

Response to Consultation for Bristol Local Plan 2025

Matter 10 – Open Space

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There is a significant concern that by changing the designations protecting open space in the new local plan, some existing open spaces will lose their protection, and that these changes are not sufficiently appreciated.

Open Space Protections 2014 - 2025

In the 2014 Local Plan, BCC used the designation of “important open space” to underpin planning protections (in particular under policy DM17). This approach was despite the introduction of the NPPF in 2012, and the 2014 Inspector was critical both of some of the allocations (making main modifications) as well as (implicitly) the lack of a clear evidence base (paras 90-93).

In the 2019 *Local Plan Review* on Open Space, the Council proposed introducing the NPPF’s Local Green Space (LGS) category, using the then NPPF definition. In the new draft local plan LGSs are to be protected by policy GI1.

In 2019, the Council also proposed introducing a Reserved Green Space (RGS) category for ‘open spaces of importance that are considered appropriate for proportionate policy protection in the local plan’ many of which were not publicly accessible (e.g., playing fields and allotments) but contributed to visual amenity and fell within the NPPF definition of Open Space in Appendix 2. ROGS are to be protected by policy GI2 in the draft plan.

BCC later introduced a third category “*Incidental Open Space*” (which had been flagged but not explained in the 2019 Consultation) including ‘a variety of smaller spaces that may be considered to be locally important in terms of the character of the area’. IOS designations are to be protected by policy GI3.

While the local plan process should pay attention to the suitability of the categories and the wording in each of the policies, the Inspectors should also note that in moving from *Important Open Spaces* to the new three categories, according to the Bristol Tree Forum, it appears that a [significant number of sites](#) that were previously protected as open spaces, will no longer have planning protection.

There may good reasons for these decisions to effectively de-designate sites as open spaces. It may be that the list compiled by the BTF is not accurate – as a citizen I am not able to assess this in a way that I would like to do – this is one of my concerns.

The NPPF (formerly para 99, now 104) is quite clear that existing open spaces, sports and recreational buildings and land, including playing fields and formal play spaces,

should not be built on unless an assessment has been undertaken which has clearly shown that the open space, buildings or land are surplus to requirements.

Such an assessment was undertaken by BCC prior to the 2008 PGSS.

While the 2019 *Bristol Local Plan Review: New Protections for Open Space* consulted on such an assessment for sites to be included as either LGS or ROGS (Incidental Open Space did not yet exist as a category), the 2019 document did not consult on those sites previously designated as Important Open Spaces, which are no longer to receive planning protection as LGS or RGS. That is, while the assessment covered sites that were 'included', designated as LGS or RGS, it did not cover sites that were 'out'.

This does not appear to meet the requirements of para 99 (104) NPPF.

Assessing the detail of which sites are missing is beyond my level of expertise but the Bristol Tree Forum (BTF) have used GIS technology to investigate these changes. They estimate that of the 520 Important Open Spaces, covering over 2000 hectares, that are currently protected, with the new local plan removing protection for 84 sites, covering 43 hectares. BCC has given no explanation for why these sites do not meet the criteria for designation as LGS, ROGS or Incidental OS. These figures may not be correct – it is beyond my expertise to assess this – but as a citizen I am not sure that I should be required to undertake or understand a GIS assessment of which open spaces are to lose planning protection. Surely this is the Council's task to identify and explain?

In addition to failing to comply with the NPPF, this appears to breach fundamental rules on consultation. These are conventionally set out as the 'Gunning principles', approved by Lord Woolf, in *Coughlan*, citing *R v Brent London Borough Council, Ex p. Gunning* (1985) 84 L.G.R. 168. What is required is a "fair opportunity for those to whom the consultation was directed adequately to address the issue in question" (per McCombe LJ in *Keep the Horton General v Cherwell DC* [2019] EWCA Civ 646). Fairness in consultation is consistently confirmed in caselaw, see e.g., *R. (on the application of Medway Council) v Secretary of State for Transport, Local Government and the Regions* [2002] EWHC 2516 at [28]; *R. v North and East Devon Health Authority Ex p. Coughlan* [2001] Q.B. 213 at [108] *R. (on the application of Edwards) v Environment Agency* [2006] EWCA Civ 877 at [90]–[94], [102]–[106] (affirmed [2008] UKHL 22; [2008] 1 W.L.R. 1587); *R. (on the application of Greenpeace Ltd) v Secretary of State for Trade and Industry* [2007] EWHC 311 at [61]. See de Smith *Judicial Review* 9-069.

While it might be possible to change some of the protections removed from these sites by way of main modifications, this can itself give rise to successful claims that there was a lack of proper consultation (see *Jopling v Richmond LBC* [2019] EWHC 190 (Admin)).

The removal of planning protection from open sites, without disclosing these changes to local residents is in breach of public law principles.

To remedy this deficit in consultation, Bristol City Council should be required to provide a list of all the sites currently protected as open space (with all designations) under the existing local plan as well as a list of sites to be protected under the new local plan, identifying any sites that are to lose their designation, justifying any removal.

The removal of open space protection may be justified. However, without an ‘assessment’ of some kind, this is likely to lead to disputes at a later stage if a now unprotected site, that still constitutes ‘open space’ e.g., following the definition in NPPF Appendix 2 or under the Open Spaces Act 1906, is the subject of planning permission for development. There is a lack of clarity for these missing sites that Bristol City Council should correct.

It is worth noting that Bristol City Council have a poor record on protecting open spaces. The Council acknowledged this in the 2024 *Bristol Open Space provision standards* saying that:

The provision standards of 2008 have proven to be undeliverable, and so the standards adopted in the 2024 Parks and Green Spaces Strategy have been proposed to maintain ambitious targets for open spaces while being grounded in realistic delivery.

This frank admission – albeit in an appendix rather than the PGSS 2024 itself - has been accompanied by a concealed reduction in green spaces through the new local plan proposals.

Moreover, while in preparation for the last local plan open spaces were released for development following a cabinet decision that 70% of receipts would be used to improve open and green spaces by the time these sales were completed, the new administration did not keep this commitment, on the basis of which the then Council had approved the releases of surplus open and green space (for the commitment see Agenda Item No. 5 ‘Area Green Space Plans. Raising income to invest in parks: green space disposal recommendations’, Bristol City Council 16th December 2010), there were also plans to pass ‘incentive’ payments to (now abolished) community partnerships. Instead, the Mayoral administration at Bristol City Council decided that, since council decisions to allocate the money on an incentive basis were made over a decade ago by a former administration, this had now lapsed, so that the funds were made available for “economic regeneration opportunities” in accordance with the Council’s Capital Receipts strategy ([FOI request](#), December 2023).

To answer the specific questions raised:

Q10.10: Is the Plan positively prepared and consistent with national policy in terms of open space provision?

In this regard have the policies been based on robust and up-to-date assessments of the need for open space, sport and recreation facilities and opportunities for new provision, as set out in paragraph 98 of the NPPF?

The 2019 and 2024 documents may fulfil to the requirement in para 98 (now 103) to provide 'robust and up-to-date assessments of the need for open space'. However, the failure to list those open spaces that appear to be lost in the transition of designations means that this process is flawed.

Q10.11: Is Policy GIA justified, consistent with national policy and effective? In particular:

a) Is the policy clear and unambiguous about how the scale, type and quality of open space that would be required to support new development?

No, this is unclear.

b) Is it justified or effective to defer this to guidelines set out in other the Council's strategies, including the Parks and Green Space Strategy (March 2024)?

Yes, the PGSS and Open Space standards should take priority as they contain the requisite detail.

c) To be effective, should the open space standards set out in the Parks and Green Space Strategy be included in the Plan?

Yes, as they contain the requisite detail.

Q10.12: Are the LGS identified under Policy GI1 justified and consistent with paragraphs 101 and 102 of the NPPF? Have they been identified using a robust and proportionate evidence base?

Yes, the LGS identified under Policy GI1 are justified, not least through the 2019 consultation. However, no justification or explanation has been provided for open space sites not included as either LGS, ROGS or IncOS.

Q10.13: Is there any evidence to suggest any individual LGS would not be consistent with national policy?

No.

Q10.14: Is Policy GI1 consistent with paragraph 103 of the NPPF? In particular, would the provisions of the policy allow for the forms of development set out in paragraphs 149 and 150 of the NPPF in principle, or other forms of development where 'very special circumstances' exist? Would Policy GI1 be more restrictive than national policy in this respect?

No Policy GI1 would not be more restrictive.

Q10.15: Notwithstanding paragraph 103 of the NPPF, where LGS is also open space (as defined by the NPPF) would Policy GI1 be consistent with paragraph 99 of the NPPF?

No, Policy GI1 is not consistent with para 99 of the NPPF as no assessment is made of sites no longer given planning protection as open sites. By introducing new categories large areas have simply fallen outside the newly designated protections without explanations.

Q10.16: (not answered)

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?

Yes, the ROGS identified under Policy GI2 are justified, not least through the 2019 consultation

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

No, Policy GI2 is not consistent with para 99 of the NPPF as no assessment is made of sites no longer given planning protection as open sites. By introducing new categories large areas have simply fallen outside the newly designated protections without explanations.

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?

This provision should be compatible with para 99 (104) NPPF, which it is not.

If sites are no longer protected as open spaces, due to the changing designations, then local communities should be made aware of this, ideally through targeted information but at the very least through the local plan/neighbourhood plan process.

Q10.18: Is Policy GI3 justified, consistent with national policy and effective? In particular, is the policy consistent with paragraph 99 of the NPPF in relation to the assessment of the loss of open space?

No, for the same reasons as Q10:17.