Under the sub-heading 'Trees' Policy DM15 states that "*The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development.*" I find that the Appeal Scheme will provide additional tree and hedgerow planting and will improve the management of retained trees and hedges in accordance with Policy DM15.
- 9.136 Policy DM15, under the sub-heading 'Multifunctional Green Infrastructure Assets', expects "*New green infrastructure assets...to be designed and located to maximise the range of green infrastructure functions and benefits achieved...*". I find that it is evident from the Design and Access Statement that the Appeal Scheme will deliver multifunctional green infrastructure that provides for drainage, wildlife connectivity and habitat, play, relaxation, active travel and opportunities for healthy living and learning, in accordance with Policy DM15.
- 9.137 Policy DM17, under the sub-heading 'Trees', states that "*All new development should integrate important existing trees. Development which would result in the loss of Ancient Woodland, Aged trees or Veteran trees will not be permitted. Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard...*". Mr Hesketh's evidence demonstrates that no Ancient Woodland, Aged trees or Veteran trees will be lost as a consequence of the Appeal Scheme.
- 9.138 Policy DM19 also overlaps to an extent with Policy SA1 and the third and fourth development considerations under site allocation BSA1201. With reference to Policy DM19, the Appeal Scheme will have an impact upon habitat, species or features which contribute to nature conservation, which is inevitable given that the site was an SNCI when it was allocated for housing development. Impact upon habitat, species or features which contribute to nature conservation will have been assumed and found acceptable when the site was allocated for the development of an estimated 300 homes and is therefore baked in to the allocation and the associated development considerations of BSA1201.
- 9.139 The Appeal Scheme has been informed by appropriate, comprehensive and thorough survey and robust assessment of

impacts, as required by Policy DM19. The Scheme has been designed and sited, in so far as reasonably practical, to avoid harm to identified habitats, species and nature conservation features, and the proposals take opportunities to connect identified onsite habitats, species or features to nearby wildlife corridors, all in accordance with the requirements of Policy DM19.

9.140 Policy DM19 requires that *"Where loss of nature conservation value would arise development will be expected to provide mitigation on-site and where this is not possible provide mitigation off-site."* The Appeal Scheme commits Homes England to an appropriate approach, through the proposed planning conditions, to delivering the required mitigation and compensation measures, which will be secured by a strategy recommended by the EcIA and BNG, and in accordance with the site-specific allocation policy and Policy DM19.

9.141 It is my judgement that the Council has not given adequate consideration to the positive effects of the proposed measures or the ability to control their provision in its first reason for refusal.

9.142 I find that tree and hedgerow loss are avoided insofar as is possible given the site allocation for circa 300 homes, and is managed, mitigated and compensated in a way that is compliant with the requirements of policies SA1, DM15, DM17 and DM19 and I have seen no evidence from the Council or Rule 6 Party that would bring me to a different conclusion. I disagree with the Council that the Appeal Scheme does not accord with those policies and with its conclusions that non-compliance with those policies is grounds for refusal in this case.

"The design suitability of the scheme measured against the proposed parameter plans, which the Appellant wishes to secure through a condition. This feeds into the Design Code and raises issues around urban design and landscape"

9.143 I refer to Mr Crawford's Landscape and Urban Design proof in responding to these issues and in particular his statement in paragraph 4.4.3 that *"...it is essential to focus on those aspects of the design which would be fixed within the outline consent if the appeal is granted."* Under the same paragraph Mr Crawford clearly sets out the design matters that would be fixed if the Appeal Scheme were to be consented.

- 9.144 I am of the opinion that a great many of the Council's objections relate to matters of detailed design which can be adequately addressed at this outline planning stage by compliance with the design matters fixed by the approved Parameter Plans, detailed access plans and Design Code, and controlled by planning condition.

Parameters Plans

- 9.145 Homes England has asked for the four Parameter Plans (as amended by reference to Appendix 1 of Mr Crawford's proof)) and the Design Code (CD1.4) submitted with the application to be approved as part of the outline consent.
- 9.146 A number of minor revisions have been made to the Parameter Plans since submission with the application, as referenced in paragraph 3.5.1 of Mr Crawford's proof and the revised plans appended to it (Appendix 1). The Regulating Plan (contained in the submitted Design Code) has also been amended and is enclosed in the same appendices to Mr Crawford's proof. All of the minor revisions are for the sake of clarity and none alter the fixed parameters that control development as submitted with the application.

Design Code

- 9.147 The Design Code was submitted voluntarily and is not required by policy or law. Mr Crawford helpfully establishes in paragraphs 4.4.3 to 4.4.11 which sections of the Design Code fix the form of development and which aspects of design remain flexible. I am of the view that the Design Code is a positive tool for controlling the quality of the detailed design and Homes England stands by the Design Code as submitted.
- 9.148 However, I point out that, in the event that the Inspector disagrees with part or all of the Design Code, a revised or entirely new Design Code can be required by planning condition and that disagreement on the measures in the Design Code is not reason enough for the planning application to be refused. Mr Crawford addresses this point in paragraphs 4.4.12-15 in his proof with reference to two recent appeal decisions.
- 9.149 In the following paragraphs, and in the context of the points made in my paragraphs above, I consider the Appeal Scheme against the Council's relevant policy on urban design.

9.150 In section 4.5 of his proof, Mr Crawford explains and justifies the design decisions that are reflected in the material that is to be fixed by outline planning consent.

Policy BCS21 – Quality Urban Design

9.151 As set out in paragraph 5.23 of my proof, Policy BCS21 establishes the design criteria for new development in Bristol which includes issues of accessibility and permeability, legibility and integrated public realm.

9.152 It is clear to me that the Appeal Scheme has been designed to integrate with the existing Broomhill neighbourhood. The connections into and through the site help to embed the new development into the pattern of existing built form, and the height and density of proposed development is respectful to existing urban character. The retained trees and hedgerows have been integrated into the development as focal points that will help to make a recognisable and understandable place, with clearly defined green corridors connecting a sequence of green spaces. The extensive green infrastructure within the development will help to define a distinctive and high quality place that complements and helps to sustain the existing neighbourhood. The proposals will maintain, enhance and create accessible and legible connections between the neighbourhood and the proposed development, aiding permeability and providing opportunities for multifunctional and lively public realm that benefits new and current residents. Detailed design matters can be addressed through reserved matters applications. In my opinion, the Appeal Scheme meets the Council's expectations in respect of high quality urban design to the extent that is appropriate at this outline stage.

9.153 Policy BCS21 goes on to state that, in order to demonstrate the delivery of high quality urban design, "*...major development proposals with a residential component should be assessed against 'Building for Life' (or equivalent methodology).*" For clarity:

9.153.1 the Appeal Scheme has been positively assessed against the 'Building for a Healthy Life' placemaking toolkit (recorded in Section 5.2 of the Design and Access Statement (CD1.13);

9.153.2 the Scheme has been positively reviewed by the independent panel of experts from Design West (CD7.2);

9.153.3 the Scheme has been positively reviewed against the Council's Urban Living SPD (Core Doc ref); and

9.153.4 the Scheme has been positively appraised by Building with Nature and received their Design Award (Core Document CD2.4).

9.154 I conclude that Homes England has taken clear steps to towards delivering high quality urban design at Brislington Meadows and the assessments and reviews undertaken support that view. There is obviously detailed design work to be done and that will be that subject of reserved matters applications, but at this outline stage I find that the Appeal Scheme complies with the expectations and requirements of Policy BCS21.

Policy DM26 - Local Character and Distinctiveness

9.155 Policy DM26 sets out the criteria against which a development's response to local character and distinctiveness will be assessed.

9.156 Under the sub-heading 'General Principles', the policy states that *"The design of development proposals will be expected to contribute towards local character and distinctiveness by:*

- *Responding appropriately to and incorporating existing landforms, green infrastructure assets and historic assets and features; and*
- *Respecting, building upon or restoring the local pattern and grain of development, including the historical development of the area; and*
- *Responding appropriately to local patterns of movement and the scale, character and function of streets and public spaces; and*
- *Retaining, enhancing and creating important views into, out of and through the site; and*
- *Making appropriate use of landmarks and focal features, and preserving or enhancing the setting of existing landmarks and focal features; and*
- *Responding appropriately to the height, scale, massing, shape, form and proportion of existing buildings, building lines and set backs from the street, skylines and roofscapes; and*
- *Reflecting locally characteristic architectural styles, rhythms, patterns, features and themes taking account of their scale and proportion; and*
- *Reflecting the predominant materials, colours, textures, landscape treatments and boundary treatments in the area."*

- 9.157 *"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."*
- 9.158 The general principles under Policy DM26 need to be applied in the context of the fact that the Appeal Site is allocated for an estimated 300 home development under Policy SA1 and site allocation BSA1201.
- 9.159 The allocated site is very constrained when delivering in the region of 300 homes. The constraints, in the main, are longstanding and visible without the need for intrusive survey and must therefore have been evident to the Council when making the allocation.
- 9.160 The key constraints include steep slopes, trees, hedgerows and associated habitats and species, overhead power lines and a corresponding 'no-build' zone, public rights of way, the scale and nature of adjoining development and a single practical access route.
- 9.161 The Design and Access Statement (CD1.3) submitted with the outline planning application demonstrates how the design of the Appeal Scheme responds to those constraints. It also shows how opportunities have been taken to integrate and make the most of retained natural assets as part of the new community, and how the community is designed to be an extension of the existing neighbourhood rather than a standalone development.
- 9.162 I am of the opinion that the Appeal Scheme reflects positively on each of the general principles of Policy DM26 in the context of such a constrained site: it works with the steeply sloping landform; it respects the local development scale and pattern and integrates with its granularity; it responds to street patterns and ties in new convenient, safe and accessible movement connections; it optimises views and make views from the site accessible for the existing community through the creation of well placed public open spaces; and it incorporates and makes a feature of retained natural assets. In the context of development on a green field site, the Appeal Scheme does, in my view, respect local urban character, enhance distinctiveness and take opportunities to improve the character, quality and functionality of Broomhill.
- 9.163 In my opinion, the Appeal Scheme is compliant with the expectations of Policy DM26.

Policy DM27 – Layout and Form

9.164 Policy DM27 states that *“The layout, form, pattern and arrangement of streets, open spaces, development blocks, buildings and landscapes should contribute to the creation of quality urban design and healthy, safe and sustainable places. It should make efficient use of land, provide inclusive access and take account of local climatic conditions.”* There then follows detailed design considerations under the sub-headings of:

- Streets and Spaces
- Blocks and Plots
- Height, Scale and Massing
- Landscape Design
- Servicing and Management.

9.165 Scale, Layout, Appearance and Landscape are all reserved matters in the outline application and are the matters to which the requirements of Policy DM27 apply.

9.166 With reference to section 4.4 of Mr Crawford’s proof of evidence, it is clear that there are relatively few design matters fixed at this outline stage, being the maximum height of buildings (although not the proposed building heights), points of access for various transport modes and the location of retained trees and hedgerows. These are compliant with the expectations of Policy DM27.

9.167 The design requirements set out in sections 4 to 10 of the Design Code (CD1.14) reflect good urban and landscape design practice but are high level and even the Design Checklist that summarises the mandatory requirements (pages 84-85) allows some design flexibility by stating that *“innovation in the approach to housing typologies, materials and design is encouraged”* and that *“this may mean that not all the requirements of this Code are met. In these instances a design justification should be provided demonstrating that the proposal achieves a high-quality design in line with Building for a Healthy Life”*. As such there is a mechanism for assessing the acceptability of proposals that diverge from the Design Code requirements.

9.168 In my opinion, the design expectations set out in Policy DM27 should be appropriately addressed through reserved matters applications and should be subject to planning conditions at this

outline stage. A Design Code has been voluntarily submitted by Homes England to guide detailed design. In the event that the Design Code is not favoured by the Inspector, a condition could be applied requiring a revised or replacement version to be submitted for approval.

- 9.169 Policy DM27 is cited in the Council's fourth reason for refusal, in which the Council alleges that 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."* It is not clear to me what future appropriate scheme the Council believes may be prejudiced. I suggest the Council may be addressing this point at one of two scenarios:

9.169.1 If the Council is referring to a future scheme that would emerge through reserved matters subsequent to an outline consent being granted permission, then I suggest that the process of developing the design in detail and approving the reserved matters would be the appropriate process for detailed design matters to be resolved under planning conditions. In that scenario, I am of the opinion that the future design and delivery of an appropriate scheme would not be prejudiced by the granting of outline consent and would, in actuality, be facilitated by the granting of consent.

9.169.2 If, on the other hand, the Council is referring to some other future housing scheme, I am of the view that there is no robust basis on which it could be said that a more sympathetic design response for the delivery of an estimated 300 homes could be achieved given the practicalities of addressing development on the site. I find this an unrealistic proposition.

- 9.170 In conclusion on this matter, it is my judgement that the Appeal Scheme does not prejudice the future design and delivery of an appropriate schemes.

Policy DM28 - Public Realm

- 9.171 This policy states that *"Development should create or contribute to a safe, attractive, high quality, inclusive and legible public realm"*

that contributes positively to local character and identity and encourages appropriate levels of activity and social interaction."

- 9.172 The design matters to be fixed at outline (as set out by Mr Crawford in paragraphs 4.4.3 to 4.4.11 of his proof) set the framework for delivery of a successful public realm, fully compliant with DM28, through detailed design at reserved matters.
- 9.173 In my opinion, it is appropriate to address the expectations of Policy DM28 through reserved matters applications and it is not appropriate to deploy this policy as part of the reason for refusal for an outline application with all matters reserved except access.
- 9.174 Taking design suitability as a whole, I am of the view that the proposed scheme has been carefully thought through in response to the site and its surroundings, by means of an iterative landscape-led masterplanning approach involving town planners, urban designers, landscape architects, ecologists, arboriculturists, highways, civils and geotechnical engineers, and other specialists. I consider the Design Code to be an appropriate basis for design development at the reserved matters stage.
- 9.175 The Council has challenged some points within the Design Code and argue that its approval could prejudice the design delivery of a future scheme but I find that is not sufficient reason for refusal because the Inspector could apply a planning condition requiring a revised or replacement Design Code.
- 9.176 Neither do I agree with the Council's claim in its fourth reason for refusal that the proposed development fails to adhere to the landscape and urban design policy considerations by virtue of excessive damage to the existing features of the site. I have seen no evidence from the Council of what constitutes excessive damage and I do not agree that damage is excessive in the context of an allocated site for the delivery of an estimated 300 homes and the inevitable harm implied with policy SA1.
- 9.177 In my opinion, the Appeal Scheme, at the outline planning stage, responds appropriately and adequately to the policy requirements and expectations of policies BCS21, DM26, DM27 and DM28.

"The impact of the proposal on the landscape in respect of its archaeological features with heritage implications".

Policy DM31: Heritage Assets

- 9.178 The NPPF defines a heritage asset as *"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)"*
- 9.179 Policy DM31 implements policy BCS22 of the Core Strategy and details how the Council proposes to secure the conservation of heritage assets which are described as ranging from whole landscapes to individual items of street furniture. It recognises that heritage assets are a finite non-renewable resource and great weight should be given to the conservation of designated heritage assets.
- 9.180 Policy DM31 states that *"Development that has an impact upon a heritage asset will be expected to conserve and, where appropriate, enhance the asset or its setting... Scheduled monuments and other non-designated archaeological sites of equivalent importance should be preserved in situ. In those cases where this is not justifiable or feasible, provision should be made for excavation and record with an appropriate assessment and evaluation. The appropriate publication/curation of findings will be expected... Proposals affecting locally important heritage assets should ensure they are conserved having regard to their significance and the degree of any harm or loss of significance."*
- 9.181 A staged assessment of the Appeal Site was carried out to understand the historic environment conditions and potential impacts of development. This included a desk-based assessment (DC1.18) to review known designated and non-designated heritage assets and comprised a search of the Bristol Historic Environment Record as well as a map regression exercise and review of previous archaeological events. A programme of geophysical survey (CD1.26) was undertaken to assess the below ground conditions and was followed by a targeted programme of trial trench evaluation which confirmed the presence of ditched enclosures dating to the Roman period within the site. The recovery of an assemblage of glass beads and fragments of industrial waste provided evidence for possible Roman glass-making activity in the vicinity of the excavated trenches.

- 9.182 The Council's Principal Historic Environment Officer has not objected to the application and has requested a planning condition for a programme of archaeological works be attached to ensure the preservation by record of these remains (CD3.16). This is consistent with paragraph 205 of the NPPF, policy DM31 of Bristol Local Plan and Archaeology and Development SPD7.

Policy BCS22 – Conservation and the Historic Environment

- 9.183 Policy BCS22 requires development proposals to safeguard or enhance heritage assets and the character and setting of areas of acknowledged importance. The policy is delivered through the development management process and specific policies and proposals are outlined through the DMP.
- 9.184 The Appeal Site does not contain any designated heritage assets. Some archaeological remains have been recorded by Homes England's surveys but the Officer's Report confirms there is no objection from the Council's Archaeological Officer provided a programme of archaeological works and recording is required by planning condition. An appropriate condition is included in section 10 of the draft SoCG.
- 9.185 The application has considered the potential effects of development on the heritage significance of the Avon Valley and Brislington Conservation Areas, as well as the Grade II* Listed Church of St Luke and Grade II* Listed Church Hill House which are located within 1km of the Appeal Site.
- 9.186 The Appeal Site is assessed as not contributing to the heritage significance of the Grade II* Listed buildings.
- 9.187 The Site is considered to provide a minor positive contribution to the heritage significance of the Conservation Areas as representing the remains of post-medieval enclosed landscape that bordered Brislington Common. With reference to the technical evidence prepared by Mr Bassir and appended to this proof at Appendix 2, the significance of effect of the proposed development on the heritage significance of the Conservation Areas was assessed as being at the lower end of less than substantial harm due to minor changes within their setting (paragraph 1.3). This is considered by Mr Bassir to be no more harmful than the principle of the allocation and the impacts, such as they are, were expected by the Local Plan allocation and attributable to the location and nature of development.

- 9.188 Paragraph 202 of the NPPF requires that, *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal...”* I refer the Inspector to, what I consider to be, the considerable benefits of the Appeal Scheme and the weight that I attribute to those benefits, as set out in Section 11 of this proof. In my opinion, the benefits significantly outweigh the harm which is assessed by Mr Bassir as being at the lower end of less than substantial.
- 9.189 The known archaeological remains recorded within the site are of up to moderate (regional) significance and the development is likely to have an impact on these assets. This is considered to be at the lower end of less than substantial harm. This impact can be mitigated by a programme of archaeological works with the results being made available for public dissemination in accordance with paragraph 205 of the NPPF.
- 9.190 Mr Bassir refers, in paragraph 1.4 of his report at Appendix 2 of this proof, to the conclusion of a desk-based assessment that there may be potential for impact on two non-designated heritage assets consisting of possible medieval ridge and furrow cultivation remains and the site of a former post-medieval farmstead. Following further investigation, the former is no longer considered to have heritage significance and the latter is considered to be of negligible heritage significance.
- 9.191 In accordance with paragraph 203 of the NPPF, I have considered the effect of the Appeal Scheme on the significance of the non-designated heritage asset, having regard to the scale of any harm or loss and the significance of the heritage asset. In my judgement, whilst the loss of the asset would be total, the fact that the asset is of only negligible significance makes the loss acceptable.
- 9.192 In my opinion, the effects on heritage assets and the historic environment are acceptable and the Appeal Scheme is compliant with policies BCS22 and DM31. The concerns raised by the Rule 6 Party in its SoC are, I conclude, adequately addressed by the response from Mr Bassir appended to my proof (Appendix 2). I note that the Council has not raised concerns in connection with these matters in the Officer’s Report or reasons for refusal.

“Whether the proposal would be sustainable development for the purposes of the National Planning Policy Framework

(The Framework) and development plan policy may or may not engage the Framework paragraph 11 planning balance"

- 9.193 I find that the Appeal Scheme accords with the development plan taken as a whole, reflecting that Policy SA1 with site allocation BSA1201 is the paramount policy consideration but also taking account of the other relevant policies.
- 9.194 Further, when applying the implications of the Council's inadequate housing land supply, I find the balance to be in favour of the development. In reaching this conclusion, I have attributed full weight to policies that support the delivery of new homes.
- 9.195 It could be argued that any policies which have a restrictive effect on housing delivery could be afforded reduced weight in the context of the primacy of housing delivery but I have not relied on this argument for my primary position.
- 9.196 The Council is unable to demonstrate a five year housing land supply, rendering the Local Plan out-of-date and bringing paragraph 11(d) of the NPPF into effect. Planning permission should therefore be granted unless:
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - 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.*
- 9.197 Taking paragraph 11(d)(i) first, no protected areas and no assets of particular importance, as defined by the NPPF, are harmed by the Appeal Scheme, although given the late and incomplete disclosure of evidence by the Council in respect of alleged veteran trees, Homes England's witnesses are reserving their position on this matter and will address it in the rebuttals should this prove necessary.
- 9.198 It is my judgement that there is not a clear reason for refusal in respect of the protection of assets of particular importance because none would be harmed by the Appeal Scheme. In the event that the Inspector finds there are assets of particular importance, their protection can be controlled by planning condition such that there remains no clear reason for refusal which is in accordance with the provisions of NPPF paragraph 11(d)(i).

9.199 In respect of paragraph 11(d)(ii), I set out my considerations regarding the planning balance with respect to the policies of the NPPF in the remainder of this section.

Achieving sustainable development

9.200 Paragraph 7 of the NPPF summarises the objective of sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs, and Paragraph 8 of the NPPF describes the economic, social and environmental objectives in more detail. The Council considers in paragraph 4.10 of its SoC that the Appeal Scheme 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*”. I disagree with that conclusion.

9.201 In my opinion, the Appeal Scheme would “...*support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations*” as required by the NPPF’s social objective (NPPF paragraph 8). Housing provision would make a significant contribution towards the Council’s housing need at a time of housing emergency. The 78 affordable homes comply with the Council’s affordable housing requirement of 30% (Policy BCS17).

9.202 It would achieve that while “...*fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being*” (NPPF paragraph 8).

9.203 Further, by retaining and incorporating as many trees and hedgerows as possible, mitigating and compensating to the appropriate scale and standard, and delivering a 10% net gain in biodiversity, the Appeal Scheme would help “...*to protect and enhance our... natural environment...improving biodiversity...*”, and its very location, immediately adjacent to an established Local Centre, will help in “...*adapting to climate change, including moving to a low carbon economy...*” (NPPF paragraph 8) by optimising opportunities for active travel and minimising the need for the private car. The proposals would therefore also comply with the objectives of Council policies BCS7 and DM9.

9.204 These points are additional to the economic benefits of locating new development where it can support and sustain existing services, community facilities and commercial activities.

Decision-making: Planning conditions and obligations

- 9.205 NPPF paragraph 57 sets out the three tests that need to be met before planning obligations are sought, with reference to Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- 9.206 I am satisfied that each of the planning obligations set out in Appendix A of the draft SoCG is necessary, reasonable and related to the development in accordance with NPPF paragraph 57.
- 9.207 The range of obligations proposed in Appendix A to the draft SoCG and the planning conditions proposed in section 10 of the same document adequately address the requirements of policies referred to by the Council in its fifth reason for refusal.

Promoting sustainable transport: Considering development proposals

- 9.208 The Appeal Scheme complies with NPPF Paragraph 105 which states that *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes."* The Council's site allocation was made because, rightly, the site was considered to be a sustainable location for housing development. There has been no material change since the allocation that would alter that conclusion.
- 9.209 NPPF Paragraph 111 states that *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*
- 9.210 With reference to page 28 of the Officer's Report, *"The Council's TDM Officer has confirmed that they are satisfied with the proposed access details subject to conditions. It is considered that any remaining highways works or issues could be adequately dealt with via conditions or by further details being provided at the Reserved Matters stage."*
- 9.211 The Council's Policy BCS13 states that *"development should mitigate climate change through measures including "Patterns of development which encourage walking, cycling and the use of public transport instead of journeys by private car."* In my opinion,

getting development in the right place is at the core of planning's role in addressing carbon reduction and should carry significant weight in planning for sustainable development.

- 9.212 On a similar theme, the Development Principles under Core Strategy Policy BCS10 Transport and Access Improvements state that "*Development proposals should be located where sustainable travel patterns can be achieved, with more intensive, higher density mixed use development at accessible centres and along or close to main public transport routes.*" Locating new development close to the existing Local Centre, education, a major employment centre and the public transport network maximises opportunities for new residents to access their daily needs without use of a private car. This is cited by the Council in the BSA1201 explanatory text as one of the three key reasons why the allocation was considered appropriate.
- 9.213 The Design and Access Statement that accompanied the outline planning application expressed Homes England's ambition for a '20 minute neighbourhood' achieved by physically integrating the new development with the existing neighbourhood, principally by means of a comprehensive network of on and off site pedestrian and cycle connections.
- 9.214 In my opinion, this reflects best practice in planning for sustainable development, carbon reduction, management of traffic congestion and related noise and air pollution, and the promotion of active travel and healthy living.
- 9.215 The policy further states that "*Proposals should minimise the need to travel, especially by private car, and maximise opportunities for the use of walking, cycling and public transport.*" This is a related point but, in my view, the Appeal Scheme offers a subtle but very important difference between accessibility **between** the site and the Local Centre, and the wider benefits of providing safer, more convenient and more accessible connections **through** the Appeal Site so that, for example, those living to the west can access jobs or schools in the east using new and enhanced pedestrian and cycle connections that largely avoid the highway network, directly as a result of the Appeal Scheme.
- 9.216 The policy makes it clear that "*developments should be designed and located to ensure the provision of safe streets and reduce as far as possible the negative impacts of vehicles such as excessive volumes, fumes and noise.*" The proximity of the Appeal Scheme to

the Local Centre and provision of a direct walking/cycling access link into the centre will reduce, as far as possible, the need for new residents to use a private car.

9.217 Policy BCS10 is referred to in the fifth reason for refusal in the context of there being no agreement to Homes England's proposed planning obligations in relation to improving highway safety. Homes England has agreed a package of improvement works with the Council's Transport Development Management Officer in relation to pedestrian and cyclist safety on the surrounding highway network and these are incorporated within the draft heads of terms of any planning obligations set out in Appendix A of the draft SoCG.

9.218 I conclude that the Appeal Scheme is in accordance with development principles set out in policies BCS10 and BCS13 and the requirements of NPPF paragraphs 105 and 111.

Making effective use of land

9.219 NPPF Paragraph 120 says that planning policies and decisions should, among other things:

- c) *encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
- d) *b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production"*

9.220 The Officer's Report (CD10.2) (page 24) references the Landscape Officer's opinion that the earthworks are poorly integrated into the existing landform and that more gently sloped SuDS features would be better integrated, allow additional plant variety, visual enhancement and recreational use, increasing its multi-functionality.

9.221 I am of the view that the Appeal Scheme as proposed already achieves multifunctionality of the type suggested by the Landscape Officer but I acknowledge that a different design solution may emerge through reserved matters. This is a detailed design matter and does not constitute a reason for refusal of the outline application in my opinion. If the Inspector is minded to agree with the Council's concern that "...approval of the outline application

which includes approval of a design code for this area would confirm agreement with the unsatisfactory arrangement” (Council’s SoC, paragraph 3.8.15) (CD10.1), that area of the Design Code could be revised by condition.

Achieving well designed places

- 9.222 The Council’s SoC alleges the ‘excessive disruption to the existing onsite features to be contrary to paragraph 134 (CD10.1, paragraph 3.8.36). Paragraph 134 states that “*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design [National Design Guide and National Model Design Code], taking into account any local design guidance and supplementary planning documents such as design guides and codes.*” Conversely, significant weight should be given to development which reflects that policy and guidance and/or which “*...help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*”
- 9.223 The loss of natural features on site is an inevitable consequence of the Council’s allocation given its estimated site capacity of 300 homes. In my opinion, if loss is inevitable and unavoidable and implicit in policy, it must have been accepted through the process of researching, drafting, examining and adopting the DMP. In that context, it cannot be considered to be ‘excessive’.
- 9.224 Further, Homes England has invited independent design reviews from the expert panel of Design West (CD7.2) and from Building with Nature (CD2.4) and both have concluded positively. The Appeal Scheme has been reviewed against Building for a Healthy Life as required by the Council, and has been reviewed against the Council’s own Urban Living SPD. In each case, the conclusions have been positive, with adverse comments reserved for matters of detail which will be addressed by subsequent reserved matters.
- 9.225 In the context of those positive reviews, I conclude that the Appeal Scheme takes local and national design policy and guidance into account and fits in with the overall form and layout of the surroundings and helps to raise the standard of design more generally in the area, in which case the significant weight should be given to the design proposals.

Conserving and enhancing the natural environment

- 9.226 Paragraph 174 states that *"Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);...*
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures..."*
- 9.227 NPPF paragraph 174 is referred to in the Council's first reason for refusal.
- 9.228 In my opinion, the Appeal Scheme is not contrary to Paragraph 174. With reference to sub-paragraph a), the Appeal Site is allocated in the development plan for housing development. It has no other status for the purposes of planning.
- 9.229 In respect of sub-paragraph b), Homes England has made every effort to minimise impacts on the natural environment, to enhance what is retained, to replace what is lost, to protect ecological networks, to provide appropriate mitigation and compensation and to deliver a 10% net gain in biodiversity which exceeds policy requirements.

Habitats and biodiversity

- 9.230 NPPF paragraph 179 is referred to in the Council's first reason for refusal. The paragraph states that *"To protect and enhance biodiversity and geodiversity, plans should:*
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and*
 - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity*

- 9.231 The decision to deliver housing on the Appeal Site has already been made through the Local Plan process and the principle of development is firmly established.
- 9.232 In that context, Paragraph 179's requirement for local authorities to plan for the protection and enhancement of biodiversity and geodiversity, specifically in the context of this paragraph, is not applicable to this situation.
- 9.233 Paragraph 180 states that "*When determining planning applications, local planning authorities should apply the following principles:*
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...*
 - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists."*
- 9.234 With reference to NPPF paragraph 180(a), it is not appropriate to consider locating on an alternative site because the Appeal Site is identified and allocated by the Council for housing development. I acknowledge that an element of harm to biodiversity would result from development but no more than was anticipated by the allocation and it would be mitigated and compensated by the combined measures recommended in the Outline EcIA (CD1.21) and Outline BNG (CD1.22) (and with reference to the updated versions included at Appendix C of Mr Hesketh's proof). Those measures can be controlled by planning condition and obligation.
- 9.235 In respect of NPPF paragraph 180(c), and with reference to the evidence and proof of Mr Hesketh, I understand that no irreplaceable habitats will be lost to development.
- 9.236 Given the late and incomplete disclosure of evidence by the Council in respect of the alleged identification of additional veteran trees, Homes England's witnesses are reserving their position on this matter and will address it in the period allowed for rebuttals should this prove necessary.

Conserving and enhancing the historic environment

- 9.237 Regarding NPPF paragraph 202, as stated in my paragraph 9.178 above, in my opinion the public benefits of the Appeal Scheme significantly outweigh the harm to designated heritage assets which has been assessed as being at the lower end of less than substantial.
- 9.238 I have considered the effect of the Appeal Scheme on the significance of the non-designated heritage asset, as referenced in my paragraph 9.181, and conclude that, whilst the loss of the asset would be total, the fact that the asset is of only negligible significance makes the loss acceptable.
- 9.239 The known archaeological remains recorded within the site are of up to moderate (regional) significance and the development is likely to have an impact on these assets. This is considered by Mr Bassir to be at the lower end of less than substantial harm (Appendix 2). This impact can be mitigated by a programme of archaeological works with the results being made available for public dissemination in accordance with paragraph 205 of the NPPF.
- 9.240 In my opinion, the effects on heritage assets and the historic environment are acceptable and accord with the requirements of the NPPF.

Conclusion in respect of paragraph 11(d)(ii) of the NPPF

- 9.241 In my opinion, the adverse impacts of the proposed development can be adequately mitigated and compensated through a combination of onsite and offsite measures which can be the subject of planning conditions. The adverse impacts of the Appeal Scheme would not, in my judgement, significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as a whole.
- 9.242 I conclude that planning permission should be granted.

10. THIRD PARTY REPRESENTATONS

10.1 I do not propose to respond to each and every point raised by all third parties, much of which is already addressed either in this proof of evidence or elsewhere in Homes England's evidence, but I summarise the position for the following:

Rule 6 Party, comprising:

- Bristol Tree Forum
- Greater Brislington Together
- Save Brislington Meadows Group.

Third Parties:

- General public comments - to address other matters not considered in this Proof (see section 10 'the case of the Appellant') or by the Rule 6 party
- Avon Wildlife Trust
- CPRE
- RSPB
- Local Councillors.

Rule 6 Party

10.2 The Rule 6 Party's case (Core Doc ref) is made under the following headings:

- (I) The SNCI designation and application of DM19
- (II) 'Pricing in'
- (III) Complying with the BSA1201 criteria
- (IV) Heritage and archaeology
- (V) The emerging plan.

10.3 Additionally, points are raised in connection with site access and drainage.

SNCI designation

10.4 The Rule 6 party considers that the Appeal Site remains designated as an SNCI and that Policy DM19, as it applies to SNCIs, applies in equal weight to the allocation of the site for housing under Policy SA1.

- 10.5 I provide in more detail clarification of my understanding the SNCI status of the site in section 10 of this evidence. I do not consider that the Appeal Site has SNCI status for the purposes of s. 70(2) TCPA 1990 and s. 38(6) PCPA 2004. The paramount designation for the Appeal Site is its allocation under Policy SA1.
- 10.6 The Rule 6 Party, in section 9.2.3 of their SoC (CD11.0), identifies other sites allocated for development in the adopted DMP, a number of which were also previously designated as SNCIs prior to the adoption of the 2014 Plan. As the Rule 6 Party notes, a number of these sites have already been granted planning permission for redevelopment and it does not appear that the designation of those sites as SNCIs or the application of Policy DM19 was considered an obstacle to the grant of planning permission for those schemes.
- 10.7 For example, in respect of Site Allocation BSA1124 Kingswear Road, planning permission was granted by the Council in March 2022 (LPA Ref. 21/00824/FB) for a smaller part of the allocation site, to deliver 34 residential dwellings. Whilst the site is allocated for housing in the development plan, part of this site is still shown as part of the Novers Common SNCI on the Council's Pinpoint Map. However, there is no reference within the Officer's Report for that application (Appendix 7) to the site comprising an SNCI or assessment being made against Policy DM19.
- 10.8 I consider that the Rule 6 party has incorrectly applied or misinterpreted the development plan and, it seems to me, is attempting to re-open debate about matters that were considered and resolved through the Local Plan making process and the subsequent allocation of the site in the DMP (CD5.3). I do not consider that this matter needs to be discussed as part of this appeal.

Pricing in

- 10.9 As noted in the Rule 6 Party's case (CD11.0, para. 9.2.1) they do not agree with Homes England's opinion that some harm to the natural assets on the site is an inevitable consequence of development of the site for housing for an estimated capacity of 300 homes. I comment further on the approach we consider has been taken to the harm 'priced in' to the allocation at para 9.11 - 9.13 of this proof.
- 10.10 The Rule 6 Party appears to have misinterpreted our commentary on 'pricing in' as they go on to discuss the application of planning

policies (namely Policy SA1 and Policy DM19) and neither one being 'priced in' more than the other. I have addressed the prevalent policy position already in this proof.

- 10.11 The reference in Homes England's SoC (CD9.1) made to material considerations, under s.70(2)(c) of the Town and Country Planning Act 1990, relates to considerations which are 'other to the development plan'. I conclude that some harm to the site's natural assets will inevitably result from development of the site for housing and that these harms should not be reason to refuse planning permission as they were considered and 'priced in' to the allocation of the site, to be mitigated through the development considerations that form part of the site allocation. Therefore, these harms are not other additional material considerations in the determination of the Appeal Scheme in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.

Compliance with BSA1201

- 10.12 The Rule 6 Party does not consider that the Appeal Scheme is compliant with the development considerations set out under Site Allocation BSA1201. According to their case, the main consideration with which the scheme does not comply are:
- *(2) provide suitable access*
 - *(3) be informed by an ecological survey of the site and make provision for mitigation and compensation measures*
 - *(4) retain or incorporate important trees and hedgerows within the development which will be identified by a tree survey*
 - *(11) be informed by a site specific flood risk assessment as the area of the site is greater than 1ha.*

- 10.13 I have addressed specific compliance of the Appeal Scheme with the BSA1201 development considerations, including those highlighted by the Rule 6 party, in Section 9 of my proof.

Heritage and Archaeology

- 10.14 Whilst the Rule 6 Party accepts that the site is not located within a Conservation Area or subject to any historic designation, they consider the site is of archaeological significance.
- 10.15 Homes England prepared a robust assessment of the site's historic environment conditions and assessment of the potential impacts of development which was submitted with the application (CD ref). A

response to address the concerns raised by the Rule 6 Party is provided in the evidence of Mr Amir Bassir of The Environment Partnership in Appendix 2 of this proof.

- 10.16 I address the policy implications in full in section 10 of my proof and conclude that as agreed with the Council's Principal Historic Environment Officer (CD1.18), further consideration of archaeological impacts and mitigation required can be adequately addressed by agreed planning condition.

Emerging Local Plan

- 10.17 I disagree with the Rule 6 Party's suggestion that the emerging local plan "is well advanced" and explain in section 9.19 my proof why I conclude that the emerging plan has no weight at this early stage of the local plan review process.
- 10.18 The Council's own case considers the emerging plan can only have limited weight, at present.

Site Access

- 10.19 As I acknowledge at para 10.12 of this evidence, the Rule 6 Party does not agree that the appeal scheme will provide suitable access, as required by Site Allocation BSA1201 development considerations. The concerns set out in the Rule 6 SoC (CD11.0) largely relate to the accessibility of the site by public transport and existing operation of the bus services in the local area. There is also a concern raised about the timing of Homes England's traffic surveys that were undertaken as part of the submitted Transport Assessment (CD1.15).
- 10.20 A response to address the concerns raised by the Rule 6 party is provided in Section 4 of the evidence of Mr David Tingay of Key Transport Consultants, appended to my proof at Appendix 8. Mr Tingay concludes that, in his professional opinion, the site offers access to a good range of everyday services and facilities within sustainable travel distances, the permeability of non-car modes through the site would enable non-car modes of travel to be maximised and that there are no reasonable highway or transport grounds not to allow the Appeal.

Flood Risk and Drainage

- 10.21 The Rule 6 Party does not agree that the Appeal Scheme has been appropriately informed by a flood risk assessment, as required by Site Allocation BSA1201 development considerations. The matters

set out in the Rule 6 Statement of Case (CD11.0) largely relate to concern about alleged run off from the Appeal Site into Brislington Brook and the discharge of foul and brown water into existing Wessex Water systems.

- 10.22 Brislington Brook is located outside of the Appeal Scheme boundary and no run off is proposed to the brook. This is not considered to be relevant to the consideration of the Appeal Scheme and the scope and findings of the Flood Risk Assessment and Drainage Strategy (CD1.27) submitted with the application were agreed by the Council's flood risk officer.
- 10.23 A response to address the concerns raised by the Rule 6 Party is provided in the technical note Mr Blessing Farirai of Campbell Reith, appended to my proof at Appendix 9. The technical note reiterates that flood risk will not be increased as a result of the Appeal Scheme and that drainage from the site can be managed appropriately.
- 10.24 In response to the Rule 6 Party's concern about a lack of response from Wessex Water as statutory consultee on the application, I would note that a response has now been received from Wessex Water (CD3.22) raising no objection to the Appeal Scheme.

Other Third Party Objections

- 10.25 The Officer's Report (CD10.2) recorded receipt of 583 third party comments and representations during the consultation on the application, including six letters of support, three neutral responses and 573 objections. The concerns raised by objectors are summarised on pages 5 and 6 of the Officer's Report.
- 10.26 As well as the third party comments submitted in relation to the application, it is noted that a total of 39 representations have been submitted directly to PINS in response to this appeal.
- 10.27 The main issues raised in the third party comments in relation to the principle of development, the loss of trees and hedgerow and the impact on ecology and wildlife have already been addressed in this Proof, as these are the common issues between the main parties of Homes England, the Council and Rule 6 Party.
- 10.28 I also do not repeat matters relating to heritage and archaeology or flood risk raised by third parties as these align with the comments made by the Rule 6 Party this has been covered in my response to the Rule 6 in paragraphs 8.2 onwards of this proof.

10.29 In this section below I address additional matters raised by Third Parties.

Public Comments

Transport

- 10.30 In addition to the concerns raised by the Rule 6 party, other third party comments raise concerns about the level of car parking proposed, traffic survey methodology, reliance on single vehicular access, impact on the local road network and, road safety and construction impacts.
- 10.31 I refer to the evidence of Mr Tingay of Key Transport Consultants, attached at Appendix 8 of my proof, in particular at Section 9. Drawing on Mr Tingay's evidence, the Officer's Report and the Council's SoC, I conclude that all of the highway and transport objections raised have been appropriately dealt with by the Appeal Scheme and the assessment and evidence submitted.

Air pollution

- 10.32 A number of the third party representations make reference to concerns about local air quality resulting from the Appeal Scheme and a corresponding increase in vehicle movements in the local area. The application was supported by an Air Quality Assessment (CD1.24) which assesses the impacts of the scheme and concludes that quality impacts of the proposed development scheme are considered to be acceptable, and mitigation is not required.
- 10.33 I also note that the Council's Pollution Control Officer raised no concerns in respect of air quality impacts and made no objection to the application (CD3.25).
- 10.34 Further I draw attention to the two of the benefits of the scheme, being its sustainable location in proximity to an established Local Centre and public transport connections, and to the comprehensive network of walking and cycling routes that is integrated with the surrounding network and enable access by non-car modes to a wide range of surrounding and nearby land uses. Both of these benefits provide the opportunity for new residents, and the existing community, people to move by non-car modes which would help to temper the potential adverse effects of increased traffic.

- 10.35 I conclude that air quality matters have been appropriately addressed by the Appeal Scheme, assessments and evidence submitted.

Impact on local community facilities and services

- 10.36 Concerns are raised by third parties in respect of impact of the Appeal Scheme and increase in residential population on local community facilities and services in the local area, such as school, GP and dentist surgeries.

- 10.37 This has been addressed through the submission of a Health Impact Assessment with the planning application (CD1.28) and as discussed in Section 5.16 of the submitted Planning Statement (CD1.12) and paragraphs 5.69 and 5.70 of Homes England's SoC (CD9.1). I do not consider that the scheme would result in unacceptable impacts that have not been appropriately mitigated through the relevant planning obligations.

Loss of greenspace for health and wellbeing

- 10.38 The principle of redevelopment of the site for residential use has been discussed in detail in this proof.
- 10.39 I highlight that a significant proportion of the Appeal Site (c. 45%) is retained as green infrastructure. The Appeal Scheme will still retain public rights of way to facilitate connection through the site to connect to both Victory Park and Brislington Local Centre to the south and Broomhill Local Centre and Eastwood Farm to the north. Public routes through the site will be accessible to all users and make the site more accessible than its current form of informal meadowlands. I consider that the site will continue to provide opportunity for recreation and leisure use, to the benefit of the health and wellbeing of new and existing residents.

Privacy and overlooking

- 10.40 Some concern has been raised by third parties about overlooking between existing and proposed dwellings.
- 10.41 The response of the Appeal Scheme to dealing with the relationship with existing residential properties is covered in the submitted Design and Access Statement (CD1.13, pg.110) and details how the Illustrative Masterplan (CD1.10) has been drawn having regard to appropriate back-to-back distances (21m minimum). This is also covered in the submitted Design Code which would be an approved document and which sets out design requirements for there to be no direct overlooking to existing properties (CD1.14, pg. 43).

Bomb Risk

- 10.42 Some of the public comments refer to the site being as a bomb risk, related to historic bombing of the area during World War II.
- 10.43 As detailed in the Land Quality Statement (CD1.26) submitted with the application, an Unexploded Ordnance assessment was completed because the site was considered to be high risk, and a mitigation strategy recommended for all phases of the project and in respect of any intrusive groundworks.
- 10.44 The Council's Contaminated Land Officer raised no concern or objection to the application on this basis (CD3.20).

Avon Wildlife Trust

- 10.45 Avon Wildlife Trust objected to the planning application (CD4.6). They consider that the Appeal Site is so important for nature that it should not be developed. Their concerns relate to the loss of valuable habitat wildlife (with reference to the site still being designated as an SNCI), the loss of access to nature for local people and the impact of development on ecosystem services such as flood risk and water quality in the Brislington Brook.
- 10.46 Avon Wildlife Trust does note that, should development go ahead, measures must be put in place to reduce impacts on habitats and ecosystems as far as possible, to provide and enhance areas of habitat onsite and in the local area and provide biodiversity net gain.
- 10.47 Evidence dealing with the proposed ecology mitigation and compensation and an appropriate approach to securing and delivering biodiversity net gain is provided in the proof of evidence of Mr Hesketh and summarised in my proof at paragraphs 9.47-9.54.

Campaign for the Protection of Rural England (CPRE)

- 10.48 An objection was made to the planning application by CPRE, Avon and Bristol Branch (CD4.7). Comments made by CPRE relate to the proposed approach to housing numbers and the deallocation of the Appeal Site proposed in the Local Plan Review. I deal with the weight to be afforded to the emerging local at paragraph 9.19 of my evidence.
- 10.49 Further commentary in respect of both current housing delivery and supply in Bristol, as well as in respect of the Council's proposed approach to housing need and allocation of sites in the emerging local plan, is provided in the evidence prepared by Mr

Alex Roberts of Lambert Smith Hampton, and appended to my proof (Appendix 6). It is very evident that there is a need for housing in Bristol and the Council's SoC (CD10.1) confirms that the *"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"*.

- 10.50 I consider that CPRE fail to properly consider the existing allocation of the site for residential use in the adopted development plan or acknowledge that the Council has agreed the principle of development, subject to demonstrating compliance with the specific development considerations, through the proper plan-making process.
- 10.51 CPRE also make reference to the potential impact from the Appeal Scheme on local Conservation Area designations. As detailed in the evidence from Mr Bassir appended to my proof (Appendix 2), the Desk-Based Historic Environment Assessment (CD1.18) submitted with the application considered such impacts. The assessment considered the potential effects of development on the heritage significance on local Conservation Areas and Mr Bassir concludes impacts on their setting to be at the lower end of less than substantial harm and no more no more harmful than anticipated by the Local Plan allocation.

Brislington Conservation and History Society

- 10.52 During consultation on the planning application, the Brislington Conservation and History Society submitted an objection (CD4.2) citing concerns about the loss of open space and impact on health and wellbeing, flood risk and drainage, increase in traffic and impact on local community services and facilities.
- 10.53 All of these matters have been addressed in my evidence, including previously in this section.

Royal Society for the Protection of Birds (RSPB) Bristol Local Group

- 10.54 The RSPB Bristol Local Group have submitted an objection to PINS to the appeal. They raise concerns about the impact on wildlife and loss of habitat and consider the site to be of SNCI status. They also raise concerns about impact on local transport and local services.
- 10.55 I have addressed all of these matters in my evidence already, including previously in this section, and also refer to the evidence of Mr Hesketh who addresses ecology impacts specifically.

Local Ward Councillors

- 10.56 In response to the planning application, two local ward councillors for Brislington East objected to the planning application.
- 10.57 Councillor Hornchen (CD4.3a) and Councillor Rippington (CD4.3b) raised concern about the loss of habitat, species, trees and hedgerows as a result of the Appeal Scheme, along with concerns about transport and air quality impacts. All of these matters have been addressed in my evidence, including previously in this section.
- 10.58 Councillor Hornchen makes reference to the ecological and climate emergencies declared by the Council, as well as the September 2021 motion passed by the Council in respect of building on green spaces (CD8.1). I do not consider that these are material considerations which would impact the determination of the Appeal Scheme, noting first that the principle of development has been accepted by the Council having regard to the allocation of the site in the development plan, and second that the declarations and motion have no basis in development plan or other policy and therefore have no weight in determining this appeal.
- 10.59 Councillor Hornchen also cites concern about impact on future residential occupiers from noise from Brislington Trading Estate. The application was supported by a Noise Impact Assessment (CD1.23) which confirmed that there should be no objection to granting outline planning consent for the Appeal Scheme on noise grounds, including consideration of impacts from the adjacent industrial estate. This conclusion was agreed by the Council's Pollution Control officer in responding to the application (CD3.15).

Kerry McCarthy – Labour MP for Bristol East

- 10.60 During consultation on the application an objection was submitted by Kerry McCarthy MP (CD4.5). This raised concerns in respect of the ecological impacts of the Appeal Scheme, with reference to the Council's ecological emergency declaration.
- 10.61 All of these matters have been addressed in my evidence, including previously in this section.

11. BENEFITS OF THE APPEAL SCHEME AND PLANNING BALANCE

Benefits of the Appeal Scheme

- 11.1 I have explained that the Appeal Scheme complies with the development plan as a whole and that, having regard to paragraph 11 of the NPPF, this appeal should be allowed.
- 11.2 I set out below a number of benefits of the Appeal Scheme that lend further material weight to the case for the appeal being allowed:
- Development in a highly sustainable location
 - Development integrated with the existing neighbourhood
 - Provision of walking and cycling access for residents to local services and facilities
 - Provision of housing: market housing, housing mix that reflects housing need and affordable housing
 - Provision of 10% net gain in biodiversity
 - Provision of a long-term ecological management plan
 - Provision of surface water management with off-site flood risk benefits
 - Provision of highway safety improvements
 - Economic benefits
- 11.3 I set out my views on each below.

Development in a highly sustainable location

- 11.4 Paragraph 10 of the NPPF makes clear that the presumption in favour of sustainable development is at the core of the Framework. The Council has stated in the explanatory text that accompanies the allocation (BSA1201) that the site is a sustainable location for growth. It references the proximity of the Appeal Site to the supermarket and shops of Broomhill Road, the shops of Brislington Retail Park, community facilities, employment areas and public transport infrastructure, to which I would add proximity to extensive areas of accessible green space.
- 11.5 The accessibility of and to those uses, services and functions supports sustainable living and helps to sustain vibrant communities.
- 11.6 The location of development is a key factor in helping the Council to move towards a lower carbon economy, minimising the need to

travel by car and supporting the notion of the 20 minute neighbourhood in which people's daily needs are accessible on foot or cycle.

- 11.7 I attribute significant weight to this benefit of the Appeal Scheme.

Development integrated with the existing neighbourhood

- 11.8 The Appeal Scheme is designed as part of the Broomhill neighbourhood rather than as a standalone development that lies next to Broomhill. It respects the local development scale and pattern and integrates with its granularity, responding to street patterns and incorporating new convenient, safe and accessible movement connections with existing links such that, overtime, the new development will become as one with the existing.

- 11.9 The integration of new housing into existing neighbourhoods is important for strong and inclusive communities and the provision of a variety of accessible public open spaces, play areas and urban parks on the edge of the existing community will support social integration.

- 11.10 I attribute moderate weight to this benefit.

Provision of walking and cycling access for residents to local services and facilities

- 11.11 Residents of the Appeal Scheme will have easy, safe and attractive pedestrian and cycle access to a range of existing community facilities and services, including the public transport network, within the Local Centre and the wider Brislington area. This will provide the maximum opportunity for new residents to access their daily needs without use of the private car.

- 11.12 The benefits of the comprehensive network of surfaced and lit footways, footpaths and cyclepaths to existing residents include safer, more convenient and more useable access for all through the Appeal Site, improving the direct access to and between Victory Park, Eastwood Farm, the industrial estate, local centres, schools and shops, with a reduced need to walk or cycle along the highway network.

- 11.13 Further, this will encourage active travel and recreation, supporting healthy living, interaction and wellbeing.

- 11.14 I attribute significant weight to this benefit of the Appeal Scheme.

Provision of housing: market housing, housing mix that reflects housing need and affordable housing

- 11.15 The provision of sufficient number and range of homes is one of the key means of meeting the overarching social and economic objectives set out in paragraph 8 of the NPPF.
- 11.16 Given the Council's very substantial shortfall in housing supply, the delivery of 260 homes in the Appeal Scheme is certainly of considerable benefit, in terms of the number of new homes and the choice available in the market place.
- 11.17 The Appeal Scheme responds to the high demand and need for 1 and 2 bedroom properties and bolsters the supply of 3 bedroom homes. As evidenced by Mr Roberts in Appendix 6 of this proof, 3 bed+ homes in particular have seen a relatively low delivery in Bristol and there is considerable need for family houses, which the Appeal Scheme delivers.
- 11.18 Further, the Council has fallen very considerably short of its target for affordable housing provision and the Appeal Scheme will deliver 78 affordable homes.
- 11.19 In my opinion, the provision of market housing, the provision of market housing that meets identified need and the provision of affordable housing are three related but distinct matters. Taken together, I attribute very significant weight to the combined benefit that they will deliver.

Provision of 10% net gain in biodiversity

- 11.20 Homes England's voluntary commitment to deliver a 10% net gain in biodiversity exceeds the Council's policy requirements and was not anticipated by the mitigations and compensations envisaged at the time of site allocation.
- 11.21 I attribute moderate weight to this benefit of the Appeal Scheme.

Provision of a long-term ecological management plan

- 11.22 The Appeal Scheme will provide a long-term ecological management plan, to be secured by condition, that will enhance the retained habitats, and this can include measures to sustain existing mature trees and enable their future veteranisation.
- 11.23 I attribute moderate weight to this benefit of the Appeal Scheme.

Provision of surface water management with off-site flood risk benefits

- 11.24 The Officer's Report (page 11) (**CD10.2**) records the opinion of the Council's Flood Risk Officer that *"The initial drainage plans submitted for this site are acceptable overall. The SuDS measures proposed will provide benefits in terms of water quality, amenity value and biodiversity. Keeping the discharge rates to the existing QBAR greenfield runoff rates will help manage water quantity. By containing large volumes on site will help avoid an increase in the downstream, off-site flood risk. This is important since there have been flooding problems on the lower levels Victory Park that flow over onto School Road."*
- 11.25 I conclude that the Appeal Scheme will provide benefits in terms of flood risk management, to which I attribute limited weight.

Provision of highway safety improvements

- 11.26 The offsite highway improvements and contribution to improvements to local public transport infrastructure that form part of the Appeal Scheme and will be implemented through the planning obligations will not only mitigate potential impact of development but will delivery long-lasting benefit to the wider Broomhill and Brislington communities. Works will include traffic calming and pedestrian improvements on Broomhill Road, a pedestrian crossing on School Road and pedestrian improvements through the Bonville Road Trading Estate.
- 11.27 I attribute limited weight to these benefits of the Appeal Scheme.

Economic benefits

- 11.28 The Appeal Scheme will contribute to growth and regeneration in South Bristol in accordance with Policy BCS1.
- 11.29 There will be a positive local effect on patronage of shops, services and community facilities resulting from the increased population corresponding to the 260 new homes, and the potential is optimised by the provision of direct walking and cycling connection to the Broomhill Local Centre and improvements to the north-south access to Brislington Local Centre through the Appeal Site.
- 11.30 Further, construction of the Appeal Scheme would provide direct employment on site as well as indirect supply chain employment

and induced employment as a benefit of the corresponding increase in expenditure.

- 11.31 Local businesses are expected to benefit during construction, in accordance with the Employment and Skills Statement submitted to the Council (CD2.5).
- 11.32 In accordance with NPPF paragraph 81, significant weight should be accorded to these benefits. This is consistent with recent appeal decisions relating to development at Rectory Farm, Yatton (Inspector Harold Stephens) (Appendix 11) and Clappers Lane, Earnley, Chichester (Inspector Martin Whithead) (Appendix12).

Overall balance of planning considerations

- 11.33 I find that the benefits of the Appeal Scheme are very substantial and amount to a very significant material consideration that weigh positively in favour of allowing this appeal.
- 11.34 In Table 11.1 below, I have provided a summary of the benefits of the Appeal Scheme alongside the harmful effects and have attached weight to each. I attribute very limited weight to most of the harms identified by the Council because my evidence, and the evidence of my colleagues, is clear that no such harms will arise given the package of mitigation and compensation measures to which Homes England is committed by means of planning conditions and planning obligations.

Table 11.1 – Overall Balance of Planning Considerations			
Positive Benefit	Weight afforded	Alleged Harms	Weight afforded
Development in a highly sustainable location	Significant	Harm to biodiversity (including harm to SNCI)	Very limited (mitigated, compensated and accounted for

			in site allocation)
Development integrated with the existing neighbourhood	Moderate	Loss of trees	Very limited (mitigated, compensated and accounted for in site allocation)
Provision of walking and cycling access for residents to local services and facilities	Significant	Loss of hedgerows	Very limited (mitigated, compensated and accounted for in site allocation)
Provision of market housing, housing mix that reflects housing need and affordable housing	Very Significant	Archaeology	Very limited (mitigated and accounted for in site allocation)
Provision of 10% net gain in biodiversity	Moderate	Harm to designated heritage assets	Limited (harm at the low end of less than substantial

			and outweighed by the public benefits in the planning balance)
Provision of a long-term ecological management plan	Moderate	Harm to veteran trees	Nil
Provision of surface water management with off-site flood risk benefits	Limited		
Provision of highway safety improvements	Limited		
Economic benefits	Significant		

11.35 I consider there to be no adverse impacts that would significantly or demonstrably outweigh the benefits of development. The Appeal Scheme would therefore constitute sustainable development in the context of paragraph 11.

- 11.36 The Appeal Scheme will result in sustainable development that will achieve the three sustainability objectives set out in paragraph 8 of the NPPF. Applications for sustainable development should be supported and approved.

12. CONCLUSIONS

- 12.1 In respect of the development plan, I conclude that Policy SA1 has the most direct relevance to consideration of the Appeal Scheme given it is site-specific and requires that development of the Appeal Site accords with the development considerations laid out in site allocation BSA1201. In my opinion, it is critical to read other relevant development plan policies in the light of Policy SA1 and BSA1201. The other policies plainly fail to be applied in the context of, and consistently with, the principles and parameters set by Policy SA1 and site allocation BSA1201 and cannot properly be used to undermine the allocation.
- 12.2 I find that Policy SA1, with site allocation BSA1201, has 'priced in' an acceptance of inevitable loss of natural assets commensurate with an estimated 300 home development, a loss which is to be mitigated and compensated in accordance with the development considerations under BSA1201.
- 12.3 I conclude that the Council's proposed position that they have a 3.3 year supply of housing land should be disregarded in favour of a land supply of only 2.24 years, which equates to a very substantial supply shortfall of 11,233 new homes.
- 12.4 I conclude that, for the purposes of this appeal, the development plan process has removed the SNCI designation that relates to the Appeal Site. Should the Inspector conclude that the site is still an SNCI, I am of the opinion that the development considerations attached to site allocation BSA1201 provide an appropriate level of protection in any event.
- 12.5 I find that tree and hedgerow loss is avoided insofar as is possible given the site allocation for an estimated 300 homes, and is managed, mitigated and compensated in a way that is compliant with the requirements of policies SA1, DM15, DM17 and DM19.
- 12.6 In respect of tree loss specifically, I conclude that care has been taken to retain trees wherever possible given the housing allocation and associated estimate of 300 homes, that tree loss has been minimised to Category B and C trees, and that Category A trees, identified as being important by Homes England tree survey, are all retained as per the development consideration under BSA1201.
- 12.7 I am of the view that the proposed scheme has been carefully considered in response to the site and its surroundings, by means of an iterative landscape-led masterplanning approach. I do not

agree with the Council's claim that the proposal fails to adhere to the landscape and urban design policy considerations by virtue of excessive damage to the existing features of the site. I have seen no evidence from the Council of what constitutes excessive damage and I do not agree that damage is excessive in the context of an allocated site for the delivery of an estimated 300 homes and the inevitable harm implied within Policy SA1.

- 12.8 I find the Council's claim that approval of the Design Code could prejudice the design delivery of a future scheme not to be sufficient reason for refusal because the Inspector could, if she were so minded, apply a planning condition requiring a revised or replacement Design Code. In my opinion, the Appeal Scheme, at the outline planning stage, responds appropriately and adequately to the policy requirements and expectations of policies BCS21, DM26, DM27 and DM28.
- 12.9 In my opinion, the effects on heritage assets and the historic environment are acceptable and the Appeal Scheme is compliant with policies BCS22 and DM31.
- 12.10 I am satisfied that each of the planning obligations set out in Appendix A of the draft SoCG is necessary, reasonable and related to the development and that will adequately address the requirements of policies referred to by the Council in its fifth reason for refusal.
- 12.11 I find that the Appeal Scheme accords with the development plan taken as a whole, reflecting that Policy SA1 and site allocation BSA1201 are the paramount policy considerations but also taking account of the other relevant policies, and that, having regard to paragraph 11 of the NPPF, this appeal should be allowed.
- 12.12 It is not disputed that the Council is unable to demonstrate a five year housing land supply, rendering the Local Plan out-of-date and bringing paragraph 11(d) of the NPPF into effect. It is my judgement that there is not a clear reason for refusal in respect of the protection of assets of particular importance because none would be harmed by the Appeal Scheme. In the event that the Inspector finds there are additional assets of particular importance, their protection can be controlled by planning condition such that there remains no clear reason for refusal which is in accordance with the provisions of NPPF paragraph 11(d)(i).
- 12.13 In respect of NPPF paragraph 11(d)(ii), the adverse impacts of the proposed development can be adequately mitigated and

compensated through a combination of onsite and offsite measures which can be the subject of planning conditions. The adverse impacts of the Appeal Scheme would not, in my judgement, significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as a whole.

12.14 I conclude that planning permission should be granted.