

Examination of the Bristol Local Plan 2022-2040

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IN10: Inspectors' Interim Post Hearing Advice

At the close of hearing sessions, we committed to write to the Council regarding any further Main Modifications or steps needed to make the Bristol Local Plan (the Plan) sound and legally compliant. These are in addition to any actions already discussed in the hearing sessions or set out in documents IN7 to IN9. These are not repeated here unless any further actions or changes are required because of work already carried out.

Our original intention was to publish all our post-hearing advice once we had received the outstanding information from the hearing sessions. However, we understand there are likely to be delays in receiving these, including important Statements of Common Ground. As such, we have decided it would be helpful to publish some interim advice where we are able to do so. There are several remaining matters, including those relating to housing, that we shall feed back to the Council on in due course.

We have considered all the representations made to the Plan including oral contributions at the hearing sessions themselves. Our final conclusions regarding soundness and legal compliance will be given in our report to be produced following consultation on the proposed Main Modifications (MM). Nevertheless, where it would be helpful, we have provided brief explanations for our initial advice below.

Matter 1: Legal compliance and procedural matters

For the avoidance of any doubt, the Sustainability Appraisal and Habitats Regulations Assessment (HRA) need to be updated to take account of any recommended Main Modifications (MM). These will need to be consulted on alongside the MMs. Should the MMs and/or updating of the documents result in any significant changes regarding the effects of development then the Council should let us know without delay. This is particularly the case for the HRA and the effect of development on protected habitats.

Matter 3: Employment Land Requirement and Supply

The Council has provided some additional information relating to the employment land pipeline (document EXA47). Unfortunately, this has not provided the clarification

we hoped in terms of the scale of committed floorspace that exists for offices, and industry and warehousing. A summary of the information, setting out the total committed floorspace and overall anticipated capacity during the Plan period would be helpful.

Further to this, our understanding is that the requirements for offices, and industrial and warehousing are, like housing, based on the capacity that exists for such development within the City boundary. However, the evidence appears to suggest that the requirement figures in the Plan reflect capacity *over and above* existing commitments. This would not necessarily provide a true picture of the capacity level that exists for such uses or what is expected to come forward during the Plan period.

As well as the summary note, the Council should also draft MMs to both the office and industrial and warehousing requirement for our consideration which reflect the actual capacity / pipeline identified for such uses.

Matter 9: Centres, shopping and the evening economy

Policy SSE7 – Provision of public toilets

At the hearing, the Council stated that the purpose of this policy was to ensure that toilets that would normally be provided as part of the design of the interior of a building would be made available for public use. It is unclear as to how the usage of such a facility would be secured for public use in perpetuity. In addition, we are also not convinced that it is reasonable to compel the owner of a private facility to make it available for public use in all instances.

Our conclusion, therefore, is that we are not persuaded that this is a justified or effective policy. In result, the policy should be deleted and a MM should be added to the schedule to this effect.

Matter 10: Biodiversity and Green Infrastructure

Policy GI1 – Local Green Space

The Council have designated a significant amount of land across the City as Local Green Space (LGS). Paragraph 102 of the NPPF establishes three criteria for designating LGS. These are that they are in reasonably proximity to the communities they serve; exhibit characteristics that make them special to local communities and have *particular* local significance; and are local in character and not extensive tracts of land.

The Council's methodology for identifying LGS is set out in the Local Green Space and Reserved Open Space Topic Paper¹. This identifies a range of typologies and assigns a green space 'value' for each. However, national policy requires LGS to be 'demonstrably' special to a local community. It is not clear from the use of broad typologies how this requirement has been assessed on an individual basis. Neither does the remainder of the Topic Paper provide any detail as to how each designation meets this requirement. We do not consider the use of typologies to be a robust approach to designation.

It is also not clear to what extent a more detailed analysis of each space has been carried out, or how consultation with local communities has been considered. This

¹ Document TPC005

also applies to the information in Appendix 1, which purports to illustrate how each designation has met the characteristics set out in paragraph 102b of the NPPF. However, there is no specific evidence of how the Council reached their conclusions or how each designation is consistent with these 'values'. Without being able to interrogate this or determine if there is a *particular* local significance (opposed to some general significance) then we cannot conclude with any certainty that individual designations meet the criteria.

Conversely, while the Council is not obliged to designate *any* land as LGS, the reasoning for including some areas while excluding others is not clear. Accordingly, it is not possible to determine whether the process has been robust in excluding areas or whether the Council has been consistent in its approach.

There is no definition of what constitutes an "extensive tract of land" in national policy or guidance. However, many of the designations are of a significant scale in their own right. Many also adjoin one another, effectively creating larger contiguous areas of LGS. When looked at collectively, these areas would in effect be extensive tracts of land and would amount to "green belt being introduced through other means". This is contrary to the provisions of national guidance. Whether or not that was the Council's intention, this would still be the likely outcome.

The PPG states that if land is already in the Green Belt, consideration should be given as to whether there is any additional justification for identifying LGS. There is little convincing evidence that there is any benefit to be derived from identifying LGS in areas which are already in the Green Belt in Bristol. We note that under the new NPPF LGS would be excluded from being considered as 'grey belt'. However, the designations were not assessed in this context and thus we do not consider this can be considered a justification for the identification of LGS within Green Belt in this Plan.

Similarly, the PPG indicates that, if already protected by other designations, there should be specific reasons why a particular designation for LGS is justified or necessary. The majority of proposed LGS designations are also protected under other policies, including those relating to biodiversity and heritage. The evidence base for LGS provides no indication as to why a designation is necessary in these instances. Most of the designations would be adequately protected from inappropriate development in any event.

The Council acknowledged that they had carried out no assessment of whether any LGS might have potential for residential development. Neither was a 'planning balance' exercise carried out where LGS sites were put forward for housing through the 'call for sites'. This appears contrary to national policy's expectations that LGS should complement investment in sufficient homes. We note that the majority of LGS are covered by designations that may render residential development unacceptable in any event. However, given Bristol's housing supply situation, it is not justified to identify potential development sites as LGS without carrying out this balance.

We therefore have very significant concerns about the methodology for identifying LGS and the outcomes of the exercise. Based on what we have seen and heard we do not consider the LGS designations to be soundly based. In coming to this conclusion, we recognise that we have not assessed each designation in turn, as this would not have been a good use of examination time. We also consider that to address each in turn now would constitute a significant delay in examination as the

Council would need to prepare substantial amounts of new evidence to justify each site. There would also be a need for time to allow people to make statements and considerable amount of hearing time dedicated to discussing each in detail.

Having regard to Matthew Pennycook MP's letter to the Planning Inspectorate dated 30 July 2024², the delays to the examination would likely extend beyond the six-month period suggested and result in risks of the Plan failing to be adopted.

Our conclusion is therefore that Policy GI1 and related LGS designations should be deleted, with any areas which fall into the definition of open space in the NPPF reverting to Reserved Open Space status. This may not apply to all proposed LGS and the Council should be careful to exclude any area that does not fall within that definition. This exercise will not alter any other designations a site is subject to. Main modifications to this effect should be added to the schedule. Consequential amendments to the Policies Map will also be necessary. Alongside the MM schedule, the Council should also send us details of the sites that are to revert to ROS and any which would fall outside that designation and will be deallocated.

We recognise that this may be disappointing to the Council and interested parties who have supported the designations. Nevertheless, we do not believe that this would result in any particular risk from inappropriate development given the majority of areas already benefit from some form of policy protection.

Matter 11: Transport

Policy T3A – Transport development management

We are not convinced that separate references in the policy to Transport Assessments/Statements and Travel Plans are appropriate. The policy should focus on the outcomes, rather than mechanism by which these outcomes will be assessed. Therefore, the potential for the submission of these documents as a means of compliance is more appropriately located in the reasoned justification or the Council's validation list. A MM should be added to the schedule to this effect.

Matter 14: Net Zero and Climate Change and Flood Risk

Policies NZC1 – NZC5

Further to document IN8, and on further reflection, we do not consider it necessary or appropriate for the above policies to refer to the submission of sustainability statements. These may form part of the Council's validation requirements and thus need not be set out in policy in any event. However, we also do not consider it necessary or justified in this instance to set out procedural requirements in the policy itself. What is important is what the policies seek to achieve, but it may be that applicants can demonstrate compliance in differing ways. This is borne out by the fact that sustainability statements would already not be expected in some circumstances.

Notwithstanding the Council's validation list, we see no harm in referring to the potential for sustainability statements in reasoned justification as a means of demonstrating compliance. However, they should not be seen as a necessity. As such, the Council is requested to modify policies NZC1-NZC5 as appropriate to remove reference to these documents from policy.

² Local Plan examinations: letter to the Chief Executive of the Planning Inspectorate (July 2024)

Policy NZC2 – Net Zero carbon development – operational carbon

Further to the modifications suggested in document EXA002.1, and those requested in document IN8, the Council should:

- Include the modification suggested at paragraph 40 of its Matter 14 hearing statement (document BCC14).
- Remove any references to the current monetary value of charges.
- Under 'Heating and cooling systems' make modifications that would provide flexibility where connection to a heat network is demonstrated to be neither feasible or viable and/or allows assessment of the effectiveness of an applicant's approach to heating and cooling to be assessed. The policy should also not rule out approaches which may result in greater energy efficiencies or reduced emissions than connection to the Council's existing preferred heat network.
- Remove reference to PassivHaus Buildings from the policy. To be effective, the policy should be clear as to what is expected as a minimum. It is understood from the hearing sessions that PassivHaus standards would exceed that minimum. While identified as an alternative, it is not something that needs to be in policy and is likely to cause some ambiguity. Reference to PassiveHaus in the reasoned justification as an example of how standards can be met, or exceeded, would be more appropriate.

Policy NZC3 – Embodied Carbon, Minerals and Circular Economy

Further to the modifications already requested, the Council should prepare modifications which:

- Removes references to current monetary value of carbon offsetting; and
- Elevates the requirements of paragraph 12.1.63 to policy.

Policy NZC4 – Adaptation to a changing climate

We find this policy to be unclear in terms of scope and expected outcomes. It is also unclear how any adaptation strategy is meant to be used in decision making, particularly in relation to where a development would be considered unacceptable. There is also considerable overlap with other policies in the Plan, including those in this Chapter. In addition, it appears to cover issues that are already addressed to an extent through Building Regulations.

We are also not convinced of the need for a separate 'adaptation strategy' to be a requirement of policy. The policy should focus on the outcomes, rather than process. Thus, *how* an applicant demonstrates a proposal is resilient to climate change is not something that should be set out in policy. As with the sustainability statements, the potential for submission of an adaptation statement as a means of compliance is something which is better left to reasoned justification or the Council's validation list.

On this basis, we are not persuaded that this is a justified or effective policy. The Council are therefore asked to reconsider the need for this policy and whether any elements that are considered necessary could be subsumed within other relevant policies, including NZC1. Elements of the policy relating to overheating which are covered by existing Building Regulations should be deleted. Resulting modifications should be included in the schedule for our consideration.

Policy NZC5 – Renewable Energy and Energy Efficiency

As drafted, we are concerned that it could be inferred that the environmental and economic benefits of renewable energy proposals would always outweigh the potential impacts. We are also not persuaded it is necessary or justified for the policy to predetermine the weight that would be given to any particular proposal as this will inevitably be dependent on its nature. The policy also provides no indication as to whether development of renewable energy should seek to avoid or mitigate harm to the factors listed. This could be taken to imply that harm is inevitable or always accepted.

Accordingly, the Council should draft modifications which make it clear what is expected of renewable energy projects in terms of their potential effects on the surrounding area and what will be taken into account in any assessment.

In relation to the final paragraph, a modification should be drafted which provides a cross-reference to Policy CHE1 or makes it clear how encouragement for retrofitting would be considered in the context of heritage assets. Additional explanation in the reasoned justification would also assist in ensuring clarity and effectiveness.

Next steps

Should you have any queries about any of the above, please contact us through the Programme Officer. We are not inviting, nor will we accept, any comments from interested parties on the above actions at this time. As noted above, we shall write to the Council again once we have received any outstanding actions from earlier hearing sessions.

Yours sincerely

Louise Gibbons Steven Lee Benjamin Clarke

17 June 2025
