

22 December 2022

FAO J Mansfield  
Bristol City Council  
Property Planning and Transport team  
Legal Services  
PO Box 3399  
Bristol BS1 9NE

**By email only**

**Email: joanne.mansfield@bristol.gov.uk**

**Womble Bond Dickinson (UK) LLP**

Ballard House  
West Hoe Road  
Plymouth  
PL1 3AE

Tel: 0345 415 0000  
Fax: 0345 415 7900  
DX: 8251 Plymouth 2

james.clark@wbd-uk.com  
Direct: +44 (0)1752 67 7629

Our ref:  
JCB1/JC27/347560.341  
Your ref:

Dear Bristol City Council

**RE: APP/Z0116/W/22/3308537 – Appeal by Homes England against the failure of Bristol City Council (“the Council”) to determine an application for planning permission relating to Land at Broom Hill/Brislington Meadows, Bristol BS4 4NF (“the Site”)**

1. We write further to receipt of the Council’s putative reasons for refusal, its Statement of Case (“**SOC**”) and the officer’s report to the Council’s Development Control Committee B (“**the Committee**”) on 7 December 2022 (“**the OR**”).
2. On 16 December 2022, Homes England’s instructed ecologist, Mr Francis Hesketh of The Environment Partnership, contacted Mr Julian Forbes-Laird, who Homes England understands is the Council’s instructed Arboricultural witness. During that conversation, Mr Forbes-Laird told Mr Hesketh that he believed that there may be veteran trees within the Site which were not indicated as such in the arboricultural assessment undertaken on behalf of Homes England and which may be lost by Homes England’s proposed development. Mr Forbes-Laird did not precisely identify which of the trees on the site he was referring to in this conversation, but sent two photographs to Mr Hesketh by email. Mr Forbes-Laird also stated that he intended to visit the Site again (following return from annual leave) and that on doing so, he may identify further trees which he considers to be veteran trees. Following this conversation, Mr Hesketh sent a plan (a copy of which is enclosed with this letter) of the trees on the Site to Mr Forbes-Laird on the 16 December 2022, and requested that he confirm which trees he considered may be veteran trees (in addition to the one specimen identified by such by Homes England), and asked for information about the location of the trees in the photographs. To date Mr Forbes-Laird has not responded to Mr Hesketh. We understand that this is because he is on annual leave until on or about 4 January 2023. Mr Hesketh has pursued this matter further with the Council’s team and understands from Rupert Higgins (the Council’s instructed ecologist) by email on 18 December 2022 that Mr Forbes-Laird may have been referring to trees in the groups labelled G10 and G24 on the enclosed plan.
3. The Council’s conduct on this issue causes Homes England serious concern and it appears to Homes England that if the Council persists with its current approach, the Council will be acting unreasonably.
4. Following Mr Hesketh’s conversation with Mr Forbes-Laird, Homes England has considered the Council’s putative reasons for refusal. Those reasons make no specific reference to veteran trees (and in particular do not identify any veteran trees which the Council considers will be lost).

Womble Bond Dickinson (UK) LLP is a limited liability partnership registered in England and Wales under number OC317661. VAT registration number is GB123393627. Registered office: 4 More London Riverside, London, SE1 2AU, where a list of members’ names is open to inspection. We use the term partner to refer to a member of the LLP, or an employee or consultant who is of equivalent standing. Womble Bond Dickinson (UK) LLP is authorised and regulated by the Solicitors Regulation Authority (SRA number 449247). Womble Bond Dickinson (UK) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practise law. Please see [www.womblebonddickinson.com/legal](http://www.womblebonddickinson.com/legal) notices for further details.

Homes England notes that the third putative reason for refusal refers to the '*loss and deterioration of Irreplaceable Habitat*' which might be said to include veteran trees. However, Homes England does not consider that such an interpretation is sustainable in light of the OR on which the putative reasons for refusal are based.

5. Homes England notes that the Council's Committee accepted the recommendation in the OR when formulating the putative reasons for refusal. Thus, in accordance with well-established principles, the Committee's reasons can be taken to be those in the OR.
6. On considering the OR, it is apparent that:
  - (a) no concern is expressed about the identification of veteran trees in Homes England's arboricultural assessment;
  - (b) no veteran trees in addition to the single tree identified by Homes England are described;
  - (c) no concern is expressed about the loss of veteran trees (see in particular the section labelled as '*key issue (c)*'); and
  - (d) insofar as the putative reason for refusal refers to Irreplaceable Habitat, it is referring to some of the hedgerows within the Site, not veteran trees.
7. Further, this matter is not illuminated any further by the Council's SOC. At paragraph 3.6.1 there is a generic reference to '*important, ancient and other veteran trees*' but:
  - (a) there is no allegation that Homes England has failed to identify veteran trees within the Site; and
  - (b) no specific trees are identified in this reference.
8. In these circumstances, if the Council proceeds with the argument indicated by Mr Forbes-Laird to Mr Hesketh, Homes England considers that the Council will be acting unreasonably as it will be pursuing an argument that does not form part of the putative reasons for refusal and which is not contained in its SOC. It appears that this is an obvious failure to comply with art. 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This behaviour will be exacerbated by the fact that Homes England will only be notified (if at all) of the true nature of this new argument following Mr Forbes-Laird's return from annual leave and site visit on or about 4 January 2023, i.e. a matter of days before the exchange of proofs of evidence.
9. Accordingly, Homes England invites the Council to confirm by return and in any event no later than **4pm on 23 December 2022** given the deadlines in this appeal that:
  - (a) the Council will not allege that the site contains any veteran trees within the Site (other than the tree labelled as T6 on the enclosed plan);
  - (b) the Council will not allege that Homes England's proposed development will harm or damage any veteran trees within the Site;
  - (c) the Council will ensure that Mr Forbes- Laird's evidence remains within the scope of the putative reasons for refusal, as explained by the OR.
10. We look forward to hearing from you as a matter of urgency.

Yours faithfully

*Womble Bond Dickinson (UK) LLP*

**Womble Bond Dickinson (UK) LLP**

**Enclosures**

1. Drawing Number D7507.43.001 - Tree Removal and Retention Overview

**Copy to**

1. Mr J Legg, Planning Inspectorate
2. Richard Sewell, Bristol City Council
3. Gary Collins, Bristol City Council
4. Francis Hesketh, TEP





KEY

(This drawing must be reproduced in colour)

- Trees, Groups and Woodlands
- Site Boundary
- Trees to be retained
- Proposed tree works
- Trees to be removed
- Trees to be pruned
- Trees in conflict with Masterplan



Rev	Description	Drawn	Approved	Date
-----	-------------	-------	----------	------



Genesis Centre, Birchwood Science Park, Warrington WA3 7BH  
Tel 01925 844004 e-mail tep@tep.uk.com www.tep.uk.com

Project  
Brislington Meadows, Bristol

Title  
Tree Removal and Retention Overview

Drawing Number  
D7507.43.001

Scale  
1:1000 @ A1

Date  
09/12/2022

Drawn AAB	Checked FH	Approved FH
--------------	---------------	----------------