

**Land at Broom Hill / Brislington  
Meadows, Broom Hill, Bristol**

**Rebuttal Proof of Evidence of  
Paul Connelly BA(Hons) Dip UP MRTPI  
on behalf of the Appellant**

**Appeal Ref. APP/Z0116/W/22/3308537**

**Volume 3: Planning Rebuttal Evidence**

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*This document has been prepared and checked in accordance with ISO 9001:2015.*

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## 1.0 Introduction

- 1.1. This rebuttal proof of evidence has been prepared to respond to specific points in the proofs of evidence prepared by Mr Collins on Planning matters and Mr Bhasin on Urban Design matters, both Council Officers. Further, it addresses points raised in the Rule 6 Party statement that was prepared by Mr Taylor, Chair of the Brislington Community Museum. I do not address every point in the evidence of the Council and Rule 6 witnesses, instead I focus on the matters that I consider will most assist the Inquiry. The fact that I have not responded to a specific point should not be taken as a concession or acceptance of the evidence of these witnesses.
- 1.2. I continue to rely on the evidence of Mr Crawford of LDA Design, Mr Roberts of Lambert Smith Hampton and Mr Hesketh, Mr Popplewell and Mr Bassir of The Environment Partnership (TEP) who provide further rebuttal proofs in respect of landscape and urban design matters, housing delivery matters and ecology, arboriculture and heritage matters respectively. The topic-specific rebuttal proofs of evidence in respect of heritage (Mr Bassir) and housing delivery (Mr Roberts) are appended to this rebuttal.
- 1.3. This rebuttal has been prepared on the same terms as my proof of evidence and it remains that the opinions expressed are my true and professional opinions given in accordance with the guidelines of my professional institution, the Royal Town Planning Institute.

## 2.0 The Evidence of Mr Collins

- 2.1. Having considered the evidence of Mr Collins on Planning matters, I find it necessary to comment on a number of his points with regard to the following headings as identified in his proof.

### **Analysis of the Issues in Dispute**

#### ***The Nature of the Submitted Application***

- 2.2. In paragraph 52, Mr Collins states the Council's position that *"...any approval of the Parameter Plans and the Design Code would mean that, despite being technically an Outline application, the form of development would be largely fixed."*
- 2.3. I refer the Inspector to section 4.4 of the proof of evidence prepared by Mr Crawford in which he clearly defines the relatively few design matters that would be fixed by an Outline planning consent and the considerable extent of design flexibility to be resolved through future reserved matters applications. I do not agree with Mr Collins that the form of development 'would be largely fixed' and find the term inaccurate and misleading.

#### ***Reason for refusal 1: Alleged significant harm to biodiversity***

- 2.4. Mr Collins indicates in his paragraph 55 that he has considered the evidence contained within the proof of evidence of Mr Higgins in respect of biodiversity. Drawing on the proof of evidence of Mr Higgins, Mr Collins concludes in paragraph 56 that *"Given the greenfield nature of the allocated site, the principle of some loss of green assets has to be accepted, but the extent of the losses, given the significance of those assets that has been identified, goes beyond what should be permitted."*
- 2.5. Mr Collins has not explained what he means when he states in paragraph 56 that the *"extent of the losses...goes beyond what should be permitted"*. The Council has established 'what should be permitted' in DMP Policy SA1

(ie development of an estimated 300 homes) and accepts that the policy implies inevitable loss of habitat (reference paragraph 56 of Mr Collins' proof). However, Mr Collins has neither defined nor justified the extent of the losses that the Council considers would be permissible and therefore the point beyond which the Appeal Scheme should not be permitted.

- 2.6. Policy DM19(ii) expects development to "*Be designed and sited, in so far as practicably and viably possible, to avoid any harm to identified habitats, species and features of importance.*" Drawing on Section 5 of the proof of evidence prepared by Mr Hesketh regarding the application of the mitigation hierarchy and the design evolution of the Appeal Scheme, I cannot agree with Mr Collins' statement in paragraph 57 that the proposals appear not to have been designed to sufficiently avoid harm to the assets on site in so far as is practicably possible.
- 2.7. Mr Collins alleges in his paragraph 59 that the mitigation hierarchy set out in NPPF paragraph 180a has not been followed. I draw the Inspector's attention to the evidence in Appendix H of Mr Hesketh's proof of evidence which evaluates each ecological feature on site, describes how it has been considered during the design process, and demonstrates the detailed application of the mitigation hierarchy. I find that there is strong evidence of how the mitigation hierarchy has been properly applied and, accordingly, the Appeal Scheme complies with paragraph 180a of the NPPF.
- 2.8. In paragraph 58 of his proof, Mr Collins alleges that "*...an opportunity has been missed to link the main site to the nearby Eastwood Farm Site of Nature Conservation Interest (SNCI) which is therefore contrary to iii of DM19.*" In fact, the Appeal Scheme incorporates an ecological corridor prepared in consultation with, and approved in principle by, the Council's own Nature Conservation Officer (Section 6.0 of Minutes dated 18 November 2020 in CD1.21(a) Annex A). This suggests to me that Mr

Collins has failed to have adequate regard to the planning application as a whole.

***Reason for refusal 3: The loss and deterioration of Irreplaceable Habitat***

2.9. In his paragraph 70, Mr Collins refers to the conclusions of Mr Forbes-Laird (Section 5 of his proof of evidence) regarding the alleged presence of 13 veteran trees, four of which would allegedly be lost and five of which would allegedly deteriorate as a consequence of the proposed development.

2.10. With reference to the opinion of Mr Forbes-Laird, Mr Collins concludes:

2.10.1. in paragraph 73 that this is contrary to DMP Policy DM17 which states that development resulting in the loss of veteran trees will not be permitted; and

2.10.2. in paragraph 71 that the application should be refused in accordance with NPPF paragraph 180c under which development resulting in the loss of irreplaceable habitat (including veteran trees) should be refused unless there are wholly exceptional reasons and a suitable compensation strategy.

2.11. Drawing on the evidence presented in the rebuttal proof of evidence prepared Mr Popplewell (para 7.2), I conclude that:

- i. There is only one veteran tree (T6) on site and it will not be harmed and, consequently;
- ii. there will be no loss or deterioration of irreplaceable habitat, and therefore development complies with both Policy DM17 and NPPF paragraph 180c.

2.12. However, even if the Inspector was to agree with the Council that an additional 12 veteran trees were on site, planning permission should still be granted for either or both of the following two reasons (without

prejudice to Homes England's primary case that those trees are not veteran trees), each of which is sufficient on its own.

Reason 1: The veteran trees can be protected by planning condition

- 2.13. Noting that the Appeal Scheme masterplan layout is only illustrative and that the application under appeal is in outline, I am of the opinion that a planning condition could be included to require that the final detailed design of reserved matters must retain and protect identified trees and their associated buffers should the Inspector conclude that some or all of the additional 12 trees in question are indeed veteran trees.
- 2.14. Homes England has undertaken an exercise to assess the implications of retaining the additional 12 trees alleged by the Council to be veteran trees, on a without prejudice basis. I draw the Inspector's attention to the conclusions of that exercise as evidenced in Section 2.0 and Appendix 7 of the rebuttal prepared by Mr Crawford. Appendix 7 demonstrates the result of this exercise on the housing mix, specifically for the areas in proximity to the trees in question. These schedules of accommodation comparing the submitted masterplan and updated version indicate only minor alterations to housing type and size mix overall which, in my opinion, would remain compliant with Core Strategy Policy BCS18.
- 2.15. It is clear to me from Mr Crawford's findings in respect of the five trees that Mr Collins considers will suffer deterioration and the four trees that Mr Collins considers will be lost (paragraph 70 of his proof), that a practical detailed design solution can be found (if necessary) in the vicinity of each of those trees to ensure their protection without risk of deterioration or loss (Mr Crawford's rebuttal proof of evidence Section2).
- 2.16. The alternative design solutions presented have been prepared in a very short space of time and design will need to be resolved in detail consistent with other reserved matters. However the exercise



demonstrates to me that it will be possible to find workable design solutions that enable the alleged veteran trees to be retained and protected, if required, and such that their retention and protection would not represent an insurmountable impediment to development.

2.17. In the event that the Inspector concludes that some or all of the 12 trees are veteran trees, Homes England proposes the following additional draft planning condition to provide the necessary protections in that event:

2.17.1. *"The development hereby permitted must retain and protect the 13 no. veteran trees and associated root protection areas, as identified on Drawing No. XXXXX."*

2.17.2. *"Prior to approval of any reserved matters applications, the Parameter Plans will be revised to show the veteran trees and their appropriate buffers as identified on Drawing no. xxx and shall be submitted to and approved in writing by the Local Planning Authority."*

and/or

2.17.3. *"Prior to approval of any reserved matters applications, details showing how the veteran trees and their appropriate buffers identified on Drawing no. xxx will be retained, protected and accommodated into detailed design will be incorporated into a revision to the Design Code and shall be submitted to and approved in writing by the Local Planning Authority."*

2.18. I therefore consider that there is an acceptable means of protecting the additional 12 trees in question should the Inspector consider that necessary, and that there will be no loss or deterioration of veteran trees

and that the proposed development therefore complies with both Policy DM17 and NPPF paragraph 180c.

- 2.19. Accordingly, there would be no loss or deterioration to 'Irreplaceable Habitats' (as defined in Annex 2 of the NPPF) or harm to 'assets of particular importance' as defined in footnote 7 of the NPPF.
- 2.20. In the context of the Council's shortfall in Five Year Housing Land Supply, it follows that NPPF paragraph 11(d)(i) will not be engaged and that paragraph 11(d)(ii) will therefore be engaged, which opposes the conclusion of Mr Collins in his paragraph 111.

## Reason 2: Wholly exceptional reasons and Suitable compensation strategy

- 2.21. In the further event that the Inspector does not agree that this matter can be appropriately addressed by planning condition and, therefore, that the provisions of NPPF paragraph 180c apply, I make the following points, without prejudice, in respect of wholly exceptional reasons and suitable compensation strategy.

### *Wholly exceptional reasons*

- 2.22. There is a housing crisis in Bristol. The Council has failed to deliver the housing needs identified in the development plan. The Council has also consistently failed to deliver sufficient homes to meet identified Local Housing Need and has failed the Housing Delivery Test, most recently only achieving the delivery of 74% of homes needed in the past three years.
- 2.23. Despite this, the Council has no plan to deal with the crisis and has opted, without justification, not to use the standard methodology in calculating housing needs going forward, as set out in its Regulation 18 consultation

(CD5.12). In my opinion, there is no certainty or confidence in the Council's ability to address the housing crisis.

- 2.24. The Council's direct response to the housing crisis should be, in my opinion, to support the delivery of development on the sites that it has already allocated for housing, including land at Brislington Meadows which is allocated for an estimated 300 homes, including 30% affordable homes, and will therefore provide a significant contribution of new affordable and market dwellings.
- 2.25. There are no issues with delivery that cannot be adequately and acceptably mitigated or compensated and new homes can be constructed quickly in line with Homes England's purpose as the Government's accelerated housing delivery body.
- 2.26. The Council allocated the site under DMP Policy SA1 because of its highly sustainable location. The proposed development will deliver multiple and considerable benefits to the neighbourhood, as set out in section 11 of my Planning proof of evidence.
- 2.27. There is no mention of veteran trees in the allocation, nor were veteran trees mentioned in the Tree Preservation Order (TPO 1404), nor on Homes England's site visit with Matthew Bennett, the Council's Tree Officer (6 October 2020). A general reference to 'ancient and veteran trees' was made in the Council's pre-application letter (CD7.1) but without reference to specific trees. In fact, the details of the alleged veteran trees were only presented to Homes England by Mr Forbes-Laird on 11 January 2023. It is exceptionally late in the outline planning application process for the Council to allege the existence of veteran trees and this adds to the wholly exceptional reasons why this development should not be refused under NPPF paragraph 180c.

## *Suitable compensation strategy*

2.28. A suitable compensation strategy (if necessary) is outlined in the rebuttal proof of evidence prepared by Mr Popplewell (Section 8, para 8.30-8.52) and would include:

- i. Tree VH4: Translocation of the dead stems to retained habitat on the southern boundary;
- ii. Trees VH1, VH5 and VH6: live translocation of lower stem and root ball after a period of formative crown-pruning and crown reduction, to retained habitat on southern boundary. Although survival cannot be guaranteed, the retention of the boles in a woodland setting will ensure the developing decay features continue to be available to invertebrates and fungi;
- iii. A veteranisation programme which will create wound sites and holes on mature retained hawthorns, to create at least double the number of lost features in terms of number and extent;
- iv. Collection and bundling of dead wood >10cm from any areas of hawthorn to be lost for development, with it being placed in retained habitat in hedge H1;
- v. Collection and bundling of lower stems to 1.5m of any other hawthorn lost to development, with the stems being placed in retained habitat; to a total biomass of at least double the biomass of the four stems to be lost;
- vi. Measures to encourage the development of biodiversity and habitats of the type associated with veteran trees within remaining hedgerow, including bird and bat box, log pile and refugia creation;
- vii. Inclusion of retained veteran trees in a veteran tree habitat management plan, as a subset of the LEMP already required under planning condition.
- viii. For each veteran hawthorn lost, new planting of individual hawthorn trees in accordance with the Bristol Tree Replacement Standard, on site or at a location to be agreed with the Council;

- ix. The commitment to 10% biodiversity net gain already exceeds adopted policy and, for hedgerows, can be delivered through an on site increase in net length of hedgerows of at least 347m. These will include hawthorn as a significant component of the mix.

- 2.29. I consider that the points set out in this sub-section of my rebuttal confirm that wholly exceptional reasons and suitable compensation strategy required by the provisions of NPPF paragraph 180c can be demonstrated, in the event that the Inspector does not agree that this matter can be appropriately addressed by planning condition.
- 2.30. Accordingly, and with reference to NPPF paragraph 11(d)(i), paragraph 180c does not provide a clear reason for refusing the proposed development.
- 2.31. When considering the tilted balance under NPPF paragraph 11(d)(ii), and with reference to the potential implications of retaining the alleged veteran trees on the quantum of homes delivered (section 2.0 of Mr Crawford's rebuttal), the reduction in the number of homes would appear to be limited to circa 20 units, equivalent to approximately 7-8% of the proposed total.
- 2.32. Even delivering a reduced number, I find that the benefits of the proposed development would remain very considerable and consistent with those set out in section 11 of my proof of evidence. The harm resulting from the development would be reduced by retention and protection of the alleged veteran trees. Overall, I consider there to be no adverse impacts that would significantly or demonstrably outweigh the benefits of development in the context of NPPF paragraph 11.

## **Planning Balance and Conclusions**

### ***Principle***

- 2.33. The Council accepts that it cannot demonstrate a Five Year Housing Land Supply. In his paragraph 86, Mr Collins refers to the separate Five Year Housing Land Supply Statement of Common Ground (SoCG) being drafted by the parties specifically on this subject and the latest draft he attached as Appendix B to his proof. He concludes that *"The current difference in position between the parties is not significant."*
- 2.34. I draw the Inspector's attention to paragraph 4.1.2 of the Five Year Housing Land Supply SoCG in which the Council's position is that they can demonstrate a land supply in the range of 2.6 to 3.3 years. I consider the higher end of that range to significantly differ from Homes England's position of a 2.24 year housing land supply as referenced in paragraph 4.1.3 of the same document.
- 2.35. Further, the Council invites the Inspector to consider, in section 5 of the Five Year Housing Land Supply SoCG, a land supply of 3.9 years which represents an even more significant difference between the parties.

### ***Benefits of the Appeal Proposals***

- 2.36. I disagree with Mr Collins' assertion in paragraph 97 that s106 contributions bring no benefit because they simply neutralise adverse effects. In my opinion, enhancements to public transport facilities will be of benefit to the existing community and therefore provide benefit that goes beyond straightforward mitigation of effects.
- 2.37. The same applies to highway safety measures implemented under s278 which would bring benefit to the existing residents of Broomhill and Brislington.

## **Other matters of clarification or correction**

### ***The Development Plan***

2.38. Regarding the Council's estimated site capacity of 300 homes, in paragraph 37, Mr Collins says the planning application process will "...*further refine the true capacity of the site...*" as the estimate in the allocation was "*very broad brush*". I note in paragraph 6.20 of Mr Bhasin's proof of evidence that "*the estimated number of 300 units...was based on a high level desk top assessment*" which, whilst still strategic, suggests that appraisal was more than 'very broad brush'. I return to this point in section 3 below.

### ***Other Relevant Material Considerations***

2.39. In respect of the emerging Local Plan, I suggest that Mr Collins' statement in paragraph 46, in which says that the suggested deallocation of the Appeal Site "...*demonstrate[s] a possible future in which the development of the site for housing is not required*" is misleading. Inclusion of a proposal to deallocate the site in the Regulation 18 Consultation does not, in my opinion, demonstrate anything, in particular in the absence of a Sustainability Appraisal that might otherwise provide some evidence behind the draft proposals.

2.40. Further, I cannot agree that the emerging Local Plan credibly demonstrates a possible future that requires no housing delivery on the Appeal Site in the absence of any coherent strategy as to how the housing needs of the Council are to be met in a way that complies with national policy and guidance. As evidenced in the section 6 of the representations made by Homes England to the Council's Local Plan Review Regulation 18 consultation (attached as Appendix A to this rebuttal), the Council has opted not to use the standard method for calculating housing needs and has proposed instead to use an alternative approach, an approach which

is clearly contrary to national policy and guidance without identifying the exceptional circumstances that would justify that departure.

- 2.41. By reducing housing need and pursuing a strategy which mirrors the failed delivery of recent years, the problems within the housing market will not be resolved and Bristol will continue to be an unaffordable place for people to live. The Council's failure to plan for the correct number of homes, a number that should be identified by using the standard method, will exacerbate the housing market issues seen in Bristol today.
- 2.42. With reference to paragraphs 6.6 and 6.7 of Homes England's representations to the Council consultation, in the absence of an appropriate estimate of housing need and an identified supply of sites to demonstrate capacity to deliver the homes needed, the Council cannot justify removing existing allocated housing sites from the next Local Plan.



## 3.0 The Evidence of Mr Bhasin

- 3.1. Having considered the evidence of Mr Bhasin on Urban Design matters, I find it necessary to comment on his points with regard to the following headings as identified in his proof.

### **Excessive disruption to the existing trees and hedges**

- 3.2. Mr Bhasin states that *"The estimated number of 300 units in the allocation is based on a high level desk based assessment which was not informed by detailed site assessments. It does not assess form, location or extent of development..."*. Homes England has requested a copy of the high level desk based assessment from the Council but has not received a response at the time of writing this rebuttal.
- 3.3. Mr Bhasin provides little, if any, detail of this 'high level desk based assessment' but in my view any such assessment undertaken by a competent planning professional must have taken fundamental constraints to development into account when applying its estimate to the site allocation capacity, in particular since the development considerations attached to the allocation reflected those very constraints.
- 3.4. Further evidence that the site allocation's 300 home estimate already takes account of a substantial level of harm to on site assets, and therefore bakes acceptance of that harm into the allocation, can be found in the Council's Sustainability Appraisal Main Report: Site Allocations and Development Management Policies (March 2013) (CD 8.3), as referenced in Housing Delivery Rebuttal Proof of Evidence prepared by Mr Roberts (Appendix B of my rebuttal).
- 3.5. Mr Roberts records in paragraph 2.2.8 that the Appeal Site is located in the 'Suburban' housing density assumptions area, and that a density of 65 dwellings per hectare (dph) was applied to the site by the Council. As

referenced in paragraph 2.4.3 of the Housing Delivery rebuttal, the application of the 65dph density assumption to the site allocation area of 9.1 hectares equates to 591.5 homes and yet the capacity of the site, following high level desk based assessment, was estimated at 300 homes; almost half of what a basic application of the Council's assumed density would deliver.

- 3.6. In the absence of evidence from the Council that might suggest otherwise, I agree with the assumption made by Mr Roberts in his paragraph 2.4.3 that the Council's estimate of 300 homes takes account of potential constraints identified through the Sustainability Appraisal process. That demonstrates to me that the Council's estimate of 300 homes for site allocation BSA1201 did take account of constraints to development and that the allocation and estimated number of homes does, therefore, assume and accept harm to site assets.

## 4.0 The Evidence of Mr Taylor

- 4.1. Having considered the evidence of Mr Taylor on Heritage matters, I find it necessary to comment on a number of his points with reference to the following paragraphs in his proof.

### Paragraph 1

- 4.2. Mr Taylor finds it "...reasonable to assume there have been millennia of continuous occupation of this area, with the meadows playing an active role throughout" but that assumption does not appear to be evidenced. I draw the Inspector's attention to paragraph 1.2 of the rebuttal proof of evidence prepared by Mr Bassir and attached to my rebuttal as Appendix C in which he makes the more evidenced statement that "No archaeological features post-dating the Roman period were identified during the trial trench evaluation and as such there is no known archaeological evidence for occupation or activity at the site between the end of the Roman period and the post-medieval period."

### Paragraph 4

- 4.3. It appears to me that Mr Taylor's suggestion that a site of glassmaking workshops is probably located within the Appeal Site is not sufficiently evidenced. Drawing further on the evidence prepared by Mr Bassir and attached as Appendix C to this rebuttal, I consider that, whilst the Appeal Site has the potential to include archaeological remains associated with glassmaking, the presence of a glassmaking facility is not definitive based on the evidence prepared.

### Paragraph 6

- 4.4. In my opinion, Mr Taylor makes another un-evidenced assumption in paragraph 6 when he states that "*The meadows have been preserved as agricultural fields since the end of the Roman period.*" As Mr Bassir

makes clear in paragraph 1.9 of his rebuttal proof: *"There is at present no clear evidence of land use at Brislington Meadows between the Roman and post-medieval period."*

### **Paragraph 13**

In paragraph 13, Mr Taylor makes a number of unevidenced points which I consider likely to be outside of his professional scope including reference to *"so many alternative brownfield sites [that] are available for housing development"* when the Appeal Site is an allocated housing development site. Mr Taylor also infers that development of the Appeal Site would in some way undermine the desperately needed health benefits provided by the site in its current condition. I consider the health benefits of developing the site for housing to be advantageous as a consequence of the provision of accessible open spaces and accessible walking and cycling routes within and through the site which will benefit all users.