LDĀDESIGN

Response to Matter 10: Biodiversity and Green Infrastructure

Written Statement on behalf of Homes England
March 2025

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Comment FINAL

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

Issue 10.2: Whether the Plan's policies on open space and green infrastructure are justified, consistent with national policy and effective

Policy GI2: Reserved Open Green Space

Q10.17: Is Policy GI2 justified, consistent with national policy and effective, including:

a) Are areas of Reserved Open Green Space identified on the policies map justified?
b) Is the policy consistent with paragraph 99 of the NPPF in relation to the assessment of the loss of open space?
c) Paragraph 9.2.16 refers to the policy approach allowing local communities to consider and review the approach to open spaces in their areas. Does this refer to anything other than review through future Local Plans or Neighbourhood Plans?

1.1 This Written Statement is made with regards to Homes England's interest in land at Brislington Meadows which has outline planning permission for up to 260 homes. This site is shown on the submitted policies map[1] as Reserved Open Green Space and a Site of Nature Conservation Interest, with annotations over the top to denote reference to the planning application 22/01878/P (see Policies Map P32 'Brislington South'), which was granted following an appeal of non-determination (appeal ref. 3308537). We therefore comment on the appropriateness of this approach with regards to the Questions set by the Inspector under Matter 10.

1.2 We have not commented explicitly on Part C of Q10.17 as it is considered this is for the Council to respond to.

[1] CSD003 Bristol Local Plan Policies Map Publication Version (November 2023)

Are areas of Reserved Open Green Space identified on the policies map justified?

1.3 Allocating land that has an extant planning consent as a Reserved Open Green Space (ROGS) is not sound as it introduces ambiguity for the decision-maker as to how to interpret future reserved matters applications for that site. This is inconsistent with NPPF paragraph 16(d)[2] which states that 'plans should…contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals'.

1.4 As written, Policy G12 would suggest decision makers should treat planning applications for development on the designated ROGS as being unacceptable in principle. For the Brislington Meadows site, where future reserved matters applications will come forward, this policy position would be in direct conflict with the fact that the principle of development at this site has been determined as acceptable by virtue of the grant of planning consent at Appeal (ref. 3308537) and with regard to the preceding, adopted Local Plan allocation. We summarise the extensive planning history associated with this site, including Homes England's acquisition of the land to help with the delivery housing at the request of the Council in 2015, in our Regulation 19 representations (ID: 231).

1.5 The way that Policy Map 32 is drawn similarly does not provide sufficient clarity to the decision-maker. Policy Map 32 shows the consented development as a boundary that is overlaid on the ROGS designation, but as this is not included as a formal development allocation, and there is no further guidance in the Map legend as to what this means or how this consented development designation should be treated. It is not clear to the decision-maker what the implications of this are for consideration of detailed applications that relate to this land in the context of the competing requirements of the consent and Policy GI2. This therefore results in an ambiguous policy, contrary to NPPF paragraph 16(d).

1.6 It is notable that this approach to drawing the Policy Map has not been taken for sites elsewhere in the Plan area that have planning consent or were previously allocated; these have been clearly shown as development allocations thus avoiding ambiguity in how they should be treated. It is assumed that this inconsistent approach to drawing the Policy Map is a legacy from the earlier Regulation 18 version of the Local Plan (Bristol Local Plan Review: Draft Policies and Development Allocations - Further Consultation (November 2022)), when the outcome of the application was not yet known. Paragraph 11.22 of the November 2022 Local Plan Review stated that, '*at the time of this consultation a planning application had been made for residential development. The application will be determined in accordance with planning legislation. The next stage of the local plan will reflect the outcome of that application'*. This has not been done by the Council and now that the outcome of that

[2] All references to the Framework are made to the September 2023 version, as the Plan is to be examined against (as confirmed in IN1 – Inspectors Guidance Note for the Examination)

application is known, and consent has been granted, the Policy Map should be updated in order to provide the necessary clarity needed in the context that there is an extant planning permission and the conflicting ROGS should be removed for this Site.

1.7 We note that in their response to the Inspector's Document IN2 (Preliminary Questions) (document reference EXA024) and response to the Inspector's Document IN3 (Supplementary Preliminary Questions) (document reference EXA036), BCC has sought to provide reasoning for the removal of Brislington Meadows as a development allocation, which raise significant questions about how they anticipate the G12 policy to be applied in the context of future reserved matters applications. In response to PQ17 of document reference IN2 (in EXA024), BCC try to clarify that the reason the Brislington Meadows Site was not brought forward as an allocation from the current Local Plan was because 'a change was considered necessary to reflect the greater priority for biodiversity required in response to the declaration of the ecological emergency by Bristol's One City partners in 2020'. The response goes on to state that:

> '*it was considered that it would be more appropriate for the existing site allocation to be discontinued and* ***for the site to be retained as open space with nature conservation interest.*** *[…] Since this time outline planning permission for 260 homes on the site has been granted on appeal (planning application reference 22/01878/P – decision dated 17 Apr 2023). This permission is annotated for information on the publication version of the policies map where the site is proposed for designation as reserved open green space and shown as a site of nature conservation interest*' (emphasis added).

1.8 BCC's response to SPQ5 of document reference IN3 (in EXA036), adds that, *'The proposal to remove these existing allocations [including BSA1201] reflects the greater priority for biodiversity required in response to the declaration of the ecological emergency outlined above. Instead of development allocations with provisions for mitigation and compensation of impacts on biodiversity,* ***the proposed approach was that the sites should not be developed'*** (**emphasis** added).

1.9 This suggests that the Site has been designated as a ROGS with the purpose of retaining the entire Site as open space and free of development, which represents a fundamental incompatibility with the delivery of the outline planning consent and the determination of future reserved matters applications. Simply annotating the permission 'for information' does not provide the appropriate and necessary steer on how to apply this policy and is not appropriate. Evidently this would not provide the decision-maker with the required clarity on how they should respond to proposals as required by NPPF paragraph 16(d). In any case, the determination of the Appeal that the site is acceptable for development was made in the context of BCC having declared the ecological emergency. There has been no material change in the condition of the Site since the time it was first allocated in the adopted Local Plan or in the time since outline planning permission was granted for the development of the

Site and the planning policy position should clearly be updated to reflect the current planning history of the Site. See our further comments on the assessment of the ROGS designation below.

1.10 While it is acknowledged that Policy G12 is not designating 'Local Green Space' (LGS), we argue that the principle in Planning Practice Guidance on the use of an LGS protection 'rarely being appropriate' in the case where land has planning permission for development should be similarly applied for the ROGS designation in order to be consistent with national policy, in line with NPPF paragraph 35(d), as it is seeking similar outcomes, i.e. to protect green space from development.

1.11 In order to be sound, no part of the red line boundary for the development consented under application 22/01878/P should be allocated as ROGS. It should be noted that the boundary shown on Policy Map 32 does not accurately reflect the approved red line boundary of the planning permission in any event. Any subsequent amendments to the Policy Map should be based upon the correct red line boundary for the approved application.

1.12 The designation of the ROGS in this location risks frustrating the delivery of a planning permission for 260 houses; the proposed delivery of which was afforded 'substantial positive weight' by the Inspector in his decision of the Appeal (ref. 3308537), and which must take primacy in terms of the application of other development management policies. This is in conflict with the test of soundness set out in NPPF paragraph 35(a), which requires plans to be positively prepared and at a minimum seeks to meet the area's objectively assessed needs. Please refer to our Regulation 19 representations (ID: 231) for detailed commentary on the contribution that this site makes to the Council's housing need.

1.13 Notwithstanding the point that planning policy should not be prepared on the assumption that a consented (or allocated) use will not be delivered, we can confirm that delivery of the site is proceeding.

1.14 Following the grant of outline planning permission in April 2023, Homes England progressed a two-stage procurement process to secure a preferred developer to accelerate delivery of the site. The process utilises the agency's Development Partner Dynamic Purchasing System which is a framework of pre-approved developers. The site has been marketed on a conditional basis, including securing Reserved Matters consent, through an Agreement for Lease and subsequent Building Lease. This is a long established disposal route which means the freehold is retained by Homes England throughout the build process, to enable control over matters such as the quality of the development and timescales for delivery. 15 developers submitted a positive Expression of Interest in developing the site and subsequent high quality bid submissions clearly demonstrated strong market appetite for implementing the consent. Following evaluation, Homes England approved the selection of a preferred developer, and under-bidder (in the event that the preferred bid doesn't proceed), in August 2024, and contractual terms are now very close to agreement. The submitted/updated programme from the developer will see a Reserved Matters

application for up to 260 homes submitted by November 2025, with an anticipated start on-site in July 2026.

1.15 It is noted that the Strategic Housing Land Availability Assessment (SHLAA) 2023 Site Trajectory Table (doc ref: EXA024d) which supports the SHLAA (updated in April 2024; document reference: EVEH01), does not appear to list this site as a consent counting towards the area's housing supply. This is despite the fact that the outline permission was granted in April 2023 and despite the fact that the SHLAA states, 'The Bristol Residential Development Survey identifies all sites in Bristol with planning permission as of April 2023. In accordance with national Planning Practice Guidance, sites with planning permission have been assessed as suitable, available and achievable' (paragraph 4.3) and, 'sites with outline planning permission only have been assumed as deliverable within years 6-10' (paragraph 4.5). It has not been possible to find the Residential Development Survey and it is unclear as to why this site has not been included in the trajectory given its status as an outline planning permission. This is inconsistent with the approach taken for other sites listed in the Site Trajectory Table which were granted outline permission after April 2023. This further demonstrates that BCC perceive the proposed designation of the ROGS as overriding the status of the outline planning permission which is counter to a positive approach to preparation of the Local Plan and the Plan fails to properly acknowledge the status of the site with an extant and deliverable consent.

Is the policy consistent with paragraph 99 of the NPPF in relation to the assessment of the loss of open space?

1.16 The justification for the allocation of ROGS as a whole does not appear to be supported by sufficient evidence to justify the proposed individual designations.

1.17 Paragraph 98 of the NPPF states that planning policies should be based on robust and up-to-date assessments of the need for open space and opportunities for new provision. It goes on to state that information gained from assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate. The Local Plan is supported by the evidence in the Parks and Green Space Strategy – Main Document and Appendix March 2024 (document references: REL008 and REL008a). This provides evidence for open space matters including provision levels and standards for open space in quality, quantity and distance, but does not provide an explicit link between its findings and the choice of sites for allocation for ROGS, nor does this link appear to be included in documents elsewhere, which is inconsistent with NPPF paragraph 98.

1.18 The Local Green Spaces and Reserved Open Green Spaces Topic Paper (document reference: TPC005) presents, in loose terms, a "methodology" for the assessment of open spaces for designation as ROGS. The Topic Paper notes that this constitutes sites that 'are defined as open spaces in NPPF terms' and 'are those that hold current public value and are likely to include elements such as public access and local visual amenity.' It is further stated that, 'these spaces have been broadly assessed against

the terminology within the PPG'. Whilst not clear, it is assumed that this is referring to the PPG guidance paragraph on 'How should open space be taken into account in planning?' (Paragraph: 001 Reference ID: 37-001-20140306). Table 3 in the Topic Paper presents 'ROGS characteristics' and it is assumed that it is this that represents the criteria against which open spaces were assessed.

1.19 The Topic Paper does not, however, present individual assessments of how each proposed ROGS allocation performs against the ROGS characteristics criteria. It is therefore not clear what justification is given for the allocation of the individual ROGS sites, nor to what extent this assessment has taken into account site-specific circumstances that might mean that designation is not appropriate. In the case of Brislington Meadows, there is no clear justification given for designating this location as ROGS in the context of it having been allocated for development in the previous Local Plan and where there has been no material change in the condition or circumstance of the Site since that time. Nor is there justification for designation as a ROGS having regards to the Council's methodology or in the context of the site having an extant and deliverable planning permission. As such this is inconsistent with NPPF paragraphs 98 and 35.

Policy BG2: Nature Conservation and Recovery

Q10.4: Are areas or sites identified as SCNI justified and based on robust and up-to date evidence?

1.20 Through the determination of the Appeal (ref. 3308537) the Inspector established that the principle of development at the Brislington Meadows site is acceptable. The decision to allow the Appeal was made in the context that there was a lack of clarity on the formal status of part of the Site as an SNCI (due to this not being shown on the adopted Policy Map[3]), and as such made the assumption that this land was an SNCI (see paragraphs 106-107 of the Appeal Decision). In this context, the Inspector concluded that the site allocation (BSA1201 of the Site and Development Management Plan) would take primacy over the other protective policies of the plan where there was a conflict, and granted outline consent for the development. The decision took into account that the development sought to minimise ecological harm within the context of the allocation policy, and that suitable mitigatory and compensatory measures were proposed. Furthermore, it was acknowledged by the Inspector that a Biodiversity Net Gain (BNG) of 10% was proposed, and the Inspector placed significant positive weight on this factor.

1.21 In the absence of there being a site allocation for the development permitted by the Appeal, the identification of the site as a SNCI on Policy Map 32 with an equivocal reference to the extant outline planning permission serves to introduce an ambiguous policy position for the decision-maker when making decisions on reserved matters

[3] Site Allocations and Development Management Policies Map (adopted July 2014)

applications (notwithstanding the point that any determination on reserved matters applications cannot revisit the principle of the development that has been established through the outline planning consent). This is contrary to paragraph 16(d) of the NPPF and the Council's approach is not clear or justified.

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