



Appeal Decision

Inquiry held on 31 January and 1 to 3, 7, 9 to 10 and 28 February and 1 to 3 and 9 March 2023

Site visit made on 10 March 2023

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17/04/2023

Appeal Ref: APP/Z0116/W/22/3308537

Land at Broomhill/Brislington Meadows, Broomhill Road, Bristol BS4 4UD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Homes England against Bristol City Council.
 - The application Ref 22/01878/P, is dated 12 April 2022.
 - The development proposed is up to 260 new residential dwellings (Class C3 use) together with pedestrian, cycle and vehicular access, cycle and car parking, public open space and associated infrastructure.
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DECISION

1. The appeal is allowed, and planning permission is granted for the development of up to 260 new residential dwellings (Class C3 use) together with pedestrian, cycle and vehicular access, cycle and car parking, public open space and associated infrastructure at Land at Broomhill/Brislington Meadows, Broomhill Road, Bristol BS4 4UD, in accordance with the terms of the application Ref 22/01878/P, dated 12 April 2022, subject to the conditions set out in the attached schedule.

APPLICATIONS FOR COSTS

2. An application for costs was made by Bristol City Council against Homes England. This application will be the subject of a separate Decision.
3. An application for costs was made by Homes England against Bristol City Council. This application will be the subject of a separate Decision.

PRELIMINARY MATTERS

4. The appeal is for outline planning permission with all matters reserved except for access. The appeal is made against the failure to determine the application within the statutory period. Since the appeal was made, the Council took the application to Planning Committee and agreed putative reasons for refusal, if the Committee had been able to make a decision¹.

¹ As set out in the Amendment Sheet to the 7 December 2022 Report to Committee

5. The fifth reason for refusal is in relation to the effect on local infrastructure in the absence of a completed s106 Planning Obligation. A s106 Planning Obligation, dated 31 March 2023 (the s106) has been submitted and secures:
- 30% of the total number of homes to be for affordable housing, comprising 75% social rented and 25% shared ownership or First Homes provision, or a commuted sum *in lieu* if applicable;
 - an Employment and Skills Plan monitoring fee;
 - a contribution towards the provision of fire hydrants;
 - either a Residential Travel Plan fee towards the Council's costs in relation to the preparation and implementation of the Travel Plan or towards the auditing and monitoring of the Travel Plan if it is prepared by the developer;
 - a contribution towards the making and implementation of traffic orders for a new pedestrian crossing on School Road, new humps on School Road and Bonville Road, waiting restrictions on new adopted roads within the appeal site and existing surrounding roads, and a 20mph speed limit on new adopted roads within the appeal site;
 - a Local Labour and Training Plan fee;
 - a contribution towards the costs related to off-site replacement tree planting; and,
 - a contribution towards the provision of transport infrastructure, including two new bus shelters on School Road and Broomhill Road with real-time information displays and raised kerbs, and raised kerbs at existing bus stops on Whitmore Avenue, Broomhill Road and School Road.
6. The Council's CIL Compliance Statement sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
7. However, this is apart from the contribution towards fire hydrants. The provision of fire hydrants within 100m of a building is a requirement of building regulations². There are areas of the proposed development that would be more than 100m from existing hydrants and therefore new hydrants would need to be provided. However, this is the responsibility of the Avon Fire & Rescue Service. According to their letter of November 2019, the Service were not being provided with funding for such provision. However, no more up-to-date information on funding and, importantly, no substantiated evidence of a funding gap has been provided. It has not, therefore, been demonstrated that the request for a contribution for the provision and maintenance of the hydrants is necessary to make the development acceptable in planning terms. This obligation of the s106 is therefore null and void³.
8. In addition, conditions could secure the management and maintenance of open space, a Travel Plan and an Employment and Skills Plan. The elements of the fifth reason for refusal which relate to local infrastructure are not, therefore, contested. However, the fifth reason for refusal also related to the

² Specifically, Clause 14 of The Building Regulations 2010 Fire Safety Approved Document B Volume 1: Dwellings

³ See Clause 2.4 of the s106

failure to make provision for ecological mitigation, including Biodiversity Net Gain (BNG) off-setting. This issue is not contested by the Council but is contested by The Bristol Tree Forum, Greater Brislington Together and the Save Brislington Meadows Group, who had Rule 6 status, as a combined group, at the Inquiry.

9. The Development Plan for the area includes the Site Allocations and Development Management Policies Local Plan July 2014 (the SADMP) and the Core Strategy June 2011 (the CS). There is an emerging Local Plan, the Bristol Local Plan Review – Draft Policies and Development Allocations November 2022 (the emerging LP), which was subject to Regulation 18 consultation in the period November 2022 to January 2023. The emerging LP, as currently drafted, proposes to remove the allocation for the majority of the appeal site for housing, to reflect the greater priority for biodiversity required in response to the declaration of the ecological emergency by the Council. The emerging LP is at an early stage in its production, will be the subject of further consultation, and is likely to be modified before it is adopted. I therefore place very limited weight on the emerging LP.
10. The Parameters Plans were revised in the lead-up to the Inquiry to correct minor discrepancies and to highlight two oak trees, T5 and T6, and their Root Protection Areas (RPAs). The Council and the Rule 6 Party agreed to the changes. A number of further submissions were received during and after the Inquiry, as set out in Annex B. These include submissions in relation to Biodiversity Metric 4.0, which was released by Natural England on 24 March 2023, after the Inquiry had closed. I therefore provide all the main parties with time to respond on this matter. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents and drawings.

MAIN ISSUES

11. The main issues are:
 - whether or not the appeal site is an appropriate location for development of this type, with regard to site allocation Policy BSA1201 of the SADMP and the Development Plan as a whole;
 - the effect of the proposed development on biodiversity, in particular with regard to the loss of habitat including grassland, trees and hedgerows, and with regard to the adequacy and deliverability of the proposed mitigation and compensation; and,
 - the effect of the proposed development on the character and appearance of the area, with particular regard to design, landscape, and the loss of trees and hedgerows.
12. The overall planning balance is also an important consideration, including considerations of the 'tilted balance' and Paragraph 11(d) of the Framework, and irreplaceable habitats and Paragraph 180(c) of the Framework.

REASONS

13. The majority of the appeal site (c.93%) is within Site Allocation BSA1201 in the SADMP. The areas not within the allocation are those proposed for pedestrian and/or cycle links to Allison Road and School Road, the drainage connection to Victory Park, and an area of land leading up to Broomhill Road that would provide the primary vehicular access to the site and some residential development. The emerging Local Plan does not include the site allocation but, as set out above, I place very limited weight on the emerging LP. The adopted site allocation Policy BSA1201 of the SADMP is therefore the primary consideration for the appeal proposal.
14. Policy BSA1201 sets out a number of development considerations that any proposal should meet. The policy also explicitly sets out an estimate for the number of homes on the site at 300. Paragraph 15 of the Framework states that the planning system should be genuinely plan-led. For this to mean something, an applicant must be able to rely on specific site allocations in adopted Development Plans. It should not be necessary to trawl through the evidence base to attempt to decipher the meaning of a policy or to consider the wider spatial strategy implications. Approximately 300 homes is therefore the starting point for assessing the character and appearance of the proposal and the development considerations set out in Policy BSA1201. It is not carte blanche, though, and due weight must be given to the development considerations and any implications they have for site capacity. However, they must not be used to undermine the allocation.
15. The outline application the subject of this appeal would grant the planning permission. Any future reserved matters or condition discharge submissions would need to be considered in that context and within the parameters set out by the outline permission, in particular the description of development, the Parameters Plans and the Design Code, dated April 2022. I have therefore assessed the proposal on the basis that 260 homes and the full extent of development as allowed for by the Parameters Plans would come forward.
16. I acknowledge that the 260 homes proposed by the appellant is materially lower than the 300 estimate within the policy. However, there is no dispute regarding inefficient use of the land. It is not incumbent upon a scheme to maximise the number of proposed homes. However, that the appellant has not proposed 300 homes is a material consideration, particularly with regard to the application of the development considerations within Policy BSA1201.
17. My assessment of the main issues is undertaken in the above context.

Site location and allocation

Retain or incorporate important trees and hedgerows

18. One of the disputed Policy BSA1201 development considerations is to retain or incorporate important trees and hedgerows within the development which will be identified by a tree survey. Whether or not an adequate tree survey was undertaken by the appellant at the application stage was discussed at the Inquiry. However, trees and hedgerows were discussed at length at the Inquiry, substantial evidence has been provided, and both the Council and the appellant fielded expert witnesses in relation to veteran trees and to trees and hedgerows more generally. I am therefore satisfied that I have sufficient

information to consider this factor robustly, although the adequacy of the tree survey does inform the character and appearance main issue.

19. The loss of some hedgerow and trees is inevitable because the hedgerows, including some trees, criss-cross the appeal site and there is also a band of woodland across the only area where vehicular access could be provided to the site. Even if a proposal were to only propose built form in the fields between the hedgerows, access points between the different development parcels would still be required, resulting in the loss of some hedgerow. The only reasonable application of this development consideration, therefore, is that only the trees and hedgerows that are relatively important within the context of the appeal site should be retained.
20. The policy requires the proposal to retain *or* incorporate important trees and hedgerows (emphasis mine). It is clear that 'incorporate' must mean something different to 'retain' because of the 'or'. The second part of the sentence refers to identification by a tree survey which suggests that 'incorporate', for trees at least, means to positively incorporate existing trees into the design, rather than to provide new trees as part of the proposal. The policy is more ambiguous with regard to hedgerows but it is a reasonable reading that the same approach should be adopted for hedgerows. I have therefore adopted this approach and I do not place any material weight on the possibility that some of the proposed hedgerows and/or trees could become important over time.

Trees

Veteran trees

21. It is common ground, and common sense, that any tree classified as a 'veteran tree' would also be a relatively important tree for the purposes of Policy BSA1201. In this regard, there are two oak trees, T5 and T6, on the appeal site. It is common ground that T6 is either a veteran tree or at least should be treated as such because it is so close to being veteran. T5 is in dispute. However, it has been demonstrated that the proposal would not cause either oak tree to be lost or to deteriorate. This is because the proposed attenuation basin could be controlled by condition to not require excavations within the RPA of either tree. Any proposed footpaths within the RPAs could be designed so that they would not involve material changes to the ground level or intrusion into the ground. And, although it is possible that the proposed nearby attenuation measures could affect ground water hydrology around these trees, the detail of this could be controlled by condition and future reserved matters submissions.
22. However, there are a number of hawthorn trees which the Council allege are veteran but the appellant contends are not. These are trees VH1 to VH11⁴ and I assess these below.

Definition

23. There are various definitions of veteran trees, for example in BS5837:2012⁵. However, this is a planning appeal and the relevant definition is that

⁴ References taken from the Proof of Evidence of Julian Forbes-Laird. Their locations are most clearly set out on FLAC dwg Ref 42-1061.01 within Appendix JFL 7

⁵ Trees in relation to design, demolition and construction – Recommendations, published 2012

contained in the Framework. The Framework defines ancient or veteran trees as trees which, because of their age, size *and* condition, are of exceptional biodiversity, cultural or heritage value (emphasis mine). The age, size and condition characteristics must therefore be considered separately. The exceptional value of a tree is not a separate characteristic but it is the reason why a tree can be considered to be veteran. The exceptional value of a tree must therefore inform the thresholds to adopt when considering which trees to classify as veteran based on their age, size and condition characteristics.

24. Paragraph 180 of the Framework confirms that development that results in the loss or deterioration of veteran trees should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. This is a very high level of protection, higher than the protection given to National Parks⁶ or grade II listed buildings⁷. It must therefore follow, as a principle of proportionality, that the methodology for determining a veteran tree for the purposes of planning must set a high bar for defining exceptional biodiversity, cultural or heritage value.
25. It is common ground, and I agree, that only the exceptional biodiversity criteria is relevant to any of the alleged veteran trees on the appeal site. Although age, size and condition are three separate characteristics, they do influence one another, in particular age and size. It is also germane that the reason veteran trees are provided with such a high level of protection in the Framework is because they are defined as irreplaceable habitats. Irreplaceable habitats are defined in the Framework as habitats that would be very difficult or would take a very significant time to restore. My assessment of the three characteristics is therefore informed by this context.

Size

26. The size of a tree is factual. Any given tree is the size that it is. There may be a multitude of factors that have influenced its size, such as soil conditions, climate, management and damage. However, for the purposes of this characteristic, those factors do not matter, and the size of the tree is all that needs to be ascertained.
27. It is common ground that the size of the stem(s) should be the primary metric because height and crown spread can be unrealistic measures after middle-age. In this regard, guidance is provided in BS5837:2012, which states⁸ that the stem(s) of trees should be measured at 1.5m above ground level or, if required to avoid abnormalities, to measure lower but as near to 1.5m as possible. Lonsdale⁹ states that girth should be measured at breast height or the most regular girth point nearest to that level. The White Method¹⁰ states that the measurement should be at 1.3m above ground or the narrowest part of the stem if there are abnormalities. The English Nature guidance¹¹ (the SSM) states that a tree should be measured at 1.3m above ground and to move lower to correct for abnormalities.

⁶ Paragraph 177

⁷ Paragraph 200

⁸ Annex C

⁹ Page 34, Ancient and other veteran trees: further guidance on management, dated 2013, by David Lonsdale

¹⁰ Paragraph 7, Estimating the Age of Large and Veteran Trees in Britain, dated November 1998, by John White

¹¹ Veteran Trees Initiative Specialist Survey Method, dated 1996

28. If there are multiple stems, then the BS5837:2012 and SSM guidance is to measure the individual stems only if the formation occurs below breast height and to otherwise simply measure the main trunk. BS5837:2012 states, in that situation, to measure each stem individually and sum the result. The SSM only requires measurement of the largest stem. I have adopted the BS method, which is the most accurate measurement to capture the true size of a tree because it involves measuring all the stems, not just the largest. There is therefore clear and consistent guidance from multiple sources to measure the size of trees at breast height, be that 1.3m or 1.5m, unless correcting for abnormalities. The appellant has adopted this methodology in measuring the size of the alleged veteran trees.
29. The Council has adopted a different methodology and has measured the trees near their base. This is because the Recognition of Ancient, Veteran & Notable Trees (RAVEN) method, as adopted by the Council, amalgamates both age and size into one assessment. Measuring near the base is a search for the oldest wood. This approach has the potential to over-estimate the true size of a tree because near the base can be where trees flare as they approach the ground. It is not possible to know if this was correctly allowed for because the precise measuring point for each tree was not recorded by the Council, nor could this be confirmed under cross-examination. Even if appropriate allowances have been made, the RAVEN methodology is in clear contradiction to the guidance from multiple, authoritative sources. It also does not reflect the Framework definition, which lists age and size as separate factors to be considered. Therefore, for the purposes of measuring the size of the trees, I adopt the measurements of the appellant.
30. For the purposes of this appeal, the size of the tree must be such that it is large enough to have sufficient biomass to facilitate 'exceptional biodiversity value'. The Framework definition does not state that a tree needs to be large relative to its species. However, this is a reasonable inference to make because this is a likely precursor to a tree having sufficient biomass. Guidance on this is relatively limited. However, the Lonsdale Fig 1.3 provides a useful indicator. The figure is not precise and it is only reasonable to use a range, which I place at between 1.8m and 1.95m girth, equating to 570mm to 620mm diameter. For robustness, I then adopt the bottom end of that range as the size threshold for a hawthorn tree, which is also the figure adopted by the RAVEN method. Using this threshold and the tree measurements by the appellant, none of the alleged veteran hawthorns would be classified as veteran based on the size criteria.

Age

31. The definition of a veteran tree in the Framework states that veteran trees must be old relative to other trees of the same species. This is an essential characteristic for any tree to be considered veteran and is independent of the condition and size criteria.
32. The White Method is the most comprehensive method provided to the Inquiry that can be used to estimate the age of trees. The method is to first measure the tree at breast height using the methodology as set out above for measuring size. It then adds further calculations to estimate age based on different growth rates in the formative, mature state and senescence phases of growth of a tree. However, the White Method does not specifically refer to

hawthorn trees. The Council has used black mulberry as an analogue species but this is not only a different species but the calculations in relation to it are based on trees growing in open conditions, rather than in hedgerows as is the case for the alleged veteran hawthorns.

33. The White Method therefore needs to be treated with caution but does provide a useful guide and starting point. Adjustments must then be made to account for management or damage, and to account for other contextual matters, such as ground conditions. In particular, VH2, VH3, VH6, VH9 and VH11 show signs of previous coppicing, pollarding or other management. This may imply that they are older than the White Method would suggest because their current size does not reflect what they could have reached had they not been managed. In addition, VH10 potentially has an original stem missing which, again, could suggest that its current size is not directly linked to its age.
34. Other contextual factors also need to be considered. For example, the trees might potentially be the same age as the hedgerows they sit within. The hedgerows could be as old as 1750 but it is not possible to be definitive on the date and they could be more modern (see below for more details on this). In addition, there is no guarantee that the hawthorns are the same age as the hedgerows because the hedgerows were managed for much of their existence and hawthorns can self-seed.
35. There is, therefore, an inherent subjectivity to calculating the age of the alleged veteran trees. The contextual considerations are not definitive with regard to making adjustments to the estimated ages based on the White Method. However, they do imply that some of the trees, at least, could be older than the estimate. This is as far as my conclusion on age can reach with the evidence before me. Nevertheless, despite the uncertainty, it is common ground between the parties that the trees are old enough to be considered as veteran. I am therefore happy to adopt this agreed position.
36. The Framework defines all ancient trees as veteran trees. Therefore, if a tree is ancient because of its age, it automatically qualifies as veteran, irrespective of its size and condition characteristics. Lonsdale sets the size threshold for an ancient hawthorn at about 2.5m in girth¹², equating to about 800mm in diameter. None of the three trees alleged by the Council to be ancient¹³ meet this criteria or are even particularly close. The contextual considerations and previous management would therefore be unlikely to lift any of the trees up to ancient status. In addition, the White Method does not state that measurement, for the purposes of age, should be at or near the base. Although Figure 2 indicates measuring below the crown spread for multi-stem trees it indicates undertaking this measurement as close as possible to breast height, not at or near base. The Council's measurements cannot, therefore, be relied upon. Consequently, it has not been satisfactorily demonstrated that any of the alleged veteran trees are ancient trees.

¹² See Fig 1.4. Fig 1.3 is unclear and must therefore be read in conjunction with the explicit reference at Fig 1.4

¹³ VH2, VH3 and VH10

Condition

37. The Natural England (NE) Standing Advice¹⁴ is that a for a tree to be classified as a veteran it must have significant decay features, such as branch death and hollowing, to contribute to 'exceptional biodiversity value'. The Biodiversity Metric 3.1, published by NE, states that four out of five veteran characteristics¹⁵, must be present for a tree to be classified as a veteran tree. The RAVEN method requires at least one 'primary feature', which are extensive decay, extensive hollowing, crown senescence or retrenchment, to be present. Or, if none are present, at least four 'secondary features'. Lonsdale lists veteran characteristics¹⁶ but does not identify how many of these attributes are necessary for a tree to qualify as a veteran.
38. The NE Standing Advice and Biodiversity Metric 3.1 are from England's statutory nature conservation body and are recent, being from 2022. The even more recent Biodiversity Metric 4.0 does not list condition characteristics for veteran trees. However, this is because NE no longer see the metric as the appropriate document to set out how to identify veteran trees¹⁷, rather than because there has been an explicit acknowledgment that the Metric 3.1 approach was wrong.
39. The trees must have 'exceptional biodiversity value'. The threshold for condition must therefore be that multiple veteran characteristics are found. I consequently adopt NE's guidance as set out in Metric 3.1, which is more stringent regarding requiring multiple characteristics than RAVEN, and more precise and quantifiable than Lonsdale. On this basis, none of the hawthorn trees qualify as veteran with regard to their condition.
40. Nevertheless, it is important to avoid 'false negatives' ie missing trees that should be veterans just because they do not meet the NE criteria or because certain condition characteristics, such as fungal fruit bodies, are transitory and easy to miss. An element of professional judgment should therefore be used, if appropriately justified. In this regard, only four trees¹⁸ even display three of the primary criteria, and four are required to qualify. Even using the RAVEN methodology, none of the trees have four secondary features. This illustrates that the condition of the trees is not particularly complex and does not reach the high bar of 'exceptional biodiversity value'.
41. I acknowledge that the RAVEN methodology has been tested at previous appeals¹⁹. However, both appeal decisions pre-date the release of the NE guidance, which is a material change in circumstance. In addition, in one decision there was agreement between the main parties regarding identification of veteran trees which calls into question the level of detail that the RAVEN methodology was subjected to as part of the Inspector's assessment²⁰.

¹⁴ Ancient woodland, ancient trees and veteran trees: advice for making planning decisions, published 2022

¹⁵ Which are rot sites, holes and water pockets, dead branches or stems, hollowing, and fruit bodies of fungi known to cause wood decay

¹⁶ Pages 27 and 28

¹⁷ See Paragraph 1.4.4 of the Summary of Changes The Biodiversity Metric Version 3.1 to 4.0, dated March 2023 and Paragraph 3.5.1 of The Biodiversity Metric 4.0 User Guide, dated March 2023

¹⁸ VH7, VH8, VH10 and VH11

¹⁹ Appeal Refs APP/B1605/W/20/3261154, dated 11 May 2021 and APP/B1605/W/19/3227293, dated 20 September 2019

²⁰ Paragraph 58, Appeal Ref APP/B1605/W/19/3227293

Overall

42. All the alleged veteran hawthorn trees likely meet the age criteria. However, none meet the size or condition criteria. They do not, therefore, have sufficient biomass or variety and nature of condition to be of 'exceptional biodiversity value', which is the only relevant criteria for these trees. None of the alleged veteran hawthorn trees are, therefore, in fact veteran. However, they are important and notable trees of considerable age and with some veteran characteristics. The appellant's own evidence states that they sit approximately in the top 20% of hawthorns in terms of size.
43. They are therefore relatively important trees for the purposes of Policy BSA1201. Four of the eleven, VH1, VH4, VH5 and VH6, would be lost due to the proposal. Translocation of these trees could be attempted, within the appeal site, and could be controlled by condition. There is potential this would not be successful, though, so in the interests of robustness I have assumed that these trees would be lost as part of my assessment. In addition, trees VH2, VH3, VH7 and VH9 could potentially see deterioration from nearby development. However, any deterioration could be minimised through controlling the detail of the proposed landscaping, construction and design in future reserved matters and condition submissions.

Other trees

44. The Arboricultural Impact Assessment, dated March 2022 (the AIA) found seven trees, two groups and one woodland of Category A quality. These are relatively important trees for the purposes of Policy BSA1201, partly because they are Category A status and partly because there are relatively few on the appeal site. None of these trees would be lost.
45. There is also a Tree Preservation Order (TPO) Nu 1404, which protects 16 trees, three groups and one woodland across the appeal site. Three individual TPO trees and part of the TPO'd woodland²¹ that runs across the north-east corner of the site would be lost. However, TPOs relate to visual amenity²² and any trees included within a TPO would not have been considered with regard to wider issues of importance, for the purposes of Policy BSA1201. The three individual trees to be lost are only Category B and I do not consider them to be relatively important trees for the purposes of Policy BSA1201. However, I do consider the woodland to be relatively important, despite being of a similar quality to the individual trees at Grade B, because of its size and prominence.

Hedgerows

46. There are five hedgerows running across the appeal site and further hedgerows to the boundaries. The five internal hedgerows²³ have a common feature in that it is probable they were created as field enclosures in the 18th century. This is because Brislington Common and the area around Brislington were enclosed by Acts of Parliament during the 1780s and the Tithe map of c.1840 shows that the hedgerows were in place at that time. There is no substantive evidence that they were present before the field enclosures. Nevertheless, collectively and individually, hedgerows H1 to H5

²¹ T9, T15 and T18 in the AIA

²² As set out in s198 of the Town and Country Planning Act 1990 (as amended)

²³ H1 to H5 as identified on drawing Ref G7507.43.001

have some cultural and historic value and importance because they are remnants of historic field patterns, which is rare in Bristol. They are also relatively important from a landscape perspective, contributing to the appeal site's aesthetic value.

47. Evidence of ploughing on the appeal site does not depict the characteristic twisting motion at the end of a plough line associated with ridge and furrow ploughing, and also the plough markings do not respect field boundaries. Lynchets²⁴ were not found in trench, walk over or desk-based research. There is not a series of terraces on the appeal site linked to the hedgerows, just a constant slope. Although there are some banks of land running along the hedgerows, an aerial view from 1938 does not show these banks, indicating that they are modern and as a result of erosion, rather than linking to lynchets. There is some ambiguity on this issue because of the complexity of measuring such evidence and the difficulty of visual assessment given the currently overgrown hedgerows. However, I have seen no substantiated evidence of lynchets or banks associated with hedgerows on the appeal site, apart from HH7 where it is common ground that it sits on a bank.
48. The Hedgerows Regulations 1997 (The Hedgerows Regs) lists 'woodland species' at Schedule 2 and 'woody species' at Schedule 3. Hedgerows H1 to H5 all contain bluebell, which is one of the 'woodland species'. Hedgerows H3 and H4 have four and a half 'woody species', H5 has four 'woody species', H1 and H2 have three 'woody species' and H6 has none. By dint of containing bluebell, H1 to H5 are all defined as 'important' by The Hedgerows Regs. However, they only have one of the 'woodland species' and all of them have fewer than the five 'woody species' necessary to qualify as important under that criteria. The internal hedgerows to the appeal site are therefore relatively species poor.
49. It is also important to consider the ecological corridors and linkages which the hedgerows create. The degree of connectivity of a hedgerow adds to its biodiversity value. There are gaps in the hedgerows and some of the linkages are fractured. However, hedgerow H1 links with H2, H3, H4 and HH7. Either H3 or H4 and H2 provide east-west connections via H1. H1 provides the key north-south connection, although H5 also provides this to an extent to the western half of the appeal site.
50. Overall, hedgerow H1 is in good condition, is well connected to H2, H3 and H4, and contains seven of the notable hawthorn trees. It is the most important internal hedgerow. H5 is in moderate condition but it is not as well linked to the other hedgerows because it does not link to H1 and does not contain any of the notable hawthorn. This is the least important internal hedgerow. It is difficult to distinguish between H2 to H4, despite H3 and H4 being in poor condition and H4 in moderate condition, because all of them are well linked, define field boundaries, contain at least one notable hawthorn, and are of similar ecological value. I therefore place the hedgerows in three categories, with H1 most important, H2 to H4 in the middle, and H5 the least important.
51. In general, the boundary hedges not as important because they have become overgrown and in some cases could potentially be considered as scrub rather than hedges. The exception to this is HH7. Although HH7 is potentially scrub

²⁴ A field scar from ancient ploughing

rather than a hedgerow because it has outgrown the 5m width criteria, it contains eight 'woody species' and would therefore be considered as species rich if it is defined as a hedgerow, it is associated with a bank, it contains several trees including Category A's, and it provides connections to the internal hedgerows.

52. The reasonable worst case scenario is that 74% of the internal hedgerows would be lost. However, the Parameters Plans show that the indicative primary street would utilise existing gaps in the hedgerows where possible. The proposed development parcels would also allow retention of the majority of hedgerow H1 as a central north-south spine running through the development and significant parts of H3 as a dividing feature between two development parcels. The two most important boundary hedgerows, HH7 and HH2, would be retained. A material amount of the second tier of hedgerows, considered as whole, would also be retained. Broadly speaking, the most important hedgerows would see the most retention.

Overall

53. It is proposed to fell approximately 25% of the existing tree/woodland habitat on the appeal site. As established above, this would include four notable hawthorns and an area of woodland, both of which I consider to be relatively important for the purposes of Policy BSA1201. However, the woodland is to be lost to create the primary access to the appeal site and it is common ground that its loss is inevitable. No Category A and relatively few TPO trees would be lost. Fairly significant elements of hedgerow would be retained and broadly in accordance with the hierarchy of the relative importance of the hedgerows. It is proposed to retain and incorporate many trees even within the proposed development parcels. It is also proposed to retain the most important hedgerow, H1, and the six notable hawthorns within it as a feature element of the landscape. This would retain an echo of the past condition of the appeal site whilst respecting the design and layout of the proposed development.
54. The proposed level of loss of trees and hedgerows is necessary to deliver development on the appeal site in accordance with the site allocation. The most important trees and hedgerows would, in the main, be retained, and the proposed design has accounted for and minimised the loss of the more important specimens. The proposal therefore complies with Policy BSA1201 and by extension Policy SA1 of the SADMP. It consequently also complies with Policy BCS9 of the CS which requires the retention of green assets unless it is allowed for as part of an adopted Development Plan Document. The proposal complies with Policies DM15, DM17 and DM19 of the SADMP, which require that development appropriately manage existing and proposed trees within the landscape, integrate important existing trees, and avoid harm where possible.
55. Policy DM17 of the SADMP refers to the requirement for development not to result in the loss of aged trees. Aged trees are not defined by the SADMP. Nevertheless, it is reasonable to assume that some of the trees to be lost might be considered as aged trees even if they fall below veteran classification. The proposal, therefore, fails to comply with this policy. However, I place very limited weight on this conflict because the proposal accords with the site allocation policy, which has primacy.

56. I acknowledge that, had I found any, or all, of the alleged veteran hawthorn trees to be veteran or ancient trees, then this would have put a very different complexion on the acceptability of the proposal. It would have been highly likely that an alternative design would have been required to maintain compliance with this development consideration, and with regard to Paragraph 180(c) of the Framework. The alternative design would likely be for fewer homes, such as the 240 home alternative proposal put forward by the appellant. However, this is not the case and this is therefore a moot point.

Provide a green infrastructure link with Eastwood Farm Open Space

57. The Eastwood Farm Site of Nature Conservation Interest (SNCI) is located on the opposite side of Broomhill Road from the appeal site. This part of the appeal site is where the former police station and hard standing are located and provides very limited existing green infrastructure. However, there is also some scrub land and the proposal would inevitably lead to the loss of this and the more extensive existing woodland and other ecological features slightly further to the south.
58. A green infrastructure link is proposed through this area and up towards Broomhill Road. This would be secured, including the retention of existing trees and hedgerows as far as possible, by the Parameters Plans and the Design Code. It would be at least 12m wide, confirmed in the Design Code, in excess of a target width of 10m put forward by the Council's Nature Conservation Officer in their pre-application response.
59. The uncontested and remaining element of the Brislington Meadows SNCI is located immediately adjacent to the proposed development site to the south west. The proposed link would join up with this area and the other open space to the south. There would be an unbroken green link between the northern boundary of the appeal site, where it is nearest the Eastwood Farm SNCI, and the open land to the south. The proposal would not specifically provide an ecological link. However, this is not required by the policy and would be difficult, if not impossible, to achieve given that this part of the appeal site is relatively thin and must at least provide the primary vehicular access to the site. Nevertheless, the quality of the link, including its ecological credentials, could be controlled by reserved matters submissions reflecting the Design Code, and by conditions relating to lighting and landscaping.
60. The proposal would therefore provide a green infrastructure link as required by Policy BSA1201 of the SADMP and by extension Policy SA1. It would also comply with Policy BCS9 of the CS, which requires that opportunities should be taken to extend the coverage and connectivity of the existing strategic green infrastructure network.

Ecology

61. The relevant development considerations of Policy BSA1201 of the SADMP is that a proposal should be formed by an ecological survey of the site and should make provision for mitigation and compensation measures. An Ecology Impact Assessment, dated April 2022 (the EcIA) has been provided. It is detailed and comprehensive and it is common ground, and I agree, that this constitutes an acceptable ecology survey. However, the detail of the conclusions of the EcIA and its interpretation in the context of the policy are in dispute.

62. The Sustainability Appraisal²⁵ for the SADMP shows that the Council, when adopting Policy BSA1201, explicitly acknowledged that any development of the site for an estimated 300 homes would inevitably lead to some loss of existing biodiversity. This is self-evident for a site allocation for the comprehensive development of an existing site which is largely fields, hedgerows and trees. In addition, the wording of the development consideration acknowledges biodiversity harm is inevitable, otherwise it would not require mitigation and compensation. Paragraph 180a of the Framework contains important guidance on how to approach the inevitable harm, setting out a hierarchy that proposals should first seek to avoid harm, then mitigate and then, as a last resort, compensate.
63. A number of compensatory measures are proposed by the appellant. The full details are not yet known because of the outline nature of the application and, in places, disputes regarding methodology. However, it is likely that both on and off-site provision would be required. This is likely to include land within Victory Park and the grazing land between the appeal site and Victory Park. The Council owns the grazing land and could likely evict the current agricultural tenants. It also owns Victory Park.
64. However, there are competing demands on Victory Park which restricts its capacity for off-site mitigation eg the playing fields and general public access. Given this, and the ambiguities regarding the extent and nature of the compensatory measures, it is possible that further as yet unidentified land would be required for off-site compensation measures. However, there are further large tracts of open land nearby to the appeal site, particularly along the River Avon, and it is open to the appellant or other future developer to investigate off-setting measures on either Council-owned or private land. I therefore have confidence that the on and off-site measures proposed by the appellant would likely be deliverable.

Woodland

65. Some of the woodland and several individual or small groups of trees would be lost across the appeal site. This would include a woodland area of moderate ecological quality and four notable hawthorn trees of relatively high biodiversity value. Overall, approximately 162 trees would likely be lost as a result of the proposal, on a reasonable worst case scenario. There would therefore be some loss of woodland and trees of biodiversity value. However, the design of the proposal avoids excessive loss. The majority of the trees to the boundaries and a reasonable proportion of those within the site would be retained. The largest proposed losses are those trees within the woodland across the only location to provide vehicular access to the site, and those in the middle of the site, where development to achieve the site allocation is inevitable.
66. Replacement trees would also be provided, as calculated using the Bristol Tree Replacement Standards (the BTRS)²⁶. These are calculated based on the existing size of the trees to be lost. The methodology to be used to inform the replacement tree calculation is disputed. In addition, the precise number cannot be known at the outline stage. It is likely that between 250 and

²⁵ Paragraph 4.91.4.1 of The Sustainability Appraisal Main Report for the Publication Version (March 2013) of the SADMP

²⁶ Set out in the Planning Obligations SPD 2012

650 replacement trees would be required. This could be accommodated both on and off-site, depending on the detailed design and the number of replacement trees required. Both on or off-site measures could be controlled by condition(s) and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Scrub

67. There are fairly substantial areas of scrub on the appeal site. In places, distinguishing between this and hedgerows is difficult. However, the EcIA found c.0.7 hectares (ha) of scrub in moderate condition and c.2 ha in poor condition, largely to the site boundaries and also partly the field boundaries within the site, both in places where the hedgerows have become overgrown. This land is relatively less ecologically valuable than the hedgerows or the higher category trees.
68. The loss of scrub is inevitable to enable development of the site and c1.6 ha is proposed to be lost. In addition, it is proposed to enhance c.1 ha of land, likely through retained mixed, bramble and blackthorn scrub and by planting new mixed scrub. Compensation would still be required and this would likely be through a combination of on and off-site habitat creation. Both on or off-site measures could be controlled by condition(s) and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Hedgerows

69. As set out above, there would be some loss of hedgerows, including some which are 'species rich' as defined by The Hedgerow Regs. Broadly speaking, the most important hedgerows would see the most retention. However, I acknowledge that they are old and this provides an inherent ecological value. There would therefore be some ecological harm to hedgerows from the proposal but this is inevitable in the context of the site allocation.
70. Compensation for loss of hedgerow habitats would be required, which could be achieved on-site but might also involve off-site provision. The detail of this, including the imperative to maintain ecology corridors as much as possible and for the replacement hedgerows to be 'species rich', could be controlled by condition(s) and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Grassland

71. The appeal site contains significant areas of grassland between the hedgerows. The EcIA found c.3 ha of neutral grassland in moderate condition, c.2.5 ha of modified grassland in moderate condition and a further c.0.5 ha in poor condition, and very small areas of ephemeral and tall herb grassland. These are species-poor areas although a small area of wetter grassland with higher biodiversity value exists within the south east of the appeal site. Large amounts of the grassland would be lost, which is an inevitable consequence of development of the appeal site.
72. It is proposed to create, and significantly increase the amount of, wet grassland of relatively high ecological value as part of the proposed Sustainable Urban Drainage Systems (SUDS). The SUDS would be primarily for drainage and would also be expected to provide recreation. These factors would make it more difficult to achieve high quality wet grassland. However,

there is no reason to believe that it could not be achieved, at least partially, at detailed design stage. Compensation for the proposed loss of grassland habitats is also proposed through a combined approach of habitat creation and enhancement both on-site and also off-site, likely on the grazing land. This is precisely what is required by Policy BSA1201. Both on or off-site measures could be controlled by condition(s) and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Birds

73. The EcIA confirmed that there are several breeding and non-breeding birds on the appeal site. However, largely as a result of the majority of the site being grassland and therefore unsuitable for breeding bird habitat, only 21 species were found, which is below the threshold of 25 species required to lift the site to being of 'local importance'. It is therefore common ground, and I agree, that the site is of below local importance for breeding birds. The willow warbler was discussed at the Inquiry. This is an amber list species of moderate concern but it is not of 'principal importance' as defined under s.41 of the Natural Environment and Rural Communities Act 2006 (the NERC Act). It is also not in the Bristol Biodiversity Action Plan (the Bristol BAP). It is a relatively common species. The willow warbler does not, therefore, increase the importance of the appeal site to being of 'local importance'.
74. The proposed construction and development would inevitably result in some displacement and loss of habitat. The proposed removal of some of the hedgerows could possibly, although not inevitably, displace the willow warbler permanently. Mitigation would be required and could be secured by condition and through reserved matters submissions, for example through the introduction of a range of structure and forage availability for birds within the proposed landscaping, and the provision of bird boxes. The proposal would therefore be acceptable in this respect.

Amphibians

75. There are no waterbodies on the appeal site that would support breeding amphibians. The other habitat offers limited features to support amphibians although slow worms were found in the EcIA surveys within the grassland habitats. It is proposed to retain sufficient habitat for slow worms during construction and to provide suitable habitat within the proposed landscaping scheme to allow for recolonisation. If it is impossible to retain sufficient suitable habitat during construction then an off-site translocation scheme would be required. All of this could be controlled by condition and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Invertebrates

76. The EcIA surveys found no statutory protected species on the appeal site but it did find nine species of conservation interest, although only the butterflies were of national or regional priority (as listed in the Bristol BAP). Two moth species were found, both of local interest. These were found in the hedgerows and grassland, which provide suitable habitat. One of these species is the maple moth. This is 'endangered' but only of local interest.

77. The proposed development would likely lead to a reduction in diversity and abundance of invertebrates as a result of habitat loss and, potentially, light pollution. This could include the maple moth, although a replacement maple tree could be secured by condition. In general, control of landscaping to create suitable habitat and detailed lighting design could be secured by condition and reserved matters submissions. In addition, the timing and method of vegetation removal and re-planting could be controlled by condition to minimise harmful effects and maximise beneficial effects.
78. The loss of some habitat is inevitable as part of development of the appeal site in accordance with the site allocation. The appeal site is only of moderate ecological value with regard to invertebrates. The proposal would therefore be acceptable in this respect.

Bats

79. There are no buildings or built structures within the appeal site that provide suitable roosting habitat for bats. However, 17 trees have been identified within the EcIA as having bat roost suitability. The surveys did not reveal presence of bats or residual evidence of bats that would indicate current or recent roosting within the site, although bat activity for foraging and commuting was recorded, in particular along the west and south boundaries and along the internal hedgerows. The site is of local importance for foraging bats and up to city importance for commuting bats.
80. Only one tree with bat roost features is proposed to be felled. However, the proposed development would result in some isolation and severance in other areas of the site, for example through the loss of some of the hedgerows. Lighting could also disturb the bats. However, the details of the final landscaping scheme, as controlled by the Parameters Plans, could secure habitat linkages across the site thereby providing suitable alternative commuting routes and foraging habitat for bats. The detail of this and of lighting design mitigation and the provision of bat boxes could be controlled through condition(s) and reserved matters submissions. The proposal would therefore be acceptable in this respect.

Biodiversity Net Gain

81. The appellant has committed to providing a Biodiversity Net Gain (BNG) of 10%. The detail of the provisional calculation of BNG is disputed by the Rule 6 Party. If the baseline calculation changes then so also does the calculation of BNG and what is required to meet the 10% (self-imposed) requirement. The Rule 6 Party raised several detailed points²⁷ and there are three that could have a material effect on the baseline, as follows.
82. Firstly, if the appeal site is still within the Brislington Meadows SNCI it should carry with it a multiplier of 1.15 and a self-evident increase in the baseline calculation. Secondly, the baseline tree canopy cover measurement and identification of certain trees as 'scrub' rather than as 'urban tree habitat'²⁸ or 'individual trees – urban/rural tree'²⁹. The difference in replacement tree calculation, as set out above, is between c.250 and c.650 trees. Thirdly, the

²⁷ For example, the strategic significance of the site, the categorisation and extent of some of the hedgerows, the existing canopy coverage of trees, and trading rules and baseline habitat units

²⁸ Metric 3.0 or 3.1

²⁹ Metric 4.0

baseline hedgerow units, which is largely linked to whether or not the hedgerows are associated with a bank or ditch. I deal with this point above and conclude that the hedgerows are not likely associated with a bank or ditch, apart from HH7. The final, detailed, BNG calculation would not, therefore, be likely to result in a materially different length of replacement hedgerow requirements to those calculated by the appellant.

83. In addition to the methodological considerations, because the proposal is at outline stage, it is not possible to finalise the BNG baseline. It is therefore only necessary for me to be satisfied that a reasonable worst case of measures are capable of being achieved. As set out at the start of this main issue, given the relative abundance of land nearby to the site which could accommodate off-site BNG measures, I am satisfied in this respect. It has therefore been demonstrated that the proposal could achieve BNG of 10%, subject to control at condition and reserved matters submission stages, and potentially through legal agreements for off-site land.

Habitat of Principle Importance

84. Habitats of Principal Importance (HPIs) are those included in the England Biodiversity List under s.41 of the NERC Act, as set out in the definition in the Framework. The NERC Act has a requirement for the conservation and enhancement of HPIs. It is common ground, and I agree, that none of the grasslands on the appeal site qualify as HPI. However, the hedgerows qualify because they are native boundary and linear features. The woodland that runs across the north east part of the appeal site is found to be a deciduous woodland in the AIA. 'Lowland mixed deciduous woodlands' are HPIs according to the England Biodiversity List. It is not clear if the woodland on the appeal site precisely meets this description. However, I am happy to treat it as such for robustness.
85. The proposal would therefore result in the loss of some HPIs. However, the proposal would minimise hedgerow loss and the loss to the woodland is necessary to provide the primary access to the site, as set out above. Compensation could be secured by condition and reserved matters submissions.

Irreplaceable habitats

86. No veteran trees would be lost or would deteriorate as a result of the proposed development. I acknowledge that the definition for irreplaceable habitats in the Framework is open-ended and that it could, in theory, include habitats on the appeal site other than veteran trees. However, this must be considered in the context of the very high level of protection afforded to irreplaceable habitats. No substantiated evidence has been provided that the hedgerows or other ecological value of the site is of such value that it would justify such a high level of protection. Paragraph 180(c) of the Framework is not, therefore, engaged by the proposal.

Overall

87. As I have set out in detail above, the proposal seeks initially to minimise ecological harm, within the context of the allocation policy for the majority of the appeal site. Suitable mitigatory and compensatory measures are also proposed. The proposal therefore follows the mitigation hierarchy as set out in

Paragraph 180(a) of the Framework. Overall, therefore, the proposal would have an acceptable effect on biodiversity. In addition, a BNG of 10% is proposed, which goes beyond policy requirement for 'a' net gain.

88. The proposal therefore complies with Policy BSA1201 and by extension Policy SA1 of the SADMP. It complies with Policy BCS9 of the CS which seeks the protection of sites of biological importance subject to appropriate mitigation. It complies with Policy DM19 of the SADMP in this respect, which requires proposals avoid harm to habitats as far as possible and to provide mitigation where necessary. The proposal also complies with Paragraph 174 of the Framework, which requires proposals to minimise impacts on and to provide net gains for biodiversity. Paragraph 179 is referenced in the putative reason for refusal but is not relevant to the proposal because it is with regard to plan-making and not decision taking.

Character and appearance

Existing

89. The appeal site is fairly large, at 9.6 ha, and is largely a meadow. It comprises open fields and grassland with hedgerows and trees. There is also a part of the site to the north east which is largely an existing building and hard standing, being a former police station and now lying vacant. There are overhead electricity cables and a pylon on the lower slopes towards the southern boundary. There is also an access limb to the northern part of the site. To the south west is an existing footpath next to the allotments. A further slither of land to the south is within the appeal site, which is currently a pedestrian access to Victory Park.
90. The site slopes fairly steeply, largely from north to south. The appeal site is relatively attractive. It is fairly open. The hedgerows relate to historic field patterns and add visual interest to the site. The smattering of trees, both within and outside the hedgerows, and also one large belt of trees to the north east corner. The trees add visual amenity to varying degrees and some are subject to a TPO. There are two Public Rights of Way (PRoW), one running east-west along the southern boundary, and the other north-south between Belroyal Avenue and Bonville Road. There are also a number of well-trodden informal paths criss-crossing across the site.
91. The site is in a largely urban setting and is bordered by existing residential housing to the north and west. This is suburban housing of nondescript appearance and character. The back gardens of many of the properties directly abut the appeal site, particularly to the north and north east corner. There is also an industrial estate to the east, on the opposite side of Bonville Road. This contains a mixture of commercial uses in a variety of industrial shed-style buildings. Broomhill Junior School and its playing fields and incidental surrounding open space lie adjacent to the appeal site to the north. To the west is School Road with residential properties on the opposite side. There is also an allotment, which lies on the same side of School Road as the appeal site, cutting into the appeal site land. To the south lies Victory Park and also some intervening grazing land.

Valued landscape

92. Paragraph 174 of the Framework states that proposals should protect and enhance 'valued landscapes'. The term is not defined in the Framework. However, the Landscape Institute's Technical Guidance Note 02/21³⁰ (the TGN) specifically seeks to create a definition and states that a 'valued landscape' is one which has qualities that elevate it above everyday landscapes³¹. It is common ground between the parties, and I agree, that for a factor to count as an indicator of landscape value above the everyday it needs to be of at least of 'local' value, and not only of 'community' value. The TGN further states that to be a 'valued landscape' it should demonstrate a number of the indicators of landscape value unless one indicator is of such importance that it, on its own, indicates a 'valued landscape'.
93. The hedgerows are of 'local' value because of their rarity in Bristol, they define historic field boundaries, and are distinctive in appearance because of their overgrown nature. However, hedgerows defining historic field boundaries are not a particularly unusual feature of the landscape in the wider area, outside of the built-up area of Bristol. The appeal site, considered as a whole, is relatively attractive, appears to be well used for recreation, and I certainly do not downplay its importance to the local community. However, beyond the hedgerows, the site does not display any characteristics that elevate it above 'community' importance and value. It does not have the appearance of a destination location for the wider area beyond the local community. The hedgerows are not of such importance that, on their own, they elevate the site to a 'valued landscape'.
94. In addition, it is relevant that Map 4 of the SADMP, which details valuable urban landscapes within Bristol, does not include the appeal site. More tellingly, the majority of the appeal site has been allocated for residential development in the SADMP. The appeal site cannot, therefore, logically have been considered as a 'valued landscape' by the Council at the time of adoption of the SADMP and there have been no material changes to the appearance of the landscape since adoption.
95. I therefore find that the appeal site is not a 'valued landscape' with regard to Paragraph 174 of the Framework.

The proposal

96. The access drawings show full details of the proposed main vehicular/pedestrian/cycle access, the pedestrian/cycle route through Broomhill Junior School to Allison Road, the emergency/pedestrian/cycle access to Bonville Road including the pedestrian crossing of the road, and the pedestrian/cycle link to School Road and the new zebra crossing. The Parameters Plans confirm the likely route of the primary internal street, the location and extent of the development parcels, the proposed areas of open space including SUDS, and storey heights which would be 4-storeys to the east falling away to 2.5 storeys to the west and only 2-storeys near the existing residential bordering the northern part of the site. They also detail a proposed landscaping strategy to confirm the retention of two oak trees, T5

³⁰ Full title: Assessing landscape value outside national designations

³¹ See Table 1 of the TGN

and T6, and the broad extent of retention of other existing trees and woodland.

97. The Design Code includes details on the proposed detailed design and includes certain fixed elements that would particularly need to be reflected in any future reserved matters submissions. These include a Regulating Plan which is a composite of the Parameters Plans and the Design Code and shows the location of key buildings, focal points and landscaping types amongst other features. Ecological corridors are also confirmed through a combination of the proposed open space and planting types to front gardens and boundary treatments. Topographical considerations are set out, such as creating open boundary treatments to ease the visual transition between the proposed SUDS and the nearest homes, sloping gardens, the requirement to minimise cut and fill and large retaining features, and the allowance for the possibility of split-level housing.

Assessment

98. Even though not a 'valued landscape', the appeal site is relatively attractive and contains features of merit, in particular some of the trees and the hedgerow and field pattern. However, the appeal site is also within an urban setting. It is largely surrounded by existing built form and roads, which provide the existing backdrop to the site. As set out in the Townscape and Visual Impact Assessment, dated April 2022, the visibility of the appeal site is confined to its immediate context because of surrounding properties, trees and hedges. However, this does include sensitive receptors from the recreation and pedestrian users of the appeal site. The most sensitive surrounding area is Victory Park to the south, which is only partially screened by intervening vegetation, and also has sensitive receptors from its users. However, even here, the existing surrounding built form is visible in the background.
99. It is an integral part of the assessment of character and appearance that the majority of the appeal site is allocated for residential development. This must, inevitably, involve the wholesale change in character of the site from largely open fields with hedgerows and trees, to largely developed and managed areas of open space. Given this context, the principle of development on the site is acceptable.
100. I acknowledge that until the exchange of Proofs of Evidence for the appeal, the appellant had not highlighted any of the alleged veteran hawthorns as being of any particular status. Many of them were not even listed as individual trees in the AIA. It is therefore likely that the appellant did not give and specific consideration to the alleged veteran hawthorn trees, which I have assessed to be notable trees even if not veteran, as part of the design evolution of the proposal. However, as set out above, only four of these trees would be lost, and I consider this to be an acceptable effect with regard to their character and appearance in the context of the site allocation.
101. Although the principle of development is established by the site allocation, it is still important that a proposal is of high quality design and appropriately reflects the site's characteristics and constraints. In this regard, large areas of open space would remain and be proposed, including some hedgerows and trees including one of the primary hedgerow and tree areas along H1. The area of the site nearest Victory Park and other open land to the south would

be the most open and the areas nearest existing built form would be where the proposed housing would be located. The tallest buildings would be located furthest away from the low-rise suburban residential buildings to the north and west of the appeal site. These are all appropriate design responses to the appeal site and its context.

102. Fairly significant earthworks and re-profiling of the site would likely to be necessary. Relatively large SUDS features are also proposed to the southern part of the site. There would, at least in part, be relatively significant level differences between these features and the surrounding residential development. These have the potential to result in unattractive design features and layout, such as retaining walls. However, they are a result of the steep slopes of the appeal site and the shallow bedrock to the north which therefore limits what can be achieved with regard to responding to the challenging topography. Landscaping could be used to at least partially screen some of the level differences. Careful consideration of the detailed layout and the use of features such as split-level housing, as is allowed for in the Design Code, could also be used to at least partially mitigate. This level of detail could be controlled by future reserved matters and condition discharge submissions.
103. The Council has raised concerns regarding some detailed aspects of the proposed layout, such as the demarcation between public and private spaces. However, there is nothing before me that indicates that this level of design detail could not be satisfactorily resolved at the reserved matters stages.

Overall

104. The appeal site is a relatively attractive, largely open area of meadowland including fairly substantial hedgerows and some trees of visual merit. Despite the urban context of its surroundings there would be some harm from the proposed development of the site for a substantial residential proposal. Therefore, there would be some conflict with Policy BCS21 of the CS and Policies DM26, DM27 and DM28 of the SADMP, which require high quality design including consideration of local character and distinctiveness. However, this is an inevitable consequence of developing in accordance with the site allocation policy. The scale of the proposal is in accordance with the site allocation. I therefore place limited weight on this consideration.
105. The key design related challenges of the site, in particular the topography, have been appropriately considered and could be appropriately mitigated as far as possible at the detailed design stage. Sensible decisions have been made with regard to building heights, placing the tallest proposed buildings in the least sensitive areas, and the location of the proposed open space being nearest to Victory Park. There is no reason to believe that a high quality design, including consideration of detailed design elements such as public/private land interfaces, could not come forward within the parameters set out in the outline proposal. The proposal would therefore be acceptable with regard to detailed design, subject to control by future reserved matters and condition submissions.

OTHER MATTERS

Site of Nature Conservation Interest

On the appeal site

106. The majority of the appeal site used to be part of the Brislington Meadows Site of Nature Conservation Interest (the SNCI). This part of the appeal site is allocated for development through Policy BSA1201 of the SADMP. However, Defra guidance³² states that Local Sites Partnerships (the LSP) are responsible for de-designation of an SNCI and that this should only occur if their nature conservation deteriorates³³. In the case of the appeal site, the LSP was involved with the site allocation process as part of adopting the SADMP³⁴. This must have included consideration of the SNCI where it overlaps with Policy BSA1201. However, the LSP has not formally de-designated the SNCI. It is therefore unclear whether or not the majority of the appeal site is still, technically, subject to the SNCI designation.
107. If the majority of the appeal site were to be considered as an SNCI, the proposal would conflict with Policy DM19 of the SADMP, which states that development which would have a harmful effect on the nature conservation value of an SNCI will not be permitted. It would also conflict with Policy BSC9 of the CS which protects sites of biological importance in accordance with their hierarchy. However, this must be considered in the context of Policy BSA1201 and the Development Plan as a whole. Policy BSA1201 of the SADMP is the site specific allocation and therefore must take primacy. There are no further implications of the designation or not as an SNCI, save for Biodiversity Net Gain calculation (see above), because the underlying ecological value of the site does not change based on its designation.

Near to the appeal site

108. Irrespective of the above, the residual part of the SNCI remains to the south of the appeal site. The proposal would have limited direct effects on the SNCI through the proposed pedestrian/cycle access to School Road and the drainage works to the south. There would also be the potential for indirect effects, for example from drainage. Any effects could be limited through minimising working footprints and intrusions within the SNCI, and also by retaining scrub and tree habitats and the creation of wet and meadow grasslands along the boundary with the SNCI. This is what is proposed and could be controlled by condition and reserved matters submissions. Compensation and enhancement measures could also be proposed through grassland enhancement in the grazing land adjacent to Victory Park and other measures that could be controlled by updated assessments, which could be secured by condition.
109. The Eastwood Farm SNCI also lies to the north, on the opposite side of Broomhill Road. As established above, a green infrastructure corridor would be provided linking the appeal site to this SNCI as far as possible, although Broomhill Road would remain as a barrier between the two sites. The proposed corridor has ecological challenges but would provide a link of some ecological value. It would also improve the current situation because this part of the appeal site is currently largely hard standing with minimal ecological

³² Local Sites: Guidance on their Identification, Selection and Management document, dated 2006

³³ See paragraph 36 of the Defra guidance

³⁴ See 3.4.1 of the Allocations and Designations Process document for the Submission Version (July 2013) of the SADMP

value and linkages. Future condition and reserved matters submissions could maximise the ecological value of the proposed link to the SNCI.

110. The proposal would therefore have an acceptable effect on the ecological value of the nearby SNCIs and would comply with Policy DM19 of the SADMP and Policy BSC9 of the CS in this respect.

Accessibility

111. The appeal site is nearby to the Broomhill Road local centre, which is relatively small but does include a Co-op and other shops and services. The larger Bath Road centre is also walkable, approximately 1 km to the south. This provides a fairly wide range of shops and services, including the Brislington Retail Park. It is proposed to create access to the Broomhill Road centre through a new pedestrian and cycle link from the appeal site to Fermaine Avenue. In addition, Broomhill Junior School is next to the site to the north and the nearest secondary school is c.1.3 km to the south, Oasis Brislington Academy, which is a fairly typical distance to travel to a secondary school. Brislington Trading Estate is nearby and provides employment opportunities. It can easily be accessed by foot and a direct connection would be provided by the proposed access along the eastern boundary of the site.
112. Public Right of Way (PRoW) Ref BCC/482/20 runs across east-west across the southern part of the appeal site. PRoW Ref BCC/487/10 runs diagonally across the site to the north east corner. It is proposed to retain and enhance the two PRoW, according with the Policy BSA1201 requirement that PRoW be retained and where appropriate improved. There are also a number of informal routes criss-crossing across the appeal site, most of which would be lost or diverted into the new areas of public open space. Various new links and routes would also be provided across the site, including a north-south pedestrian link that would run through the school and down through the site towards Victory Park. Overall, therefore, the PRoW would be enhanced by the proposal as would general accessibility and informal routes.
113. The wider area is well provisioned in terms of open space, with Victory Park to the south, Nightingale Valley Nature Reserve a short distance to the west and Eastwood Farm Local Nature Reserve a short distance to the north. Connections to the nature reserves would be improved through the provision of new crossings of School Road and Broomhill Road respectively.
114. The site is not near to a railway station. However, the Nu 1 bus service passes along Broomhill Road. This service operates every 15 minutes Monday to Saturday and every 20 minutes on Sundays. It links to Cribbs Causeway and the city centre. Even at night, it is a half hourly service. There are also five other bus routes either along Broomhill or School Roads, offering intermittent services to more local destinations.
115. Overall, the bus service provision is therefore quite good and the appeal site is located close by to a range of services and facilities. Cycle and pedestrian access would be improved. The proposal would therefore offer a genuine alternative to the car for journeys both to the city centre and more locally.

Archaeology

116. The appellant has undertaken a series of archaeological evaluations, including a desk-based assessment, geophysical survey and trial trenching. Roman

remains have been found but are, at most, of regional significance. Brislington Roman Villa is 900m from the appeal site and any connection has long since been severed. It is common ground between the Council and the appellant, and I agree, that the suitable preservation and recording of these remains could be controlled by condition.

117. The Rule 6 Party has also provided evidence of a World War II bomb crater, medieval footpath and a stock pond, amongst other archaeological features. However, none of these are of anything more than low significance. I also only find low significance from their group value because the features are not connected to one another, either thematically or chronologically. As individual features, and as group value, I assess the archaeological significance of the appeal site to be low, with the exception of the Roman remains which have the potential to be of moderate/regional significance.
118. Policy DM31 of the SADMP only expects preservation *in situ* where the archaeological assets are of equivalent importance to scheduled monuments, which is demonstrably not the case at the appeal site because a recent decision by Historic England decided not to schedule the site³⁵. This also means that the provisions of Paragraph 200 of the Framework do not apply because, as set out at Footnote 68, this only relates to archaeology of equivalent significance to scheduled monuments. Paragraph 203 of the Framework and Policy DM31 of the SADMP expect a proportionate recording and protection of archaeological heritage assets, which is what could be achieved by condition. The proposal is therefore acceptable in these respects.

Transport

119. The Transport Assessment, dated April 2022 (the TA) concludes that the effect of the proposal, once fully occupied, on local traffic congestion would be acceptable and that there would be no junction capacity issues either at nearby off-site junctions or at the proposed site access junction. The TA includes data where traffic would likely have been lower than pre-Covid restrictions, in late-2021, but not during lockdowns. Equally, it includes historical data from pre-Covid which likely over-estimates the likely vehicle trips now that hybrid or working from home is more common. Overall, and particularly given that the Highways Authority do not object to the methodology of the TA, I am content that the TA represents a robust assessment.
120. It is proposed to better control deliveries and pavement parking along Broomhill Road through the provision of double yellow lines and/or bollards. It is also proposed to introduce traffic calming measures to Broomhill Road, likely through speed tables at junctions. The detail of this would be controlled by condition. Subject to this control, the proposal would likely increase highway safety in the surrounding area. Overall, the Highways Authority do not object to the proposal including all the proposed accesses, either on grounds of highways safety or the free-flow of traffic. The proposal would not, therefore have a severe impact on the road network, and would be acceptable in these respects, complying with Paragraph 111 of the Framework.

Consultation

³⁵ Historic England Reject at Initial Assessment Report, dated 23 February 2023, Ref 1484609

121. There are several letters of objection, including from the Royal Society for the Protection of Birds Bristol Local Group, Brislington Conservation and History Society, the Campaign to Protect Rural England, Councillors Hornchen and Rippington, and Kerry McCarthy MP. The objections raise various concerns in addition to those addressed above, in particular: the effect on highway safety and the free-flow of traffic from the increased traffic that would be caused by the future occupants, particularly around school time; specific concerns regarding construction, including that HGV deliveries should be given a 7.5 tonne limit restriction and that access should be from School Road; the appeal site is an important open site for local people, not just for its visual amenity value but also for its value to overall wellness and mental health; development should be on previously developed land first, not greenfield sites like the appeal site; unacceptable increases in air and noise pollution from the additional traffic the proposal would generate; the proposed works to Bonville Road could increase traffic congestion and harm trade to local businesses if it restricted car parking; surface water flooding on School Road would become worse; increases in pressures for on-street car parking on surrounding roads; unacceptable loss of sunlight and daylight to neighbouring properties caused by the proposed buildings; increased use of local infrastructure by future occupants of the scheme, which are already over-subscribed eg local surgery and schools; the water supply and pressure is already a problem in the area and the proposal would make it worse; and, the proposed vehicular entrance would create too much congestion and harm the living conditions of the existing occupants of the homes near to the proposed entrance.
122. I have taken all these factors into consideration. Most are not in dispute between the main parties. Most were addressed in the Officer's Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Others are addressed in my reasoning above, can be addressed by conditions or are dealt with by the s106.
123. Specifically, the Highways Authority are satisfied that there would be no unacceptable effect on highway safety or the free-flow of traffic. I do not doubt the importance of the appeal site to many local people. However, it is also an allocated site for an estimated 300 homes and I have assessed the proposal in this context throughout my Decision. There is no evidence before me that the proposal would result in increases in air or noise pollution to the extent that it would unacceptably harm the living conditions or health of neighbouring residents. The detail of the proposed works to Bonville Road can be agreed by future submissions and considerations of factors such as car parking and the effect on businesses could be considered by the Council at that stage. The Local Lead Flood Authority are satisfied that the effect of the proposal on surface water flooding would be acceptable. The detail of the proposed on-site car parking would come forward at reserved matters stage along with general Travel Plan measures as could be secured by condition. This would ensure that the effect on on-street car parking to surrounding roads could be suitably controlled. The full detail of the proposed buildings would be agreed at reserved matters stages and would need to ensure that they would have an acceptable effect on the living conditions of neighbours with regard to loss of light. I have no reason to believe this could not be achieved given the distances between the proposed development parcels and existing residential properties and the relatively low proposed building

heights, which would be secured by the Parameters Plans. Water supply pressure is not a material planning consideration. Although the proposed access would create additional traffic at the proposed site entrance, the traffic levels would be relatively low and need to be considered in the context of the existing road, which is quite busy. There would not, therefore, likely be an unacceptable effect on the living conditions of occupants of the existing homes near the proposed entrance.

124. Three letters of support have also been submitted, all of which support the provision of new homes in Brislington. I assess the appropriate weighting to be given to the proposed housing below.

PLANNING BALANCE

Positive

Housing

125. A housing land supply range has been agreed of between 2.24 years and 2.45 years. This is based on a five year housing need of 20,335 homes, at 4,067 dwellings per annum (dpa), and a five year supply of either 10,579 homes (the Council) or 9,102 homes (the appellant). This equates to a shortfall of between 9,756 and 11,233 homes. The housing land supply is on a downward trend, having been at 3.7 years in 2021. In addition, the Council's Housing Delivery Test results have been 87%, 72% and 74% over the past three years, also on an overall downward trend.
126. Since 2006, housing delivery in the Council area has averaged 1,750 dpa, at a total of 26,258 homes. This is in excess of the minimum target in the CS of 26,400 homes for the period through to 2026. However, this target is old and should have been reviewed every five years, as set out at Policy BCS5 of the CS. The review has not taken place. The 4,067 dpa figure adopted to calculate housing need is based on the Standard Method, as required by Planning Practice Guidance³⁶. However, this includes the 35% Urban Cities and Urban Uplift as well as the 20% buffer to reflect recent poor delivery. In other words, the actual need for the area is 2,510 dpa. Therefore, whilst I agree that 4,067 dpa is the correct figure to use to calculate housing land supply, the additional 1,557 dpa do not represent real need for real people and this must be factored into the consideration of weight to be applied to the proposed housing.
127. Nevertheless, the Council's delivery, at an average of 1,750 dpa, falls significantly below even the true need figure and there are real world effects from this shortfall in supply. House prices in Bristol are increasing more quickly than the rest of the Country and affordability rates are worse than for the Country as a whole. These factors sit in the middle of much wider socio-economic considerations. However, it is common sense that the delivery of more housing would help to alleviate these real world effects. I therefore place substantial positive weight on the proposed up to 260 homes.

Affordable housing

128. Affordable housing delivery in the Council area is approximately 325 dpa since 2006. The CS sets an affordable housing target of 6,650 gross completions. It

³⁶ Paragraph: 001 Reference ID: 68-001-20190722

is unclear precisely over which period this is to be calculated against and also how it could reliably be converted into a net figure. The CS also states that the Strategic Housing Market Assessment of the time estimated a net annual requirement of 1,500 dpa. In either calculation, affordable housing delivery has been significantly below affordable housing need for a substantial period of time.

129. As with private housing, there are real world effects from the shortfall in supply. For example, there were over 4,000 applicants on the housing register in Bristol South in 2021, the latest data presented to me at the Inquiry. The proposed affordable housing provision would be 30% of the total units, secured through the s106. I therefore place substantial positive weight on the proposed up to 78 affordable homes.

Ecology

130. The proposal accords with the mitigation hierarchy, seeking initially to minimise ecological harm, then proposing suitable mitigatory and compensatory measures. A green infrastructure link is proposed through the appeal site up towards Broomhill Road SNCI. This would likely improve this ecological link because of the current hard standing and poor quality scrub land in this area. The proposal is also for a 10% BNG to be achieved. This exceeds the policy requirement for 'a' net gain, as set out at Paragraph 174 of the Framework. I therefore place significant positive weight on this factor.

Economic

131. There would be short term job creation from construction of the proposal and long term from increased spending in the area by future residents. The appeal site is in a relatively deprived part of Bristol which makes this factor particularly important. An Employment and Skills Plan could be secured by condition to help target the job creation at local people. I place significant positive weight on this factor.

Accessibility and connectivity

132. The appeal site is relatively accessible to services and facilities, as set out above. The proposal would increase the accessibility and connectivity through the proposed pedestrian and cycle links, new road crossings and the improvements to the PRoW, which would particularly enhance access for the disabled. This would improve connectivity for both future occupants of the appeal scheme and existing residents in the area. I place significant positive weight on these factors.

Open space and recreation

133. Substantial new areas of managed open space are proposed. Play areas could be secured by condition. Links would be provided to Victory Park to the south and an enhanced link to Eastwood Park would be provided. The new areas of open space would include fairly extensive areas for SUDS which would likely only be partially useable for recreation, even if they would be of visual amenity value. However, these would still provide some recreation value and substantial areas of open space are proposed in addition to the SUDS areas. Full details of the proposed open space and recreation could be controlled by future reserved matters and condition discharge submissions. The open space

areas could be enjoyed both by future residents of the proposal and existing residents in the area. Overall, I place moderate positive weight on this factor.

Highways

134. There would be some worsening of the free-flow of traffic from the traffic generated by the future occupants of the proposed homes. However, this would be relatively limited and it is common ground, and I agree, that the proposal would have an acceptable effect on the free-flow of traffic and highway safety on surrounding roads. The Highways Authority do not object to the proposal on these grounds. It is also proposed to provide traffic calming and parking control measures along Broomhill Road, which would provide highway safety improvements not just for future occupants of the proposal but for other users of the highway. This would likely increase highway safety. I place limited positive weight on this factor

Neutral

Character and appearance

135. That the final design could be of high quality, as could be secured by future condition and reserved matters submissions, weighs neutrally in the planning balance, because high quality design is a policy requirement and the full details of the eventual detailed design are not before me at this stage.

Local infrastructure

136. The s106 secures appropriate payments towards local infrastructure, such as transport infrastructure. Subject to these payments, the proposal would mitigate the effects of the increased pressure on local infrastructure from the future occupants of the proposed homes. This therefore weighs neutrally in the planning balance.

Archaeology

137. As individual features, and as group value, the archaeological significance of the appeal site is low, with the exception of some Roman remains which have the potential to be of moderate/regional significance. Suitable preservation and recording could be secured for these features by condition. This therefore weighs neutrally in the planning balance.

Technical

138. It has been demonstrated that the proposal would accord with policies and standards with regard to energy efficiency, flood risk and drainage, refuse and recycling, designing out crime, air quality, noise pollution and land contamination, or that compliance could be secured by condition, through the s106 or at reserved matters stages. These technical factors therefore weigh neutrally in the planning balance.
139. It is common ground, and I agree, that the formal diversion and changes to the existing PRow would need to be pursued under separate statutory processes. This would likely be forthcoming in the event of planning permission being granted. This factor therefore weighs neutrally in the planning balance.

Negative

Character and appearance

140. There would be some harm to the character and appearance of the site and the area because of the proposal to comprehensively develop an existing, open, pleasant site largely comprising fields, hedgerows and trees. However, I place limited negative weight on this harm because it must be seen in the context of the site allocation.

Trees and hedgerows

141. It is proposed to fell approximately 25% of the existing tree/woodland habitat on the appeal site. This would include four notable hawthorns, an area of fairly high quality woodland, and three trees subject to a TPO. Up to 74% of the internal hedgerows, and some of the boundary hedgerows, would be lost. However, fairly significant elements of hedgerow would be retained broadly in accordance with the hierarchy of their relative importance. I place limited negative weight on these harms because they must be seen in the context of the site allocation.

Ecology

142. Although a BNG would eventually be secured, the proposal would result in the loss of biodiversity on the appeal site, in particular the loss of hedgerows. This must be weighed in the balance because some of the mitigatory and compensatory measures would take a long time to fully generate biodiversity value, and because there is an inherent harm from the loss of long established and valuable habitats, such as the notable hawthorn trees and some of the hedgerows. However, I place limited negative weight on this harm because it must be seen in the context of the site allocation.

Open space and recreation

143. The proposal would result in the loss of the existing meadows. These provide formal and informal recreation opportunities, are easily accessible to nearby residents and are extensive in size. Although there would be replacement open space, the proposal would still result in the overall loss of open land of amenity and recreational value. However, I place limited negative weight on this harm because it must be seen in the context of the site allocation.

CONDITIONS

144. A schedule of conditions was agreed between the parties ahead of the Inquiry. This was discussed through a round-table session at the Inquiry. I have considered the conditions against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and in the interests of clarity, precision, and simplicity. The appellant has confirmed acceptance of the pre-commencement conditions. I set out below specific reasons for each condition:
- in addition to the standard time limit, reserved matters and implementation conditions, a condition specifying the relevant drawings provides certainty;
 - the Construction Management Plan/Construction Method Statement (CMP/CMS) is necessary to protect the living conditions of neighbours;
 - the Open Space Design and Management Plan (OSDMP), Overheating Risk Assessment (ORA), Noise Mitigation Scheme (NMS), and general

- highways and parking conditions are necessary to ensure suitable living conditions for future occupiers of the development;
- the OSDMP, landscaping, tree and hedgerow retention, Landscape and Ecological Management Plan (LEMP), general highways and parking, Lighting Impact Assessment (LIA), Public Art Plan, and Design Code conditions are necessary to protect and/or enhance the character and appearance of the area;
 - the landscaping, tree and hedgerow retention, Biodiversity Net Gain (BNG) Assessment, BNG Strategy, Project Implementation Plan (PIP), Construction Ecological Management Plan (CEcMP), Landscape and Ecological Management Plan (LEMP), Ecological Mitigation & Enhancement Strategy (EMES), updated Ecological Impact Assessment (uEcIA), Ecological Mitigation Method Statements (EMMS) and LIA conditions are necessary to protect existing biodiversity, to secure the proposed 10% BNG, and to ensure maintenance of the relevant measures;
 - the CMP/CMS, adoptable highways, general highways and parking, junction between the site and Broomhill Road, emergency vehicle/pedestrian/cycle link to Bonville Road, and Travel Plan conditions are necessary to protect highway safety and/or the free-flow of traffic;
 - the CMP/CMS, Written Scheme of Investigation (WSI), Remediation Strategy, surface water management, verification report, site investigation and post investigation assessment, and unexpected contamination conditions are necessary to ensure the proposal would have acceptable effects with regard to these technical considerations;
 - the Phasing Plan, and general highways and parking are necessary to ensure a satisfactory standard of development;
 - the CMP/CMS, Sustainability Statement, Energy Statement, Travel Plan, and Electrical Vehicle Charging conditions are necessary to ensure that the proposal reduces carbon dioxide emissions and therefore to mitigate climate change and assist in moving to a low carbon economy as set out in Paragraph 8 of the Framework;
 - the CMP/CMS, the pedestrian/cycle link to Allison Road/Fermaine Avenue, a pedestrian/cycle link to School Road, and Travel Plan conditions are necessary to encourage the use of a range of modes of transport other than the car; and,
 - the Employment and Skills Plan condition is necessary to ensure that the full potential for the proposal to contribute to local jobs is captured, in accordance with Policy BCS11 of the CS.
145. The BNG Strategy, Employment and Skills Plan, Phasing Plan, CEcMP, LEMP, CMP/CMS, tree and hedgerow retention, OSDMP, landscaping, WSI, Sustainability Statement, Energy Statement, ORA, NMS, Remediation Strategy, BNG Assessment, PIP, EMMS, uEcIA and EMES conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.
146. The Council requested a condition to survey the existing condition of existing adopted highway over an area to be agreed with the Council. However, the effect of construction traffic on existing adopted highways is not a material planning consideration. I have not, therefore included this condition.
147. The need or otherwise for a revised Design Code, including whether or not it could be secured by condition, was discussed at the Inquiry. However, this is

not required because I have found that the detailed design of the proposal could be adequately controlled and secured at reserved matters and condition discharge stages using the existing Design Code. If it is decided that the Design Code needs to change, for whatever reason, then there is nothing preventing this being submitted at that point outside of the condition discharge process. I have not, therefore included this condition.

148. I have used the Biodiversity Metric 3.0 in the relevant conditions because NE has provided transitional guidance that users should continue to use the previous metric for the duration of the project it is being used for. The conditions have been suitably worded so that if Metric 4.0, or any other metric, were to become a statutory requirement, this could be accommodated.

CONCLUSION

149. The proposal complies with Policy BSA1201 of the SADMP, which is the site-specific allocation policy and the primary policy for the appeal proposal. I have found conflicts with Policy BCS21 of the CS and Policies DM26, DM27 and DM28 of the SADMP with regard to character and appearance, and Policy DM17 of the SADMP with regard to aged trees. There would also be further harms with regard to loss of trees and hedgerows, ecology, and loss of open space and recreation. However, I place limited weight on these factors because they must be seen in the context of the site allocation. It therefore follows that the proposal accords with the Development Plan read as a whole. The benefits of the proposal significantly outweigh the harms and there are no material considerations that would indicate my decision should be made otherwise. Therefore, although the Council cannot demonstrate a five year supply of housing land, it is not necessary for me to consider Paragraph 11(d) of the Framework.

150. For the reasons above, the appeal is allowed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Tom Cosgrove KC. He called:

Julian Forbes-Laird MICFor MRSB MRICS MEWI	Senior Director, FLAC
Rupert Higgins MCIEEM Antonia Whatmore	Partner, Wessex Ecological Consultancy Landscape Architect and Urban Designer, Bristol City Council
Nitin Bhasin Gary Collins MRTPI	Principal Urban Designer, Bristol City Council Head of Development Management, Bristol City Council
Richard Sewell MRTPI Joanne Mansfield	Principal Planning Officer, Bristol City Council Team Manager Legal Services, Bristol City Council
Jim Cliffe MRTPI	Planning Obligations Manager, Bristol City Council
Matthew Cockburn MCIHT	Transport Development Management Co- ordinator, BCC

FOR THE APPELLANT:

Charles Banner KC and Matthew Henderson, of Counsel. They called:

Tom Popplewell MICFor	Associate, TEP
Paul Connelly MRTPI	Director, LDA Design
Amir Bassir MCIfA	Principal Historic Environment Consultant, TEP
Francis Hesketh MCIEEM	Director, TEP
CEnv CMLI MICFor	
Charles Crawford CMLI	Director, LDA Design
Alex Roberts MIED	Director, Lambert Smith Hampton
James Clark	Managing Associate, Womble Bond Dickinson (UK) LLP
Lucy Aspden MRTPI	Associate, LDA Design
David Tingay MCIHT	Director, Key Transport Consultants Ltd

FOR THE RULE 6 PARTY:

Mark CD Ashdown	Chair, Bristol Tree Forum
Ken Taylor	Chair, Brislington Community Museum

INTERESTED PERSONS:

Mr Dickinson	Local resident
Dougal Matthews	Local resident
Janet Wren	Local resident

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- 1 Julian Forbes-Laird Tree Photographs
- 2 BNG Tree Analysis Model v3.2
- 3 Brislington Meadows Metric 3.0 Calculation – R6 Party Comments
- 4 The Town and Country Planning (Tree Preservation) (England) Regulations 2012
- 5 Key to Donn 1769 Map
- 6 FLAC Website Extracts
- 7 Opening Statement on behalf of Homes England, dated 31 January 2023, by Charles Banner KC and Matthew Henderson
- 8 Opening Statement on behalf of the LPA, dated January 2023, by Tom Cosgrove KC
- 9 Rule 6 Party Opening Statement, dated 31 January 2023, by Mark CD Ashdown
- 10 National Planning Policy Framework 2012 – Annex 2: Glossary Extract
- 11 Email from Gary Collins regarding M Bennett Qualifications
- 12 Council-owned land on Brislington Meadows SNCI
- 13 Letter from resident of 11 Condoover Road, Brislington, undated
- 14 Compliance with s.122 of the CIL Regulations Table
- 15 PDF extract from the Council's Pinpoint map service
- 16 Email from Lucy Aspden, dated 21 February 2023, in response to Friends of Victory Park
- 17 Appellant's Planning PoE – Erratum
- 18 Inquiry Note on Tree Survey and TPO Reference Numbers, dated 8 February 2023, by The Environment Partnership and email from Tom Popplewell, dated 9 February 2023, in response
- 19 Comparison between the Appellant's Original AIA – 26 May 2022 and TEP corrections of 8 February 2023
- 20 Quantum of Open Space Note, dated 2 March 2023, by LDA Design
- 21 Rule 6 Party Note, dated 7 March 2023
- 22 Statement of Common Ground between the Council and the Appellant, dated 8 March 2023

Fire hydrants

- 23.1 Avon Fire & Rescue Letter, dated 15 November 2019, by SM Martyn White
- 23.2 Fire Hydrant Location Plan
- 24 Proposed Site Visit Route
- 25 LDA Design Note, undated, regarding conditions 19, 20, public art and fire hydrants

Public art

- 26.1 Public Art Strategy Bristol, dated 2003
- 26.2 Draft Public Art Condition Wording
- 26.3 Appeal Decision Ref APP/Z0116/W/18/3210502, dated 2 April 2019
- 26.4 Minister of State for Housing, Stuart Andrew MP, Decision, dated 13 April 2022 – Land at Silverthorne Lane, Silverthorne Lane,

Bristol, BS2 0QD, Appeal Refs APP/Z0116/V/20/3264641 and 3264642

- 27 Closing submissions on behalf of the Council, dated 9 March 2023, by Tom Cosgrove KC

Rule 6 Closings

- 28.1 Rule 6 Party closing submissions, dated 9 March 2023
28.2 *TV Harrison CIC v Leeds City Council* [2022] EWHC 1675 (Admin)
28.3 *Mark Jopling v Richmond-Upon-Thames London Borough Council & SSHCLG* [2019] EWHC 190 (Admin)
28.4 *Fox Land and Property Ltd v SSCLG* [2015] EWCA Civ 298
28.5 *Gladman Developments Ltd v SSHCLG & Corby Borough Council & Uttlesford District Council* [2021] EWCA Civ 104
28.6 *The Queen v Douglas Bond & Vale of White Horse District Council* [2019] EWHC 3080 (Admin)

Appellant's closings

- 29.1 Closing submissions on behalf of Homes England, dated 9 March 2023, by Charles Banner KC and Matthew Henderson
29.2 *The Queen v Fareham Borough Council* [2022] EWHC 1434 (Admin), [2022] EWCA Civ 983
29.3 *Kingsway Investments (Kent) Ltd v Kent County Council* [1971] [House of Lords]
29.4 A: *R(Holborn Studios Ltd) v Hackney LBC (QBD)* [2018] PTSR
B: *R(Brenner) v Hackney London Borough Council* [2017] EWHC 2823 (Admin)

30 Rule 6 Party Submissions, dated 6 April 2023
31 Biodiversity Net Gain Metric 4.0 Note Ref 42-1061_JFL
32 Supplementary Submissions on behalf of Homes England, dated 6 April 2023, by Charles Banner KC and Matthew Henderson
33 Summary of Changes - The Biodiversity Metric Version 3.1 to 4.0, dated March 2023
34 The Biodiversity Metric 4.0 User Guide, dated March 2023
35 S106 Agreement, dated 31 March 2023

ANNEX C: SCHEDULE OF PLANNING CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved drawings: 7456_016, 102 PL2, 101 PL2, 103 PL2, 104 PL2, 1066-003.H, -007.D, -014, -016.

Pre-commencement

- 5) No development shall take place (including any works of demolition) until the developer/occupier enters into an agreement with the City Council to produce and implement an Employment and Skills Plan in collaboration with Building Bristol that aims to maximise the opportunities for local residents to access employment offered by the development. The approved plan shall thereafter be adhered to in accordance with an agreed timetable.
- 6) No development shall take place until a Construction Ecological Management Plan (CEcMP), to be informed by the updated Ecological Impact Assessment as secured by Condition 26, has been submitted to and approved in writing by the Local Planning Authority. The CEcMP shall include, but not be limited to:
 - a) a risk assessment of potentially damaging construction activities;
 - b) identification of "biodiversity protection zones";
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction eg pollution events;
 - d) the location and timings of sensitive works to avoid harm to biodiversity features;
 - e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of an Ecological Clerk of Works or similarly competent person; and,
 - h) use of protective fences, exclusion barriers and warning signs if applicable.

Construction and demolition shall thereafter adhere to the approved CEcMP.

- 7) No development shall take place until a Phasing Plan of the development has been submitted to and approved in writing by the Local Planning Authority.
- 8) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing

- by the Local Planning Authority. The LEMP is to be informed by the requirements identified in the updated Ecological Impact Assessment as required by Condition 26. The LEMP shall include, but not be limited to:
- a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;
 - e) prescriptions for management actions;
 - f) programme of ecological monitoring, setting out key performance indicators for each feature of interest covered by the plan against which monitoring results should be reviewed;
 - g) prescription of a work schedule (including a 30-year annual work plan – to be reviewed and submitted to the Council every five years);
 - h) details of the body or organisation responsible for implementation of the plan and defined role and responsibilities;
 - i) ongoing monitoring and remedial measures; and,
 - j) details of a resourcing and funding budget.
- 9) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7 (including any demolition works), a Construction Management Plan (CMP)/Construction Method Statement (CMS) for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The approved CMP/CMS shall be adhered to throughout the demolition and construction period. The CMP/CMS shall include, but not be limited to:
- a) a 24 hour emergency contact number;
 - b) the hours of operation;
 - c) details of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - d) routes for construction traffic;
 - e) locations for loading/unloading and storage of plant, waste and construction materials;
 - f) method(s) of preventing mud being carried onto the highway;
 - g) measures to protect vulnerable road users (cyclists and pedestrians);
 - h) any necessary temporary traffic management measures;
 - i) arrangements for turning vehicles;
 - j) arrangements to receive abnormal loads or unusually large vehicles;
 - k) methods of communicating the CMP/CMS to staff, visitors and neighbouring residents and businesses; and,
 - l) methods to reduce the effects of noise, vibration, dust and site lighting.
- 10) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, (including demolition and all preparatory work) a scheme for the protection of retained trees and hedgerows within that Phase, in accordance with BS5837:2012, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to:

- a) identification of the trees and hedgerows to be retained, and those to be removed or translocated, to include a scaled plan;
- b) all proposed pruning work;
- c) the means by which retained or translocated trees and hedgerows will be protected throughout the construction period, including by temporary fencing and/or other physical barriers;
- d) where within the Phase mitigation of any kind (other than temporary barriers) is necessary in order to prevent harm to retained trees and/or hedgerows;
- e) how all operations with the capacity to harm a retained tree and/or hedgerow will be controlled to avoid harm during the operation (eg access, earthworks, level changes);
- f) the specification, design and arrangement of built structures near to trees and/or hedgerows, wherever this is necessary to prevent harm during the construction, operation or maintenance of the structure (eg surfaces, drainage, utilities, buildings);
- g) a schedule of independent monitoring of tree and/or hedgerow works, tree and/or hedgerow protection, relevant construction activities, and reporting to the Local Planning Authority on progress and compliance with the approved measures; and,
- h) a Veteran Tree Management Plan for each veteran tree that is retained within the Phase, including a detailed description of the tree, management objectives, buffer zone definitions, protection measures, restrictions, works prescriptions, landscaping, and a regime of monitoring.

A pre-start site meeting shall be held between the site manager (principal contractor), project arboriculturist, project ecologist, external works contractor, and tree works contractor to review the approved works and protection details, establish roles and responsibilities, and to commence regular monitoring. The Local Planning Authority shall be given at least two weeks' notice of the date of this meeting. The development of each Phase thereafter shall be implemented in strict accordance with approved details.

- 11)
 - 1. Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, an Open Space Design and Management Plan (OSDMP) for that Phase shall be submitted and approved in writing by the Local Planning Authority. Details shall include, but not be limited to:
 - a) the land identified for open space for public recreation and sport;
 - b) how the open space shall be laid out and/or constructed; and,
 - c) the management company responsible for maintaining and repairing the open space.
 - 2. The OSDMP for each Phase shall be implemented as approved and the open space shall be used and maintained for public recreation and sport in accordance with the approved OSDMP for the lifetime of the development.
- 12)
 - 1. Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, details of the treatment of all parts of the site comprised in that Phase and not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. Details shall include, but not be limited to:

- a) the location, type and materials to be used for hard landscaping including Stockholm specifications for:
 - i. permeable paving;
 - ii. underground modular systems;
 - iii. soil aeration vents;
 - iv. soil type, biochar content and soil volumes available for each tree;
 - v. sustainable urban drainage integration, utilising rainwater run-off to supplement tree planting pits;
 - vi. works within tree Root Protection Areas (RPAs);
- b) a scaled plan and a schedule detailing species, sizes and numbers/densities of all proposed trees, plants and hedgerows. The number of proposed trees shall comply with a calculation to be made in accordance with the Bristol Tree Replacement Standard. Proposed trees shall be in locations where they are able to grow to full size, and trees in rear and front gardens shall not be counted for this purpose;
- c) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- d) types and dimensions of all boundary treatments.

2. Each Phase shall be landscaped strictly in accordance with the approved details for that Phase and in the first planting season after completion or first occupation of the development within that Phase, whichever is the sooner. All soft landscaping shall have a written five-year maintenance programme following planting. Any tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years shall be replaced. Any replacement planting shall be in accordance with the approved details.

- 13) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, the developer shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) for that Phase which shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 14) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, a Sustainability Statement demonstrating how sustainable design principles and climate change adaptation measures have been incorporated into the design and construction of the development within that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The development within that Phase shall thereafter be constructed in full accordance with the Sustainability Statement.
- 15) 1. Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, an Energy Statement for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The Energy Statement shall demonstrate how the energy hierarchy has been followed, how the heat hierarchy has been applied and how a 20% reduction in carbon dioxide emissions beyond

residual emissions through renewable technologies has been achieved including full technology specifications and locations.

2. Prior to occupation of each Phase, as defined by the Phasing Plan in Condition 5, evidence demonstrating that the approved measures for that Phase have been implemented, together with detail of ongoing management and maintenance to ensure the measures continue to achieve the predicted CO2 emissions reduction, shall have been submitted to and approved in writing by the Local Planning Authority.

- 16) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, an Overheating Risk Assessment (ORA) for that Phase (based on a recognised methodology and criteria such as C.I.B.S.E TM52/ TM59 or equivalent) together with details of mitigation measures in the event that the ORA identifies risks for any units/rooms, shall have been submitted to and approved in writing by the Local Planning Authority. The approved measures must then be implemented prior to the first occupation of that Phase.
- 17) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, a Noise Mitigation Scheme (NMS) for the residential accommodation within that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The NMS shall take into account the recommendations set out in the Noise Impact Assessment Ref A3949/N/02 and shall detail the required façade insulation, means of ventilation and acoustic fencing. The NMS shall thereafter be implemented in full prior to the commencement of the relevant part of the development.
- 18) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, a Remediation Strategy (RS) for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The RS shall include, but not be limited to:
 - a) a site investigation scheme, to provide information for appropriate assessment of the risk to all receptors that may be affected, including those off-site;
 - b) the results of the site investigation and the risk assessment referred to in (a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and,
 - c) a Verification Plan providing details of the data that will be collected to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The RS shall thereafter be implemented as approved.

- 19) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, an updated Biodiversity Net Gain (BNG) Assessment for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The BNG Assessment shall be based on an updated Ecological Survey of the site and the detailed design proposals for that Phase as agreed in the relevant reserved matters submission(s). The BNG Assessment shall use the Biodiversity Metric 3.0 Calculation Tool unless an amended statutory

Biodiversity Metric Calculator associated with the Environment Act 2021 becomes mandatory.

- 20) Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, a Project Implementation Plan (PIP) shall be submitted to and approved in writing by the Local Planning Authority. The PIP shall detail the delivery of on and off-site ecological and Biodiversity Net Gain (BNG) mitigation and compensation, in accordance with the approved BNG Strategy. The purpose of the PIP shall be to ensure that a framework is adopted by all relevant parties which ensures a consistent, integrated and common approach for the delivery of the agreed scheme targets for ecology and BNG. The PIP shall include timescales, phasing, critical pathways, programme risks, roles and responsibilities, communication pathways, and project controls as may be required to ensure the successful delivery of the combination of mitigation and compensation measures on and off site. The PIP shall thereafter be adhered to.
- 21)
 1. Prior to the commencement of each Phase of the development, as defined by the Phasing Plan in Condition 7, an Ecological Mitigation and Enhancement Strategy (EMES) for that Phase shall have been submitted to and approved in writing by the Local Planning Authority.
 2. Within one year of substantial completion of each Phase, evidence that the measures approved under the EMES have been delivered for that Phase shall be submitted to the Local Planning Authority.

Reserved matters

- 22) The reserved matters submission(s) for each Phase of the development, as defined by the Phasing Plan in Condition 7, shall include a plan showing all roads, paths and parking spaces to be constructed to an adoptable standard, which are proposed to be offered for adoption.
- 23) The reserved matters submission(s) for each Phase of the development, as defined by the Phasing Plan in Condition 7, shall be accompanied by the following:
 - a) a plan showing swept path analysis for all carriageways for a refuse truck passing a large car;
 - b) a plan showing appropriate forward visibility splays;
 - c) a plan showing vehicular visibility splays at junctions;
 - d) speed reduction measures where appropriate;
 - e) cross and long sections with spot heights and gradients for the carriageways/shared surfaces;
 - f) a plan showing the details of car parking;
 - g) a plan showing the details of secure cycle parking;
 - h) a plan showing the solutions for the storage and collection of refuse and recycling; and,
 - i) a proposal for the modification of the walking and cycling links through the site.
- 24) The first reserved matters submission(s) shall include full details of a Surface Water Management Scheme (SWMS) for the site and the phasing thereof. The SWMS shall accord with the principles and objectives of the Flood Risk Assessment and outline drainage strategy (April 2022) and the Design Code (April 2022). The development shall thereafter be carried out in accordance with the approved details.

- 25) 1. Prior to, or concurrent with, the submission of the first reserved matters submission(s), a Biodiversity Net Gain (BNG) Strategy shall have been submitted to and approved in writing by the Local Planning Authority. The BNG Strategy shall detail proposals to redress loss of biodiversity and the mitigation strategy proposed to include all on-site habitats and any off-site habitats required to deliver the target 10% BNG uplift. This shall be informed by a contemporary habitat survey and condition assessment of the whole site and any off-site habitats. The BNG Strategy shall use the Biodiversity Metric 3.0 Calculation Tool unless an amended statutory Biodiversity Metric Calculator associated with the Environment Act 2021 becomes mandatory.
2. On completion of each Phase, an update to the BNG Strategy shall be submitted to the Local Planning Authority, demonstrating how BNG has been delivered for that Phase and how the target 10% is anticipated to be delivered during the remaining course of development.
- 26) The first reserved matters submission(s) shall include an updated Ecological Impact Assessment (EcIA), prepared in accordance with published CIEEM guidelines and informed by the Outline Ecological Impact Assessment (TEP Ref. 7507.20.066 v6 April 2022). The updated EcIA should be updated for each Phase thereafter. This shall include repeat protected species surveys as appropriate.
- 27) The first reserved matters submission(s) shall include combined Ecological Mitigation Method Statements (EMMS). The EMMS shall include, but not be limited to, information on the following:
- a) native bluebell (preservation, translocation or mitigation for loss);
 - b) invasive species (prevention of spread);
 - c) slow worm (protection of slow worms, translocation plan in line with Natural England guidelines, and mitigation for habitats);
 - d) birds (protection of nests and mitigation for nesting habitat);
 - e) invertebrates (protection of key habitat features and mitigation for habitats);
 - f) badgers (protection and mitigation for habitats and/or setts);
 - g) hedgehogs and other small wildlife including terrestrial amphibians (protection of animals and mitigation for habitats, including permeability measures);
 - h) bats (protection of and mitigation for tree roost habitats and commuting/foraging habitat); and,
 - i) measures to avoid and minimise harm to the Brislington Meadows Site of Nature Conservation Interest (to include measures related to the drainage connection works).

Pre-specific part of the development

- 28) No development shall take place above ground level until full details of the junction between the site and Broomhill Road have been submitted to and approved in writing by the Local Planning Authority. The details shall be in broad accordance with drawing Ref 1066-007.D. No dwelling hereby approved shall be occupied until that junction has been constructed in accordance with the approved details.
- 29) No development shall take place above ground level until details of the pedestrian/cycle link to Allison Road/Fermaine Avenue have been submitted to and approved in writing by the Local Planning Authority. The

details shall be in general accordance with drawing Ref 1066-003. The works shall thereafter be constructed in accordance with the approved details and be completed in accordance with the agreed Phasing Plan as secured through Condition 7.

- 30) No development shall take place above ground level until details of the emergency vehicle/pedestrian/cycle link to Bonville Road have been submitted to and approved in writing by the Local Planning Authority, including details of construction access arrangements and measures to prevent vehicular access (other than emergency vehicle access) once the development has reached practical completion. The details shall be in general accordance with drawing Ref 1066-014. The works shall thereafter be constructed in accordance with the approved details and be completed in accordance with the agreed Phasing Plan as secured through Condition 7. Once the development is complete, the link shall at no time be used as a vehicular access apart from emergency access.
- 31) No development shall take place above ground level until details of the improvements to the existing footpath to provide a pedestrian/cycle link to School Road have been submitted to and approved in writing by the Local Planning Authority. The details shall be in general accordance with drawing Ref 1066-016. The works shall thereafter be constructed in accordance with the approved details and be completed in accordance with the agreed Phasing Plan as secured through Condition 7.
- 32) The occupation of the development hereby approved shall not take place until:
 - a) the Local Planning Authority has approved in writing a scheme of off-site highway improvement works comprising:
 - i. traffic calming to control speeds and pedestrian improvements on Broomhill Road;
 - ii. provision of zebra crossing on School Road;
 - iii. pedestrian improvements through the Bonville Trading Estate; and,
 - b) the approved works have been completed in accordance with the Local Planning Authority's written approval and have been certified in writing as complete on behalf of the Local Planning Authority.
- 33) Prior to works above ground level in each Phase of the development, as defined by the Phasing Plan in Condition 7, details for any proposed external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The details shall be in the form of a Lighting Impact Assessment (LIA), requiring a baseline light survey and the detailed lighting scheme showing lux levels. The LIA shall include, but not be limited to:
 - a) the Lighting Design Principles set out in the Outline EcIA (TEP 7507.20.066 v6 April 2022) and Updated EcIA under Condition 26; and,
 - b) contemporary guidance from Bat Conservation Trust and Institute of Lighting Professionals.

No new artificial lighting should be introduced within the southern greenspaces of the site. The development shall thereafter be constructed in accordance with the approved LIA.

Pre-occupation

- 34) Prior to occupation of each Phase of the development, as defined by the Phasing Plan in Condition 7, a Verification Report (VR) demonstrating completion of works for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The VR shall set out the approved remediation strategy and the effectiveness of the remediation. The VR shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any Long-term Monitoring and Maintenance Plan (LMMP) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the LMMP. The LMMP shall be implemented as approved.
- 35) Prior to occupation of any residential unit within each Phase of the development, as defined by the Phasing Plan in Condition 7, a Travel Plan (TP) for that Phase shall have been submitted to and approved in writing by the Local Planning Authority. The TP shall comprise immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use. The approved TP shall thereafter be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.
- 36) Prior to occupation of any residential unit within each Phase of the development, as defined by the Phasing Plan in Condition 7, details of Electrical Vehicle Charging infrastructure for that Phase, together with a management plan and phasing for its implementation, shall have been submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, details of the:
- a) final layout;
 - b) number and location of EV parking spaces;
 - c) number and location of EV charging points;
 - d) type of EV charging points (eg fast, rapid);
 - e) indicative locations for feeder pillars and protective infrastructure;
 - f) evidence of power supply (to ensure substation capacity is adequate);
 - g) indicative location of substation (where required);
 - h) indicative cable routing;
 - i) management plan outlining proposed management of spaces, charging network and infrastructure;
 - j) electrical Layout and Schematic Design; and,
 - k) feeder Pillar Design/Electrical Layout/Schematic Layout Designs.

The Electric Vehicle Charging Points and management strategy as approved shall be implemented and retained thereafter for the lifetime of the development.

- 37) Prior to occupation within each Phase of the development, as defined by the Phasing Plan in Condition 7, a Site Investigation and Post Investigation Assessment for that Phase shall have been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 13 and the provision made for analysis, publication and dissemination of results and archive deposition shall have been secured.

- 38) Prior to occupation within each Phase of the development, as defined by the Phasing Plan in Condition 7, a Public Art Plan (PAP) shall be submitted to and approved in writing by the Local Planning Authority. The PAP shall set out specific public art proposals, in accordance with the requirements of Policy BCS21 of the Core Strategy 2011. The PAP shall thereafter be delivered as agreed.

For observation

- 39) Detailed plans and particulars of the reserved matters submission(s) shall be in compliance with the approved the Design Code (April 2022) and each reserved matters submission(s) must demonstrate compliance with the design requirements set out in the Design Code.
- 40) 1. In the event that contamination is found at any time when carrying out the approved development, it must be reported immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the Environment Agency's Land Contamination Risk Management, and where remediation is necessary a Remediation Scheme must be prepared which ensures the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
2. Following completion of measures identified in the approved Remediation Scheme and prior to occupation of the relevant part of the development, a Verification Report (VR) and any associated Long-term Monitoring and Maintenance Plan, either stand-alone or as an amendment to those required by Condition 34, must be submitted to and approved in writing by the Local Planning Authority.

===== END OF SCHEDULE =====