

Examination of the Bristol Local Plan Review 2020–2040

Matter 13: Built Environment

On behalf of Watkin Jones (Consult ID: 437)

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1. Introduction

- 1.1. This Hearing Statement has been produced by Pegasus Group on behalf of our client, Watkin Jones. It focuses upon the Inspectors Matters, Issues and Questions which relate our client's previous representations.
- 1.2. It is understood, due to the transitional arrangements set out within paragraph 230 of the December 2023 NPPF, that the plan will be examined against the September 2023 of the NPPF. All following references made to the NPPF are to the September 2023 version, unless otherwise stated.
- 1.3. Our client wishes to ensure that the emerging Bristol Local Plan 2022–2040 is prepared in a robust manner that passes the tests of soundness contained in paragraph 35 of the 2023 NPPF, namely that the plan is:
 - Positively Prepared;
 - Justified;
 - Effective; and
 - Consistent with national policy.
- 1.4. Our client submitted representations to the various stages of plan production including the 'Proposed Submission (Regulation 19)' and the 'Proposed Submission Addendum' version.
- 1.5. Watkin Jones has a number of interests in Bristol across several key regeneration areas. Our client is generally supportive of the plan and considers that it is largely fit for purpose but requires modifications to ensure it is found to be sound.
- 1.6. Our client is a national residential and mixed-use developer with an excellent track record of delivering high-quality sustainable developments within this area. Watkin Jones develop a range of housing including traditional housing, as well as Purpose Built Student Accommodation (PBSA), Build to Rent (BtR) and Co-Living accommodation.

2. Response to the Inspector's Matter 13 Issues and Questions

2.1. We welcome the opportunity to comment on the Inspector's Matters, Issues and Questions (MIQs) and provide the following responses to selected questions. Our client reserves the right to respond to specific issues raised by the Council and other parties within the hearing session in so far as they relate to our previous representations.

2.2. Watkin Jones only wish to make comments on Policy CHE1 under this matter.

Issue 13.1: Whether policies DPM1, DC1-DC4, CHE1 and AD1 are justified, effective and consistent with national policy.

Design

Policy CHE1: Conservation and the historic environment

Q13.6: Is Policy CHE1 justified, effective and consistent with national policy? In particular:

a) Is the policy consistent with the NPPF and legal requirements relating to the historic environment where necessary, in respect of each part of the policy? Is the policy consistent with paragraph 202 of the NPPF in relation to the assessment of where less than substantial harm should be weighed against public benefits?

2.3. No, the policy is not justified, effective or consistent with the NPPF and legal requirements relating to the historic environment.

2.4. The policy is not consistent with the NPPF as follows:

- i. The applicable heritage tests set out in the NPPF are only applied in the form of the text from parts (a) – (d) of paragraph 201 under the heading 'Conserving heritage assets'. These are however applied to heritage assets as a whole ignoring the role of Paragraph 203 in distinguishing between 'designated heritage assets' in paragraphs 199–202 and 'non-designated heritage assets' at paragraph 203 of the Framework.
- ii. The policy does not distinguish between 'substantial harm' and 'less than substantial harm' to designated heritage assets set out at paragraphs 201–202 and the operative tests therein.
- iii. No public benefits balance assessment is allowed for as per paragraph 202 for 'less than substantial harm' to 'designated heritage assets', or planning balance assessment as per paragraph 203 for 'non-designated heritage assets'.
- iv. Taking account of the above, the policy in 'Conserving heritage assets' as read applies to all heritage assets and their setting subject to any effect, regardless of the degree of harm, when under Paragraph 201 of the NPPF this applies to only 'designated heritage assets' that are subject to 'substantial harm' or 'total loss'. This is therefore far in excess of the expectations envisaged by the NPPF where the criteria would not apply to most heritage interactions.

- v. The policy does not distinguish the 'exceptional' and 'wholly exceptional' justifications required based on the nature of the asset under paragraph 200.
- vi. The policy in discussing 'Recording the asset' does not make allowances for proportionality at paragraph 205, thereby obligating a programme of recording for *any loss to any heritage asset*.

2.5. The policy is not consistent with the legal requirements of *The Planning (Listed Buildings and Conservation Areas) Act 1990* as follows:

- i. The phrasing throughout the policy represents an overly restrictive interpretation of the duties under Sections 66(1) and 72(1) of the above act, that require 'special regard' for listed buildings and 'special attention' for Conservation Areas. This differs from 'no harm', which amounts to the position of the policy.
- ii. Reference to 'setting' should be redrafted to better reflect that setting is not an asset under the above act, and not referenced at all in respect of the duty under Section 72(1), but something that can contribute, detract from or have a neutral influence on the significance of an asset.
- iii. The reference to 'vicinity' under 'Listed Buildings' infers a degree of close proximity. This is arguably at odds with Section 66(1) of the above act – e.g. a designed view could impact from distance.

2.6. The consequence is that the policy also fails the following tests of soundness beyond consistency with the NPPF:

- Justified – in that the tests set out by the policy exceed those required by the NPPF and legislation and are therefore disproportionate; and
- Effective – in that the policy is not clear as further discussed below.

2.7. It is recommended that modifications be made to the policy as follows:

- i. The policy be redrafted to align it with the NPPF tests at paragraphs 199–203 of the Framework;
- ii. That the word 'vicinity' is replaced with 'setting'; and
- iii. That clarification is made that 'setting' within the policy refers to "any aspects of their setting which contribute to their interest as a heritage asset".
- iv. The text under 'Understanding the Asset' is replaced with the following:
"Development proposals that would affect heritage assets will be expected to demonstrate, by a thorough understanding of the significance of the asset, how any change proposed would conserve, enhance (where appropriate) or harm that significance. Where the changed proposed would result in harm to the significance of the asset, the level of harm and how this arises should be clearly articulated."



b) Is the policy clear and unambiguous about how the decision maker should react to development involving i) archaeology, ii) listed buildings; iii) conservation areas, iv) Registered historic parks and gardens and v) locally important heritage assets as well as vi) Buildings at Risk?

- 2.8. The framing of the policy is unclear, in so far as separate tests are applied to each heritage asset class at odds with the NPPF tests and not fully consistent with *The Planning (Listed Buildings and Conservation Areas) Act 1990* as set out above.
- 2.9. This results in conflicting policy prescriptions that countenance no harm before assessing 'affecting the significance of a heritage asset' inferring the allowance of harm, yet prescribing no balancing of harm as set out under the NPPF tests referenced above.
- 2.10. It is recommended that the supporting text to the policy at paragraph 13.2.7 be modified as follows:
- i. Be split into two paragraphs to distinguish between 'designated' and 'non-designated' assets.
 - ii. Both sections should then simply list respective assets under each category to make this clear and readily understood by the reader.

d) Are the Council's proposed modifications set out in their response to PQ157 in respect of heritage statements necessary for soundness?

- 2.11. This is considered necessary to ensure consistency with the NPPF.

e) Is the Council's proposed modification set out in their response to PQ159 in respect of PPS5 necessary for soundness?

- 2.12. This is considered necessary to correct an outdated policy reference.

1,112 words

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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