
15th July 2025

**Land between Lodge
Road and Tape Lane,
Hurst**

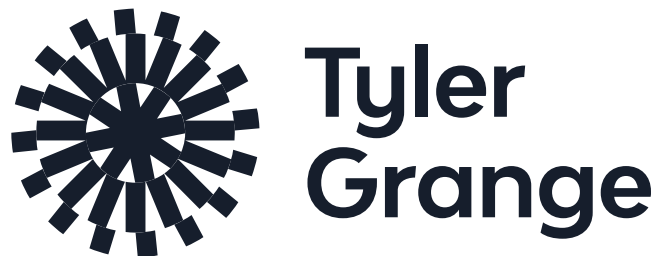
**CD5.7:
Arboriculture
Evidence of
Mr. Jamie Pratt
BSc (Hons), MArborA**

Appeal between Mac Mic Strategic Land
Limited and Wokingham Borough Council

LPA Application Ref: 242067

Appeal Ref: APP/X0360/W/25/3364304

Report Number: 16452_R07_JP



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Document History and Status

Version	Date	Description of Issue	Author	Checked
First Draft	25/06/25	Draft Issue to Project Team and KC	JP	CGS
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Appendices

Appendix 1: Appeal Decision APP/Z0116/W/22/3308537

Appendix 2: Appeal Decision APP/C4235/W/23/3325351



Section 1: Introduction

Introduction and Experience

- 1.1. My name is Jamie Pratt, I am a Director of Tyler Grange Group Ltd (TG) and I specialise in Arboricultural planning issues associated with trees and new development. I hold a National Diploma in Forestry and Arboriculture from Warwickshire College, a Foundation Degree in Science in Arboriculture from the University of Brighton and Bachelor of Science Degree in Arboriculture from the University of Central Lancashire. I am a Professional Member of the Arboricultural Association which I have held since 2016. My career in Arboriculture began in 2009 working as a tree surgeon. I have worked continuously in arboricultural consultancy since 2014. I joined TG in 2016 as an Arboricultural Consultant and was appointed Director of Arboriculture for the business in January 2024. I lead a team of 10, which includes 7 fully qualified arboricultural consultants.
- 1.2. My professional career has been focussed on tree quality survey and assessments to address arboricultural planning and visual amenity in the context of development. This includes the application of the British Standard "Trees in Relation to Design, Demolition and Construction to Construction - Recommendations" (BS5837) (2012), balancing development implications, impact assessments and mitigation against applicable planning policy and method statements in order to give an informed assessment of development proposals as they relate to trees and planning matters.
- 1.3. I have been involved in a range of residential, commercial and renewable developments across mainland Great Britain. This has included major housing allocations, highways infrastructure, commercial development schemes, conservation/restoration plans, renewables, including gigafactories and solar development. The identification and assessment of veteran trees forms a key part of my arboricultural assessment for such projects. I have also prepared a number of veteran tree management plans to secure the longevity of veteran trees alongside new development proposals. This has been for individual trees, populations of veteran trees on estates, and veteran trees within traditional orchards.
- 1.4. My involvement in the project to date includes completion of a baseline tree survey of the site, and preparation of the Arboricultural Impact Assessment (CD11.6: 16452 R01a) to accompany the planning application. I was also a co-author of the Tree Assessment and Compensation Strategy where it pertained to veteran tree assessment (CD11.3: 16452 R05a).

Document and Application Context

- 1.5. This Proof of Evidence (PoE) has been prepared on behalf of Mac Mic Strategic Land Limited ("the Appellant") and relates to Wokingham Borough Council's ("the Council") refusal of the following outline Planning Application, which was determined on 29th November 2024:



Outline application for the proposed erection of up to 99 no. dwellings, green infrastructure, open space, pedestrian and cycle links, recreational facilities and other associated infrastructure and access points on Lodge Road and Tape Lane with required improvements. (All matters reserved except for means of access.) ("the Appeal Site").

- 1.6. Numbers 6 and 7 of the Reasons for Refusal (RfR) relate to Biodiversity Net Gain (BNG), and the impact on ecology and biodiversity by reason of the impact on protected species, wildlife and habitats, which reads:

RfR 6: "By virtue of a lack of accurate information, an assessment date for baseline biodiversity value cannot be agreed. Therefore an assessment of how 10 percent biodiversity net gain will be achieved is not possible and as such, if granted planning permission, there is no guarantee if 10 percent biodiversity net gain will be achieved, hence would be contrary to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)."

RfR 7: "The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity by reason of the impact on protected species, wildlife and habitats, contrary to policy CP1, CP3 and CP7 of the Core Strategy, CC01 and TB23 of the MDD Local Plan and section 15 of the NPPF".

- 1.7. The RfR partly relates to the loss of two oak trees (referred to as trees T85 and T86 within all planning documentation) which had potential to be classified as veteran trees. It is understood that two trees were removed from the site in 2021 by the landowner at that time. Their removal was undertaken prior to TG's involvement in the project and the issue became known to TG after the planning application had been submitted. What remains of the trees on site are stumps measuring approximately 1m and 1.5m from ground level respectively.
- 1.8. These tree removals are relevant to the BNG assessment, as paragraphs 6 and 6A of Part 1 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) states the following:

"6 If—

(a) a person carries on activities on land on or after 30 January 2020 otherwise than in accordance with—

(i) planning permission, or

(ii) any other permission of a kind specified by the Secretary of State by regulations, and

(b) as a result of the activities the biodiversity value of the onsite habitat referred to in paragraph 5(1) is lower on the relevant date than it would otherwise have



been, the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.

6B

(1) This paragraph applies where there is insufficient evidence of the biodiversity value of an onsite habitat immediately before the carrying on of the activities referred to in paragraph 6 or 6A.

(2) The biodiversity value of the onsite habitat immediately before the carrying on of the activities referred to in paragraph 6 or 6A is to be taken to be the highest biodiversity value of the onsite habitat which is reasonably supported by any available evidence relating to the onsite habitat.”

- 1.9. It is therefore the case that the removed trees must be included in the baseline biodiversity value of the site within the BNG metric, and their value must be taken as the highest reasonable value they could have had prior to removal, based on the available evidence.
- 1.10. TG have prepared a Tree Assessment and Compensation Strategy (CD11.3:16452_R05a). This was submitted to the Council following the submission of the planning application and their decision for refusal. The document sets out details of a retrospective assessment of the two trees, from both an ecological and arboricultural perspective, in order to establish the likely habitat value of the trees, and whether or not they were likely to have been veteran trees. The assessment also informed the compensation strategy for the loss of the two trees which is detailed within the document.

Correspondence

- 1.11. Correspondence between TG and the Council (See Appendix 3 of the Ecology PoE CD5.4:16452_R06) took place between June and July 2025 and I understand that the BNG baseline for the site has now been agreed within the Council. Subsequently, I understand that the Council's RfR 6 has been resolved.
- 1.12. Further to this, it is my understanding that the Council have also agreed to the compensation measures set out within the Tree Assessment and Compensation Strategy (CD11.3:16452_R05a) for the loss of the two trees. Notwithstanding this, I understand the Council maintain their RfR 7, due to the alleged implication for para 193 (c) of the National Planning Policy Framework (NPPF), which states that the loss of irreplaceable habitats (in this case the trees), requires wholly exceptional circumstances (as well as a suitable compensation strategy).
- 1.13. On this basis, my understanding is that the only remaining issue within RfR 7 relates to the Council's view that policy 193 (c) is applicable due to the loss of the two trees, and thus the development must demonstrate wholly exceptional circumstances to meet the criteria of para 193 (c). Wholly exceptional circumstances is a planning matter and thus my evidence does not address this. I understand this has been addressed within the Planning PoE, prepared by Mr Slatter of Planning Potential (CD4.1).



Focus of Evidence

- 1.14. My evidence addresses the following:
- Whether or not the trees were likely to have met the criteria of a veteran tree as defined under both the NPPF definition and the BNG definition. This is intended to inform whether or not paragraph 193 (c) of the NPPF is applicable to the trees.
 - The strategy for compensation for the loss of the trees from an arboricultural perspective, to inform whether suitable compensation can be provided for the loss of the two trees that had already occurred.
- 1.15. An Ecology PoE (CD5.4:16452_R06) has been prepared in which this report should be read in conjunction with.

Statement of Truth

- 1.16. The evidence I have prepared here represents my professional opinion on the aspects of arboricultural assessment. I believe the facts stated in this evidence are true, accurate and have been prepared in accordance with the guidance of my professional institution (the Arboricultural Association).



Section 2: Veteran Tree Definitions and Policy Interpretation

- 2.1. An understanding of the likely age, size, and condition of trees T85 and T86 is required to determine whether they could have been classified as veteran trees, and to inform the appropriate level of compensation for their loss. This assessment is made in the context of both the National Planning Policy Framework (NPPF) and the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024 (BNG Regulations).
- 2.2. Notably, the NPPF and BNG Regulations define veteran trees differently. This is set out below together with my interpretation of both definitions.

NPPF Veteran Tree Definition and Interpretation

- 2.3. NPPF definition of a veteran tree:
- “Ancient or veteran tree: A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.”¹ (TG emphasis)*
- 2.4. In accordance with the above NPPF Annex 2 definition, for a tree to be considered a veteran its characteristics of age and size and condition must confer “exceptional value”. Consistent with NPPF Annex 2 a veteran tree must also be “old relative to other trees of the same species”.
- 2.5. Trees that do not satisfy NPPF Annex 2 are not, by definition, veterans in accordance with NPPF. A tree must be of exceptional age, size and condition in order to meet the defined criteria of a veteran tree within the NPPF.
- 2.6. Paragraph 193(c) of the NPPF 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”². Given the very high level of protection afforded to veteran trees under NPPF Policy 193(c), it is essential, on the principle of proportionality, that the methodology for identifying such trees in the planning context applies a correspondingly high threshold.

BNG Regulations Veteran Tree Definition and Interpretation

- 2.7. The BNG Regulation defines ancient and veteran trees as follows:
- “Ancient and veteran trees can be found as individual trees or collections of trees in any setting.”*

¹ NPPF Annex 2 (Glossary)

² Paragraph 193 (c) of the NPPF (December 2024)



Ancient trees have passed beyond maturity into an ancient life stage or are old in comparison with other trees of the same species which exhibit one or more of the following—

(i) demonstrably great age relative to others of the same species

(ii) changes to their crown and trunk development indicative of the ancient life stage

Veteran trees are mature trees that share physical and other characteristics in common with ancient trees, due to their life or environment, but are neither developmentally nor chronologically ancient. All ancient trees are veteran trees, but not all veteran trees are ancient. Veteran and ancient trees which have died are still recognised as such because they retain significant biodiversity value for many decades.

Veteran trees exhibit one or more of the following—

(i) significant decay features such as deadwood, hollowing or signs of advanced decay in the trunk or major limbs

(ii) a large girth, depending on and relative to species, site and management history

(iii) a high value for nature, especially in hosting rare or specialist fungi, lichens and deadwood invertebrates”³. (TG emphasis)

- 2.8. Under the BNG Regulations, the threshold for a tree to be categorised as a veteran tree is set far lower than that compared to the NPPF. Under this definition, a tree does not need to be of a sufficient age or size, and can be considered veteran by having significant decay features or a high value for nature.

Further Policy and Guidance Interpretation

- 2.9. In addition to the differing definitions of veteran trees under the NPPF and the BNG Regulations, there are also notable differences in how each framework addresses impacts on irreplaceable habitats. The NPPF adopts a policy-based approach, stating that “*development resulting in the loss or deterioration of veteran trees should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists*”. In contrast, the BNG Regulations do not refer to wholly exceptional circumstances and states that: “*Special compensation rules apply to irreplaceable habitat. If planning permission is given you will need to agree a compensation strategy with the LPA. Compensation for irreplaceable habitat needs to be relative to the baseline habitat type. The LPA will agree compensation as part of the determination of the planning application, on a case-by-case basis*”.

³ Within the Biodiversity Gain Guidance, the definition of a veteran tree is accessed via Footnote 1 of the 'Individual Trees' Habitat Type Condition Sheet. This is within the Statutory Biodiversity Metric Conditions Assessment (dated 23.07.24).



- 2.10. In the case of this appeal, a compensation strategy has been submitted to and agreed within the Council ahead of the appeal in line with the BNG Regulations. Thus, the loss of the trees has been suitably addressed in line with the specific requirements of the BNG Regulations.

Overall

- 2.11. The use of broader ecological criteria (such as those in the BNG metric) to classify trees as veteran with the NPPF is disproportionate and not appropriate in my view. The application of the BNG definition to invoke the protections of NPPF Policy 193(c) risks conflating distinct policy frameworks and, in doing so, diminishes the integrity of the NPPF's veteran tree designation. Such an approach would erode the exceptional threshold intended by national policy, thereby devaluing the ecological and cultural significance of trees that genuinely meet the NPPF's criteria for irreplaceable habitat.

Planning Precedent

- 2.12. This position is supported by the Inspector's findings in the Brislington Meadows appeal (APP/Z0116/W/22/3308537) (See Appendix 1), which serves as a relevant planning precedent confirming that a tree must meet all three defined criteria to be classified as a veteran tree. The Inspector states that: *"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."*
- 2.13. In the Mirrlees Fields appeal decision (APP/C4235/W/23/3325351) (See Appendix 2), the Inspector concluded that the trees did not meet the NPPF threshold, noting that while some features were present (including major trunk cavities, progressive hollowing and bark loss) they did not collectively demonstrate the exceptional value required to classify a tree as veteran under paragraph 193(c). This reinforces the principle that the NPPF definition is not satisfied by the presence of isolated veteran features alone; rather, a tree must meet the criteria of age, size, or condition to such a degree that it confers exceptional biodiversity, cultural, or landscape value. While in this case there was no reference to the BNG definition of a veteran tree, the features listed on the tree are arguably consistent with the requirements of the BNG definition, yet were considered insufficient to warrant veteran classification by the Inspector.



Section 3: Veteran Tree Assessment

Tree Assessment - NPPF and BNG Regulation Definitions

- 3.1. The potential for the trees to meet either definition has been examined in detail in the Tree Assessment and Compensation Strategy (CD11.3:16452_R05a), with a summary of the findings provided below.
- 3.2. My analysis concludes that the trees were of insufficient age and size to have met the criteria for veteran status under the NPPF or BNG definitions. This conclusion is supported by accurate measurements of the tree stems taken from the remaining stumps on site. As the NPPF definition requires all three criteria of age, size and condition to be met, they were not, by this definition, veteran trees.
- 3.3. The BNG definition of a veteran tree only requires one of the three criteria to be met. The trees did not meet the criteria of “(ii) a large girth, depending on and relative to species, site and management history”. The BNG Regulations does not elaborate of what constitutes a large girth, therefore I have adopted the same size assessment methodology as that for the NPPF definition assessment.
- 3.4. A comprehensive assessment on the remaining two criteria “(i) significant decay features such as deadwood, hollowing or signs of advanced decay in the trunk or major limbs and (iii) a high value for nature, especially in hosting rare or specialist fungi, lichens and deadwood invertebrates” was not possible due to the removal of the upper parts of the trees. The Tree Assessment and Compensation Strategy (CD11.3:16452_R05a) makes informed assumptions based on the remaining stumps, their size and age, and comparisons with other similarly aged oak trees on site. The assessment suggests that significant decay features were unlikely, as such features are typically associated with larger and older trees and were not observed in comparable specimens nearby.
- 3.5. The BNG Regulations do not elaborate on what constitutes “high value for nature” beyond the definition provided, leaving this aspect open to professional judgment. While it is possible that T85 and T86 may have supported rare or specialist species, there is no direct evidence to confirm this. Although mature English oaks generally contribute to biodiversity, there is no indication that these particular trees were of sufficiently high value to be considered veteran or irreplaceable. Trees of a comparable age and size that exist on the site, such as T9, T10, T11 and T13 (as noted at para 2.35 of CD11.3:16452_R05a), were not shown to support potential bat roost features (as confirmed within the Ecological Impact Assessment for the application (CD11.1: 16452_R02b)). This supports a reasonable assumption that the lost trees did not have a high value for nature as defined by the BNG Regulations.

Assessment Limitations and Approach

- 3.6. While it is my professional opinion that the trees were unlikely to have been veteran, I acknowledge the significant limitations of the assessment due to the absence of the upper



tree components. As a result, a precautionary approach has been adopted whereby the trees are treated as veteran within the BNG metric, and for the purposes of informing the content of the compensation strategy.



Section 4: Compensation Strategy

- 4.1. A compensation strategy has been prepared by TG in response to the loss of the two English oak trees. Full details are provided in the Tree Assessment and Compensation Strategy (CD:11.3 16452_R05a). This has been submitted to and agreed with the Council ahead of the appeal.
- 4.2. Should the appeal be allowed, the compensation strategy can be secured through a suitably worded planning condition. The individual components of the strategy can then be incorporated into subsequent detailed reports, to be approved by the Council prior to the commencement of development. These reports may include:
- Arboricultural Method Statement (AMS),
 - Construction and Environmental Management Plan (CEMP), and
 - Habitat Management and Monitoring Plan (HMMP).
- 4.3. The compensation strategy includes the following key items:
- Remedial works to existing veteran trees to improve growth conditions and their vitality. This will extend their life span which provide greater longevity of the niche habitats they support.
 - Creation of new habitats that replicate those potentially lost, including the use of veteranisation techniques and deadwood management. This is appropriate to compensate for loss of niche habitats that may have occurred.
 - New tree planting to reinstate connections and establish future standalone parkland trees, using species and specifications with the potential to reach veteran status. This will improve the ecological function of tree connectivity on site, particularly where there are currently large gaps along the northern boundary.
 - Appropriate management of recreational impacts towards both existing and new habitats associated with veteran trees. This will provide a favourable setting for wildlife which use the niche habitats within the existing and new trees at maturity.
 - Commitment to a minimum 30-year management plan to safeguard both existing and newly created habitats associated with veteran trees. This is appropriate to ensure the compensation measures are delivered effectively.
- 4.4. In my professional opinion, suitable compensation for the loss of the two trees can be delivered on-site alongside the proposed development, provided that the measures outlined in the strategy are successfully implemented.



Section 5: Conclusion

- 5.1. The Tree Assessment and Compensatory Strategy (CD11.3:16452_R05a) concludes that the two English oak trees were unlikely to be veteran trees as defined by the NPPF and BNG Regulations. There is strong supporting evidence, particularly stem measurements, that indicate the trees lacked the necessary age and size to qualify as veteran trees under the NPPF definition.
- 5.2. As the trees in question do not meet the NPPF definition of a veteran tree, paragraph 193(c) of the NPPF (as it relates to veteran trees) is not considered engaged. Therefore, the development proposal is not subject to the irreplaceable habitat protections as defined by the NPPF.
- 5.3. My analysis suggests that the trees were typical mature English oaks, which would have exhibited some age-related features. However, they were not of sufficient age to have developed the complex features or niche habitats typically associated with irreplaceable veteran trees.
- 5.4. While I maintain that the trees were unlikely to have been veteran, there is insufficient evidence to definitively rule out veteran status under the BNG definition. This is primarily due to two factors:
 - the inability to conduct a comprehensive assessment of veteran features and associated habitats following the trees' removal, and
 - the inherent subjectivity in interpreting the BNG definition.
- 5.5. Given these uncertainties, a precautionary approach has been adopted. The trees have been treated as veteran under the BNG definition (but not under the NPPF) and are therefore included as such within the BNG metric. Subsequently, a bespoke compensation strategy, separate from the BNG metric, has been developed to address the loss and this has been agreed with the Council. This strategy is informed by expert arboricultural and ecological assessments of both the trees and the wider site. It aims to:
 - reinstate veteran tree features that may have been associated with the lost trees,
 - enhance the longevity of the site's remaining veteran tree population through remedial works, and
 - secure the next generation of veteran trees through targeted planting in open spaces.
- 5.6. In my professional opinion, suitable compensation for the loss of the two trees can be delivered on-site alongside the proposed development, provided that the measures outlined in the strategy are successfully implemented.



Appendix 1: Appeal Decision

APP/Z0116/W/22/3308537





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.
-

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 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 =====

Appendix 2: Appeal Decision

APP/C4235/W/23/3325351





Appeal Decision

Inquiry Held on 31 October; 1-2 November; 7-9 November; 14 November 2023
Site visit made on 30 October and 14 November 2023

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24/01/2024

Appeal Ref: APP/C4235/W/23/3325351

Mirrlees Fields, Stockport

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by MAN Energy Solutions UK Limited against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/081719, dated 1 September 2021, was refused by notice dated 27 January 2023.
 - The development proposed is described as 'outline planning application with all matters reserved proposing the erection of a residential development for up to 200 dwellings, with associated landscaping, site infrastructure and the provision of new public open space'.
-

Decision

1. The appeal is allowed and outline planning permission (with all matters reserved) is granted for the erection of a residential development for up to 200 dwellings, with associated landscaping, site infrastructure and the provision of new public open space at Mirrlees Fields, Stockport in accordance with the terms of the application, Ref DC/081719, dated 1 September 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

PRELIMINARY MATTERS

The Appeal Site and the Proposed Development

2. The appeal site extends to around 26.88ha and comprises an irregular shaped parcel of land known as Mirrlees Fields, which is mainly privately owned by the appellant. The majority of the site is allocated as a Strategic Open Space under saved Policy UOS1.2 of the Stockport Unitary Development Plan (UDP) (2006) and a Green Chain under Policy NE3.1 of the UDP. The formal recreational use of the appeal site by employees of the appellant continued until 1986; however, the use has been abandoned.
3. Following refusal of the application, the appeal site has been fenced off by the appellant to prevent public access other than people using the linear route of footpaths which cross the appeal site. The Council and the appellant agree that there is currently no legal public access to the site other than from the defined route of the footpaths and that there is a permitted development right to erect a 2m high fence around the perimeter of the land within the appellant's private ownership.
4. Trees along the western and northern boundaries and in the south-eastern area of the appeal site are covered by two area Tree Preservation Orders (TPOs). There is a railway line to the south west of the appeal site, beyond which is established residential development and Bramhall Moor Technology Park. The appellant's offices and warehouses lie adjacent to the south east. Residential development lies to the west and east.

5. The appellant seeks planning permission for the development described above, with the residential element comprising 50% affordable housing. The application was made in outline with all matters being reserved for future consideration.
6. Prior to the Inquiry, the appellant submitted a revised plan showing an amended red line boundary following a Land Registry search which identified a number of residential occupiers as owning land within the application red line boundary. The purpose of the Plan is to correct a small boundary anomaly and the difference is virtually imperceptible on the plan. I am, therefore, satisfied that the revised plan does not substantially alter the nature of the proposal and that parties would not be prejudiced by my taking account of the revised plan. I have, therefore, done so in writing this decision.

PROCEDURAL MATTERS

7. The Inquiry sat for 7 days. I made one unaccompanied visit to the site and surrounding area on 30 October 2023 and an accompanied site visit on 14 November 2023. I have altered the description of the development in the decision paragraph to make it more concise.
8. A local community group known as 'Protect Mirrlees Fields From Development' (PMFFD) appeared and gave evidence at the inquiry, having been granted Rule 6(6) status.
9. The appellant and Council submitted 10 Statements of Common Ground (SoCG) to the Inquiry addressing matters including arboriculture (CD8.1); Design (CD8.2); Ecology (CD8.3); Highways (CD8.4); Affordable Housing (CD8.5); Open Space Townscape and Visual (CD8.6); Social Infrastructure (CD8.7); Planning (CD8.8); and Housing Land Supply (CD8.9). A further SoCG was submitted by the appellant and the Rule 6(6) Party – PMFFD (CD8.10).
10. Following the Inquiry the appellant submitted a Planning Obligation, dated 22 November 2023, made under s106 of the Town and Country Planning Act 1990. The "s106 obligation" is made in the form of an agreement with the Council, and its undertakings are addressed later in this decision.
11. A revised National Planning Policy Framework (the Framework) came into force on 19 December 2023. The main parties have had the opportunity to comment on the revised Framework. I have considered these comments and the implications of the revised Framework in my reasoning below.
12. The Council refused the application on the grounds of the loss of strategic open and natural green space in an area of open space deficiency.

Main Issue

13. Taking into account the above, I consider that the main issue in this appeal is the effect of the proposal on the supply of open space.

Open Space

OPEN SPACE – SUPPLY AND VALUE

14. Mirrlees Fields ('the Fields') have a history of recreational use stretching back over a century. The site was first laid out as a 9-hole golf course and parts of the Fields were also laid out as football and cricket pitches. Formal recreational use of the Fields ceased in the 1980s; however, they have since been used for nearly forty years by the general public for informal recreation, until recently when the site was fenced off by the appellant.

15. The schedule at paragraph 7.9 of the supporting text to Policy UOS1.2 of the UDP identifies that the Mirrlees area is an extensive stretch of open ground including grassland, semi-natural areas of nature conservation interests and recreational uses. It goes on to say that it makes a major contribution to the Green Chain network and significant visual contribution to the urban fabric. A valuable open lung within a largely suburban area.
16. The Open Space Assessment Report (OSAR) (2017) (CD4.16) and the Open Space Standards Paper (OSSP) (2017) (CD4.17) form the evidence base for the future provision for open space in the area. The OSSP records quantitative shortfalls across the Borough for a number of typologies of open space. The Stepping Hill Area is deficient in natural and semi-natural greenspace at 1.16ha per 1000 population below the recommended standard of 1.8ha per 1000 population. The Fields is the only site of this typology in Stepping Hill. Deficiencies also exist for parks and gardens, amenity greenspace and allotments. Table 5.2 of the OSAR identifies a quality score for the Fields of 47.9% and a value score of 40.9%, a natural/semi-natural greenspace of both high quality and high value.
17. Attention is drawn to paragraph 6 of the OSSP which states that "open space must be a defined site with clearly identifiable boundaries, freely accessible for members of the public to access and use and meets one of the open space typologies set out in the following table". Notwithstanding this definition, the OSSP and OSAR are not policy, and the site meets the definition of Open Space in the Glossary to the Framework and remains designated open space in the UDP.
18. The definition of 'open space' in the Framework includes land which offers important opportunities for sport and recreation and land which can act as a visual amenity. The Council and appellant agreed that there can be 2 types of 'important opportunities': land which provides a present opportunity for sport etc and a site without lawful access which could provide a future opportunity for sport and recreation if public access is allowed, and the site is laid out for it. The Council and appellant also agreed that recreation can be considered in two ways: active recreation and passive recreation. The latter being where the public may look across a site of open space.
19. Reference is made to the *Renew Developments Limited vs Welsh Ministers*¹ in which Stephen Richards LJ considered that 'when planning permission is sought for a development, the policy must be applied to the open space existing at the time of the decision whether to grant permission'. However, the conclusions of Stephen Richards LJ relate to the circumstances and development plan policies of that specific case. In any event, the Council and appellant agree that the appeal site is designated open space in the Development Plan and that the site forms 'existing open space of public value'.
20. In terms of historical use, access has largely been tolerated by the landowner for a considerable period. Prior to the fence being erected the public value of the site as 'open space', within the meaning of the Framework, included active recreational use of the Fields, even though the general use of the Fields was not authorised. Furthermore, there has been some lawful access to the site via agreement for organised events. This historical access to the site has influenced the public's perception of its value and it is clear from the submissions of PMFFD that the open space has been and still is highly valued by the public. Consequently, I do not consider that the historical public value of the site can be entirely disregarded; however, less weight should be attached to it due to the unlawful nature of some of this historical use.

¹ *Renew Land Developments v Welsh Ministers* [2020] EWCA Civ 143 (CD5.26)

21. In terms of its present use, the effect of fencing the public footpaths is that recreation is restricted to active recreation on the four Public Rights of Way (PRoW) traversing the site and passive recreation and amenity/visual amenity as you pass and re-pass along certain parts of the PRoW, from which the site is visible. Notably, there are views from PRoW 126S over the 'Big Field' towards the Mirrlees Oak.
22. Consequently, the public value of the site as open space is derived from the ability to pass and repass along the PRoW, the appreciation of the site from certain distinct lengths of the PRoW from which the site can be experienced and also the historical use of the site, in particular, but not limited to, where this has been agreed with the appellant.

EFFECT OF THE DEVELOPMENT ON THE SUPPLY AND VALUE OF OPEN SPACE

23. The proposal would result in a direct loss of more than 4.4ha of the sole source of supply of natural/semi-natural greenspace in the Stepping Hill area. There would also be a proportion (as yet undetermined) of the 3.41ha proposed as residential amenity open space which would result in a further loss of the natural/semi-natural greenspace typology. This would equate to around 20-25% of the current supply of natural/semi-natural greenspace. As this is the only source of supply in the area, the deficit would also increase by a similar proportion. The proposal would, therefore, have a significant quantitative impact on the supply of designated open space in the area.
24. However, whilst there would be a quantitative loss of designated open space, this open space is currently private other than the PRoW which traverse the site. The development would result in around 21.71ha (around 80% of the appeal site) becoming publicly accessible in the form of Public Open Space, comprising of 3.41ha of Formal Amenity Space and dedicated Informal Public Open Space (IPOS) (18.30ha). The latter would be transferred to, and managed by the Land Trust or similar body and fully funded by a contribution payable by the appellant to the Land Trust and secured by a planning obligation.
25. All existing PRoW would be retained with the exception of PRoW 126S (part of the Fred Perry Way) which would either be retained in its current position or diverted so that it crosses through the central area of the formal amenity space within the housing area. There would be a qualitative impact as users would be able to see the housing area from parts of the PRoW network. However, this would only relate to around 360m from PRoW 126S and views would be of a high-quality scheme. Furthermore, the site is in a predominately urban area and those views would not, therefore, be unexpected. Moreover, the proposal would offer new PRoW routes as well as the improvement to several existing PRoW.
26. A Land Use and Building Heights Parameter Plan indicates that 200 homes would be situated in the south-west corner of the site. The proposed housing would be situated in a large area of grassland which is less ecologically diverse than the ecologically rich portions of the site to the north and east of the appeal site. The housing would be surrounded on three sides by urban or suburban development and on the least ecologically sensitive part of the site. The proposal would also result in the implementation of managed ecology and landscape enhancements, including the planting of 267 new native trees and achieving a minimum of 10% Biodiversity Net Gain (BNG).
27. Based on the indicative housing mix in the Design and Access Statement, the requirement for Children's Play would be 0.6ha and the requirement for formal recreational space would be 1.3ha resulting in an overall requirement of 1.9ha to meet the needs of the residential development proposed. The proposed Residential Amenity Public Open Space would address the 0.6ha requirement for Children's Play which provides a central area within the housing development which would include a 0.36ha

Local Equipped Area for Play (LEAP). Furthermore, the proposal would include an additional 3.05 ha of Residential Amenity Public Open Space totalling 3.41ha. The formal recreational space would be met by way of a commuted sum to contribute towards off-site provision.

28. There is no requirement in the UDP or the Open Space Provision and Commuted Payments Supplementary Planning Document (SPD) to provide natural/semi-natural greenspace arising from new housing development. Nonetheless, there is no dispute that there is a deficit of -1.16ha per 1,000 in that typology in the Stepping Hill area when judged against the 1.8ha per 1,000 Fields in Trust (FiT) standard. Neither is there any dispute that there would be a direct loss of at least 4.4ha of designated open space. However, the designated open space, can only be appreciated from certain points of the PRoW which traverse the site at present.
29. Whilst there would be a loss of at least 4.4ha of designated open space, it is nevertheless, agreed between the Council and the appellant that the development would enable around 21.71ha of private land to be made available for public and recreational use (18.30ha informal open space; 3.41ha residential amenity open space) and secure the transfer of the informal open space to the Land Trust to manage and maintain in perpetuity for residents and the public (CD8.8, SoCG Planning). Furthermore, the retained and improved open space would continue to provide health and wellbeing benefits to the local community.

NATIONAL POLICY

30. The approach to open space, sport and recreation in the revised Framework has not altered. Paragraph 103 of the Framework (previously paragraph 99) states that existing open space, sports and recreational buildings and land, including playing fields should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirement; b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
31. Building housing on 4.4ha of existing open space would be in conflict with criterion a) of paragraph 103 of the Framework as an assessment has not been undertaken which shows the land as surplus to requirement. Criterion b) requires consideration of whether the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. There is consensus between the main parties that the site is in a suitable location.
32. The Council contends that the quantitative loss of open space cannot be mitigated by the qualitative improvements proposed by the appellant. However, the appellant suggests that 'equivalent' does not necessarily mean the same in either quantitative or qualitative terms. It does so with reference to the Brommell² case which concluded that whether or not provision is equivalent or better should be judged in terms of both quality and quantity. The case clarified that the overall requirement is that the open space land lost must be made up for and whether or not that requirement is met is a matter of planning judgement, having regard to both the quantity of what is to be provided and the quality, but allowing (in an appropriate case) for one to be set off against the other. The case also established that qualitative improvements to the open space which is left can provide 'equivalent or better' provision.
33. I acknowledge that the proposal would result in the loss of at least 4.4ha of designated public open space. However, the proposal would result in public access to

² R(Brommell) v Reading BC & Anr [2018] EWHC 3529 (Admin)

the retained area of land beyond the PRow which is not at present lawfully accessible. Furthermore, there would be improvement to the retained area in terms of ecology; landscaping; the improvement of public footpaths and potential additional footpaths across the site. I consider that opening public access to the remainder of the site and the associated qualitative improvements would off-set the net loss of more than 4.4ha of designated open space. In my judgement, given the significant proposed improvements to ecology, landscaping, and improvements to the PRow, the provision would be at least equivalent to the existing position. Hence criterion b) is met.

34. Criterion c) requires that the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. However, the development is not 'alternative sports or recreation provision' as the recreational aspect of the scheme is only part of the development and as housing is clearly not alternative sports and recreational provision. However, the proposal meets criterion b) and hence no conflict arises with paragraph 103 of the Framework overall.

DEVELOPMENT PLAN POLICIES

35. The site is designated as Strategic Open Space by Saved Policy UOS1.2 'Protection of Strategic Open Space' of the UDP. The policy allows only limited development in these areas. It is common ground that the development of 200 dwellings is not limited development and that conflict would arise with this aspect of the policy. Conflict also arises with the second element of the policy as it applies only to the 'limited development' allowed by the first element. It is agreed by the main parties that there is no conflict with criteria (i) – (iii) in the third element of the policy. Nevertheless, there is conflict with Policy UOS1.2 overall.
36. Policy NE3.1 'Protection and Enhancement of Green Chains' seeks to prevent development which would detract from the wildlife or recreation value of the Green Chain; however, the Policy does not necessarily prohibit new development. The key factor would be to avoid impedance to wildlife movement or recreational use and to maintain the continuity of routes or habitats. The Council and appellant agree that there would be no issue with ecology. As set out at paragraph 29 above, the proposal would secure public access in perpetuity to 21.7ha of the appeal site. Furthermore, PRow 126s would either stay in its current position or be diverted in a route agreed with the Council. Furthermore, there would be improvements to the existing PRow and potential additional new routes. Consequently, I do not consider that overall, the proposal would detract from the recreation value of the Green Chain. Consequently, the proposal does not conflict with Policy NE3.1 of the UDP.
37. Part 3 of Policy CS8 of the Council's Core Strategy (CS) Development Plan Document (2011) is relevant to the appeal proposal. The proposal would not safeguard the permanence or integrity of the *entirety* of the open space; however, I acknowledge that it would secure public access to the remainder of the site in perpetuity. The Policy recognises that there may be situations in which other factors determine that the need to continue to protect existing assets are outweighed by the interests of achieving sustainable communities and that the objective of achieving sustainable communities may be best served by the development of limited areas of open space. However, the development would involve more than a 'limited area of open space' and hence conflict arises with paragraph 3.290 of the Policy.
38. Whilst the fourth part of the policy allows for circumstances where satisfying overriding community needs; this only applies where an open space study identifies a relative higher provision of recreational open space within a committee area which is clearly not the case here. Consequently, conflict arises with this element of the policy and indeed Policy CS8 overall.

39. In conclusion, the proposal would result in the loss of 4.4ha of designated open space and Green Chain. However, overall, the development would guarantee greater public access across the remainder of the appeal site, alongside management and maintenance of the site in perpetuity. Furthermore, the proposal would result in significant ecological and landscape improvements together with improvements to the PRoW. Taking the specific circumstances of the case into account, the proposal would provide equivalent open space to off-set the loss of designated open space, the majority of which is not publicly accessible.
40. Whilst I have concluded that the proposal would not conflict with Policy NE3.1; the proposal conflicts with Policy UOS1.2 and Policy CS8 of the CS. Due to its conflict with two key policies, I consider that the proposal conflicts with the development plan as a whole.

OTHER CONSIDERATIONS

Housing need

41. The relevant 5YHLS period for the purpose of this appeal is 1st April 2023 to 31 March 2028. As the Core Strategy was adopted prior to the first Framework and is more than 5 years old, the 5YHLS should be calculated against the local housing need utilising the standard method set out in the Planning Practice Guidance (PPG). The 5YHLS should be calculated against the base requirement of 1,125 dwellings per annum (dpa). Under the previous Framework, a 5% buffer applied which resulted in a requirement of 5,906 dwellings, equivalent to 1,181 dpa. However, a 5% or 10% buffer no longer applies under the revised Framework and so the five-year housing requirement is 5,625 dwellings, equivalent to 1,125 dpa.
42. The Council's Housing Delivery Test (HDT) results are agreed as 75% in 2018; 74% in 2019; and 92% in 2020 and 2021. The 2022 HDT results (published 19 December 2023) are 87% and so an Action Plan is required. The Council prepared an Action Plan in 2020 but not in subsequent years.

Housing Supply

43. Whilst there is agreement between the main parties that there is an absence of a 5YHLS; there is disagreement as to the extent of the shortfall. There were 13 sites initially in dispute; however, during the Housing Round Table Session (RTS) the Council conceded two sites. As a buffer is no longer required, the Council's position is that there is now a 4.29 year supply and the appellant considers there is a 2.77 year supply.
44. Whilst there has been an under-delivery of housing in the area resulting in smaller sites coming forward at a slower rate, affected by the overall economy and housing market; there has been a significant increase in town centre delivery boosted partly by prior approvals. There has been a general increase in costs and inflation which has affected the viability of development; however, the perception of Stockport as a growing market and an increase in value in the town centre has resulted in an increasingly high quality of schemes in the town centre.
45. The appellant refers to three appeal decisions³ which it considers set out certain principles in terms of the evidence as to whether a site is 'deliverable'. The retrospective justification of sites by reliance on evidence postdating the Housing Land Statement or the agreed base date (the Woolpit decision⁴) is acceptable, so long as the site is one which was originally included in the supply. Furthermore, there can be

³ CD9.3.2 paragraphs 3.12-3.21

⁴ CD5.19 Green Road, Woolpit (appeal reference 3194926)

no objection to utilising the most up to date evidence of delivery. Provided this is the case, there is no risk of resetting the base date to the date of the Inquiry discussion.

46. The appellant contends that it is not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward (Gleneagles Way appeal decision⁵). However, there is no finding in the decision that such evidence automatically carries no weight, just that the evidence in that case was insufficient.
47. Furthermore, as the Court of Appeal held in *St. Modwen Development*⁶ Ltd at paragraph 38, a “realistic prospect” does not require “certainty” or even “probability” but primarily goes to a site’s “capability of being delivered within 5 years”. In any event, I have utilised the definition of ‘deliverable’ in the Glossary to the Framework, which has not altered in the revised version, and the guidance in the PPG in reaching my conclusions on the deliverability of sites below. Sites are considered as either ‘category A’ or ‘category B’ sites as described in the Glossary.

Rock Row

48. The site has planning permission for 52 dwellings, with 31 within the existing building, and 21 newly proposed apartments. The developer confirmed that a material start was made on site in the summer of 2023. Consequently, the site has an extant planning permission and is a ‘Category A’ site.
49. Condition 1 of the permission requires the commencement of the development by 31 January 2021; however, this would not preclude the development coming forward. An application was approved in 2021 to vary a number of conditions to allow for a phased delivery of the scheme. Whilst there have been some issues relating to a party wall with the neighbouring listed theatre, the developer confirmed that there is a commitment to deliver the scheme. Temporary commercial uses for the building are being sought in the short-term; however, works would be needed to accommodate those temporary uses which would be consistent with the residential conversion. The occupiers would be on a short-term lease and would not preclude the residential element coming forward in the timescale suggested (2026/27). In the absence of cogent evidence to the contrary, I consider that there is a realistic prospect of housing being delivered within 5 years.

2-6 Churchgate

50. The site has planning permission for 24 dwellings. The developer commenced site clearance and groundworks before going into receivership. Landwood Group have been appointed to sell the site and are currently negotiating with interested parties. The appellant contends that the site is unviable as the developer has gone into receivership and in the absence of a land sale. However, the Council confirmed that conversations were on-going with several interested parties in relation to the sale of the land demonstrating evidence of competition. Furthermore, the previous owner was prepared to provide more affordable housing than required which would not indicate a viability issue with this particular site. The site has an extant planning permission and so falls within Category A of the Framework definition. In the absence of cogent information to the contrary, I consider that there is a realistic prospect of the site coming forward within 5 years.

32-36 Lower Hillgate

51. The site has an extant planning permission for 22 dwellings and a material start has been made on site. The owner was discharging planning conditions in 2022. The site

⁵ CD5.18 APP/Z1510/V17/3180729 Land east of Gleneagles Way, Hatfield

⁶ *St Modwen Development Limited v Secretary of State for Communities and Local Government and Others* [2017] EWCA Civ 1643

is now being marketed for sale by auction which the appellant suggests is a sign that it is not viable/deliverable. However, the site is situated in a good location, and has only recently gone onto the market. Furthermore, there is no reason why the site would not be attractive to small housebuilders. The site has extant planning permission and in the absence of cogent evidence to the contrary, I consider that there is a realistic prospect of the site coming forward within 5 years.

Royal George Village

52. The site has full planning permission for 442 dwellings. Pre-commencement conditions have been discharged for phases 1 and 2a. The original developer has gone into administration; however, meetings have taken place with a new owner who indicates that they intend to commence works late 2023/early 2024 and build out the live consent. The site is supported by a grant of £8.116m from the Greater Manchester Combined Authority (GMCA) Brownfield Land Grant which needs to be drawn down by 31 March 2024 and so there is significant incentive for the developer to complete the development. The developer has a good track record of delivering schemes in town centre locations and whilst the site was not implemented at the base date; it did have planning permission. Due to the presence of the grant; an extant planning permission; the developer's clear intention to develop the site based on the current planning permission; and in the absence of cogent evidence to the contrary, I consider that there is a realistic prospect of the site coming forward within 5 years.

Former Greenhale House

53. The site previously had planning permission for 164 dwellings; however, this lapsed in 2022 and so the site is a 'category b' site. The site is about to go on the market to find a developer; however, this process had not yet commenced. Whilst Coldwell Banker Richard Ellis (CBRE) indicated that there would be strong interest in the site from developers, there is no firm evidence to suggest that there is progress toward the submission of a planning application. Taking account of the need to prepare and submit a planning application, receive planning permission, discharge conditions and the lead in times on site; it would be optimistic for completions to materialise within five years. The site is not, therefore, deliverable within the time period.

Sainsbury's Warren Street

54. The site has a resolution to grant planning permission for 563 dwellings subject to a s106 obligation and so is a 'category b' site. Amstone are a residential development company who bought the site in 2021 and who have a strong track record of deliverability. Once permission is secured it is the intention to engage the construction market and deliver the scheme. Discussions are underway with residential operators and institutional investors regarding the scheme. It is the intention to deliver the scheme in two phases: the first phase for 180 units in 2024/2025 and a second phase of 280 units in 2026/27 and a final phase completing in 2027. The deliverability of the site is challenged based on the vacant supermarket needing to be demolished; the fact that the existing car park remains in use and on viability grounds. However, there are no constraints beyond normal brownfield redevelopment. Furthermore, there is no requirement to provide affordable housing.

55. Firm progress has been made to determining the planning application, site assessment work has been undertaken to support the planning application and a viability appraisal was submitted with the planning application- the developer confirmed at the RTS that there are no viability issues. In principle, I am satisfied that there is sufficient evidence to justify that some development will occur within the 5- year period. However, given the need to demolish the existing supermarket building and undertake site preparation; I consider that it would be more realistic for first completions to appear in 2025/2026 with around 180 units followed by 280 units in 2026/2027 with

the remainder being completed beyond the 5YHLS Period. Consequently, I consider that there is a realistic prospect of the site yielding 460 dwellings in the 5YHLS period.

Piccadilly Car Park

56. The site has a resolution to grant planning permission in 2021 for 98 dwellings. The Council's case officer for the application expected s106 issues to be resolved imminently. Euro Car Parks operates the site and are on a 30-day rolling contract and so their presence would not unduly delay the project. The developer confirmed that agreements with prospective partners for delivery were at legal stages and that there are no constraints to delivery. The developer indicates that they intend to commence works on the site within the 3 years of permission being granted. However, the developer was unable to confirm a date for first completions and the units are placed at year 5. Any slippage would take the site out of the 5-year period. Consequently, I do not consider that there is firm evidence that the site would deliver output within the first 5 years.

Chestergate/King Street

57. A full planning application for 144 dwellings was submitted on 11 April 2023. A GMCA brownfield land fund of £2.88m has been secured and Homes England funding has been agreed. The appellant considers that there is not clear evidence of deliverability. However, the Council confirmed that pre-application concerns regarding the design have been addressed and that as the developer is a Registered Social Landlord, affordable housing can be addressed by condition rather than a s106 obligation which will simplify and speed up the consideration of the s106 obligation.

58. The planning application is expected to be determined imminently. Site assessment work has informed the submission of the planning application. The terms of the brownfield land grant require the whole grant to be drawn down by March 2024 which provides an incentive to deliver in a timely manner. Furthermore, the development will be part funded by Homes England. The developer, Great Places has a good track record of delivering and is ready to commence development in 2025/26 following the grant of planning permission, following an 18 month build programme. Given the progress towards securing planning permission, the availability of grant funding and the presence of a developer, I consider that there is a reasonable prospect that the site will be delivered within the 5YHLS period.

Stockport 8

59. Stockport 8 is owned by the Council following land assembly which is part of the wider Strategic Regeneration Framework for the Mayoral Development Corporation Land, Town Centre West. English Cities Fund has been appointed as the Council's Joint Venture development partner. Their design team are anticipating submitting a hybrid planning application in Summer 2024. The Council anticipate that 200 dwellings would be delivered in 2026/27.

60. I acknowledge that there is a clear commitment to bring the site forward; however, a planning application is not anticipated until just under a year from now. Furthermore, the site is not available now as it is occupied by the Bus Depot which would need to relocate to another site. Whilst a site has been found for the Bus Depot, I understand that planning permission would be required for this. Consequently, the suggested timescales are overly optimistic and the site would not yield housing completions within the five-year period.

Conclusion on housing need and supply

61. Consequently, based on the above, I find that the Council's 5YHLS is 4,256 dwellings, equivalent to 3.78 years, a significant shortfall against the requirement.

Affordable Housing

62. Policy CS3 of the CS sets an overall strategic affordable housing target of 50% of total provision. Development Management (DM) Policy H-3 requires a minimum of 50% affordable housing on sites located on urban open space. The proposal would provide 50% affordable housing and so accords with the Policy H-3 in this regard. Policy H-3 requires 75% of the affordable housing to be intermediate housing for Stockport residents with the remaining 25% as social rented housing.
63. The Council accepts that H3 is out of date, which was acknowledged in the Seashell Trust appeal⁷. In that case the Secretary of State (SoS) considered that the policy is out of date insofar as it has not been tested for viability at the plan-making stage. However, the SoS recognised that the policy has synergy with the Framework as it aims to maximise affordable housing provision and, therefore, accorded the policy significant weight and I agree with this assessment.
64. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. A material consideration of direct relevance to the appeal proposal is the SoS's Written Ministerial Statement (WMS) (CD4.45) and the subsequent alterations to the PPG which introduced changes to national planning policy (effective 28 June 2021) that require a minimum of 25% of all homes delivered through developer contributions to comprise 'First Homes' to be sold at a discount of 30% of market value. The policies in the WMS are Government Policy and, therefore, a material consideration to which very considerable weight should be attached. Paragraph 6 of the revised Framework clarifies that the WMS may be material alongside other statements of Government Policy. In addition, whilst the revised Framework does not amend the definition of affordable housing in Annex 2, a new footnote (81) has been added which clarifies that the definition should be read in conjunction with relevant policy contained in the WMS. The appellant considers that affordable housing should be in accordance with the WMS.
65. The most recent Housing Needs Assessment (HNA) (2019) covers the period 2018/19 to 2022/23. Between 2018/19 and 2022/23 the HNA identified a requirement for an additional 549 dpa in Stockport, equating to a total requirement of 2,745 affordable dwellings across the study period (Table ES1). In the same period, a total of 510 affordable houses were completed resulting in shortfall of 2,235 affordable dwellings over the HNA period. A requirement of 176 affordable dwellings annually was identified for the township of 'Hazel Grove, Davenport (East), Heavily, Offerton (West)' (2018/2019 to 2022/23) equating to a requirement of 880 affordable dwellings across the study period within this sub-area. Within the township it is recommended that 39.3% should be affordable/social rented while 69.7% should be intermediate tenure. Any intermediate tenure should be delivered as shared ownership units, in line with the Council's delivery model set out in its 'Affordable Housing Requirements in Stockport' (AHRs)- Explanatory Note (CD4.1) (2022).
66. Whilst the appellant challenges the methodology of the HNA 2019 its own evidence suggests a need for in excess of 1,000 affordable dpa, greater than the Council's figure of 549 affordable dpa. Even based on the Council's lower figure there is a considerable need for affordable housing, a matter to which I attach very significant weight.
67. Following the affordable housing RTS the main parties prepared an affordable housing supply note (CO6). Taking account of this note (corrected to amend an error) and my assessment of housing land supply above, I conclude that the supply of affordable housing is only 1,043 units for the 5YHLS period, a significant shortfall.

⁷ Appeal reference: APP/C4235/W/18/3205559

68. In response to the WMS, the Council prepared a 'First Homes Policy Position Statement' (FHPPS) (CD4.5) (2022) however, the document merely summarises the WMS. Neither the FHPPS nor the AHRS have been subject to consultation or independent examination. Nevertheless, the overall aim of the AHRS is to maximise the provision of affordable housing and, in that regard, it is consistent with the Framework. I, therefore, attach some, albeit limited weight to it in my Decision.
69. The AHRS links the maximum price of shared ownership units to wages in the Borough as the means of providing units which are affordable. The method is set out in detail in the AHRS and so is not repeated here. A First Home product would set a price at a maximum of 70% of the market value of the property. Table 2 of the Council's Rebuttal (CD10.2.4) to the Technical Statement (CD9.1.6) shows the average prices of sales for a range of housing types in the area covered by Davenport/Heavily/Great Moor/Stepping Hill/Offerton, based on the most recent (Sep 2023) data from the HM Land Registry.
70. The maximum shared ownership price for a 3-bedroom, semi-detached property would be £105,899. However, a semi-detached property in this area with a First Homes discount would be more than twice the cost (£228,337). To purchase such a property would require an income of approximately £62,000 pa. This represents someone who would be earning over 50% more than the average full-time wage in Stockport (£40,426). Consequently, due to the significant difference between increased market housing costs and wage increases, the Council consider that First Homes are unaffordable in the area.
71. The appellant's Technical Statement (Paragraphs 2.33; 2.54; 2.55) recognises that median house prices to earnings ratio for Stockport is high (10.06 Stockport; 9.06 England 2021) comparable to England and the north west which indicates a significant issue with regards to the affordability of owner occupation. Although there was an improvement in the lower quartile affordability ratio across the market between 2021 and 2022 in Stockport, this represented an improvement in affordability of just 1%. In 2022 the lower quartile house price ratio was still 8.94 times lower quartile earnings. The appellant's own evidence, therefore, supports the Council's position that there is a significant difference between market housing costs and wage increases and that there is an affordability issue with regards to owner occupation. Consequently, based on the evidence before me in this particular case, I consider that First Homes would not deliver properties that would be genuinely affordable in this area. As such, the Council's proposed tenure mix of 70% shared ownership and 30% social rented as reflected in Policy H3 would better meet the significant need for affordable housing.
72. As a result, there is a conflict between Government Policy and development plan policy in respect of First Homes/tenure mix. The WMS is a material consideration of very considerable weight, however, based upon the particular circumstances of this case, the WMS does not outweigh the relevant development plan policy. Policy H-3 was deemed to be out of date as it had not been subject to a viability assessment. However, that does not say that the 50% requirement is unviable and indeed viability has not been raised by the appellant in this case. For the reasons stated above, I afford the policy significant weight. Moreover, I accord the substantial shortfall of affordable housing in the area very significant weight.

Ecology

73. The appeal site comprises grassland and woodland, with scattered trees, ponds and small watercourse. The Ecological Assessment Report (CD1.41) prepared by the appellant's ecology consultants identified a number of key ecological features which

are set out in Appendix 1 to the appellant's ecology proof of evidence (CD9.4.1) and so are not repeated here.

74. A range of ecological surveys have been undertaken including desk studies; phase 1 habitat survey (CD1.41), detailed vegetation surveys of grassland habitats (CD1.41) and detailed habitat condition surveys of woodland and grassland to inform the Ecological Assessment Report (CD1.41) and BNG assessment (CD1.31). These Ecological assessments have been undertaken in an iterative way, including in response to requests for further information raised by statutory consultees.
75. The EA identifies a number of potential impacts arising from the development including the removal of trees to facilitate the access road; potential impacts on the ponds during construction; the loss of neutral grassland habitat to the development (less species rich and lower biodiversity value than in the north which is to be retained); potential impact to bats, birds and other species.
76. The desk study confirmed that no statutory or non-statutory wildlife sites would be directly affected by the proposed development. Potential indirect impacts to the Lady Brook Site of Biological Importance will be avoided by the implementation of pollution prevention measures through a Construction Environmental Management Plan (CEMP).
77. The desk study and habitat surveys led to the location of the proposed development within the large area of open grassland in the southern part of the appeal site. The majority of woodland habitat has been avoided through the siting of the development. Where this has not been possible, mitigation is proposed to ensure the continued protection of retained woodland and long term compensation and enhancement of woodland habitats will be delivered through an appropriate management regime as set out in section 3 of the OLEMP (CD1.59) and recreational management together with the compensatory planting of 267 trees (compared to loss of 19). Bat and bird roosting and nesting habitat will be avoided as far as possible.
78. The majority of the more diverse areas of neutral grassland have been avoided through careful design of the development. The development will, however, result in the loss of neutral, less species rich neutral grassland and generally lower biodiversity value than elsewhere on the site. Mitigation for the loss of the grassland would ensure that all retained areas of grassland, outside of the development and within the appeal site, would protect against direct impacts and improve the quality of the remaining grassland (OLEMP). Scrub and hedge planting is also proposed with the aim of encouraging habitat connectivity to aid species dispersal.
79. Bat and bird roosting and nesting habitat would be avoided as far as possible; but if this is not possible impact would be mitigated by suitable alternative nesting habitat in the form of woodland and mature trees. Compensatory and enhanced habitat would be provided in the form of wildlife towers, bat roosts and bird nest boxes. Impacts to small mammals including hedgehog would be avoided through pre-work checks and compensatory and enhancement measures for hedgehog would include management of the surrounding woodland and grassland habitat, including hedgehog friendly measures within the development such as gaps under garden fencing etc. Measures to enhance grassland would ensure habitat for invertebrates is maintained and would mitigate for the loss of suitable habitat due to the development.
80. Taken together the proposed habitat management and enhancement measures are expected to lead to a BNG of 12.85% according to the DEFRA Metric 3.0 (CD1.32 and CD1.34) and an increase of 5.54 hedgerow units.
81. PMFFD has raised a number of issues relating to the ecological impact of the proposal, relying on the comments of the Cheshire Wildlife Trust (CWT). It considers that the appellant has failed to apply the precautionary approach as purported to be required

by the Environment Act (2023); that the proposals fail to deliver a BNG of at least 10% and assess the BNG as 0.48% as suggested by CWT; and the effect of the development on Green Chains.

82. Firstly, there is no requirement in the EA for ecologists or decision makers to apply the precautionary principle. Moreover, whilst the development seeks to provide more than 10% BNG, there is not yet a requirement to do so. The Framework requires a net gain, which on either the appellant's or CWT's figures it would provide. The criticisms of the BNG calculation are based on the flawed application of the precautionary principle. In any event the concerns raised by the CWT were addressed by the Appellant's ecology consultant in an updated metric; the Greater Manchester Ecology Unit (GMEU) responses to the Council's ecologist; and the Council ecologist (CD3.2) and the Planning Officers of the Council (CD3.2). The BNG calculation of 12.85% is agreed by the appellant's ecology advisor, the Council's nature conservation officer, GMEU Senior Ecologist, and the Council's planners and Members. There is no cogent evidence before me which would lead me to reach a different conclusion.
83. Concerns were also raised in relation to the increased recreational use of the retained part of the site; however, the OLEMP (CD1.59) specifically identifies the need to introduce measures to manage and minimise recreational impacts and it is considered that this can be delivered through the implementation of a detailed management plan for the site.
84. The proposed development is situated within former sports fields which are of limited species diversity and structure and have historically been subject to high levels of disturbance from unauthorised dog walking. As such the area is considered to be of low value as dispersal habitat. Improvements to grassland and woodland habitats as part of the proposals would require active management which would in turn improve the Green Chain which passes through the site. The proposals would also include a new pond which would provide additional habitat for amphibians. In addition, wildlife towers, bat and bird boxes would be installed within the development and appeal site. Further measures to improve connectivity and permeability for wildlife are set out in the OLEMP in line with the ecological aspirations of Policy NE3, Green Chains.
85. Consequently, on the significant evidence before me, with mitigation, I do not consider that the proposal would cause harm to the ecology of the site. Moreover, I attach significant weight to the environmental benefits of the proposal and the proposed BNG of 12.85%.

Arboriculture

86. Based on the indicative layout, the proposed development would require the removal of 1 category A tree; 12 individual category B specimens; 25 Category B tree from woodland; 6 Category C trees; and 1 Category U specimen in order to facilitate the proposed access from Mirrlees Drive. Some of the trees to be removed are within the Woodsmoor Tree Preservation Order.
87. The GMEU highlighted that T1, an Oak which is proposed for removal, could be described as 'veteran'. 'Veteran Trees: a guide to good management' (English Nature/Veteran Trees Initiative) (CD4.32), Section 2.1.2 lists 14 characteristic features of a veteran tree, noting 'the more the tree has the stronger the indication that it is a veteran tree'. The appellant and the Council agree that the tree only has two of those features: major trunk cavities or progressive hollowing and bark loss. None of the other characteristics apply.
88. Paragraph 180 of the Framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or

veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. The glossary of the Framework defines a veteran tree as 'a tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value'. The use of the word 'and' means that all three characteristics are required for a tree to be a veteran tree, not just one. Neither the age (82-138 years) nor the size (girth of 2.073), below the Woodland Trust and Natural England thresholds of T1 would meet the recognised thresholds for a veteran tree. Consequently, paragraph 180c of the Framework does not apply.

89. PMFFD refer to paragraph 032 of the PPG which states that 'veteran trees may not be very old, but exhibit decay features such as branch death or hollowing'. It goes onto say that 'not all these three characteristics are needed to make a tree ancient or veteran as the characteristic will vary from species to species'. However, in the case of conflict between the Framework and the PPG, there is significant caselaw⁸ which confirms the primacy of the Framework.
90. Moreover, the tree has very significant structural defects and some canopy die-back. There is a substantial opening in the main stem, with associated hollowing and it may be subject to failure in the short term. Consequently, I consider that it would be unreasonable to insist on its retention. The main parties agree that none of the other trees to be removed are veteran specimens.
91. In order to mitigate for the loss of the trees it is proposed to plant 267 new native trees on site and also make a financial contribution to completely fund three Climate Action Now projects in the Stepping Hill Committee area, including the planting of 1,150 new trees on greenspace sites, orchard creation at Chester Road playing field and Torkington Park, which includes planting 150 new fruit trees per site, and Wildflower meadow creation at Woodsmoor Playing Field. I consider that the compensation strategy is more than sufficient to mitigate for the loss of T1 and other trees. Even if T1 was a potentially veteran tree, I consider that the poor condition and limited lifespan of the tree and the wider benefits of the scheme would constitute the wholly exceptional reasons for the loss of the tree.

Public Rights of Way

92. There are several public rights of way within the site, 124s, 126s and 127s. The appellant has proposed a package of measures to make improvements to Public Footpaths 126S and 124S. As this is an outline application, the exact details would be determined at the reserved matters stage.
93. The Housing Master Plan (CD1.3) and PRoW Improvement Plan (CD1.20) show a potential route for the realignment of a section of the PRoW 126S, a Strategic Recreation Route known as the Fred Perry Way. PMFFD consider that the realignment would be contrary to paragraph 7.8 of DEFRA Circular 1/09 which states that alternative alignments should avoid the use of estate roads wherever possible and that preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic. However, Policy CS10 post-dates the circular and does not restrict PRoW from using estate roads.
94. The application is made in outline and so the exact route would be determined at reserved matters stage. Nevertheless, the plans show that the footpath could be re-routed along a proposed area of open space which would be consistent with Policy CS10 which requires walking routes to be aesthetic, away from main roads and typically with greenery. Furthermore, a condition requires the route of the 126S to be retained along its existing alignment or along a new alignment to be agreed with the Council, together with proposed improvements. Were PRoW 126s to remain in its

⁸ Page 24 Appellant's closing submissions

current position, the proposed housing development would only be visible from around 360m of its length. Consequently, I am satisfied that an appropriate route for the re-alignment of 126s can be agreed at the reserved matters stage which would be consistent with Policy CS10 and Policies L1.7 and L1.8 of the UDP which seek to avoid the loss of PRoW and safeguard the strategic recreation value of strategic recreation routes.

95. Taking account of the proposed package of improvements to the PRoW within the site, I consider that they would represent a benefit to which I attach significant weight.

Design

96. Whilst an outline application, the Council and appellant agree that a planning condition could be imposed which would require any future reserved matters applications to be brought forward in accordance with the Design Code (CD1.40) and Land Use and Building Heights Parameters Plan (CD1.10). A high quality of development is to be welcomed, and indeed it would comply with paragraph 131 of the revised Framework; however, in my view this would merely be required to ensure a policy compliant scheme as opposed to being a benefit and as such attracts neutral weight.

Density

97. The development would deliver up to 200 dwellings at a density of 45dph in accordance with Policy CS3 of the CS. Paragraph 130 of the revised Framework states that significant uplifts in density may be inappropriate; however, the Council and appellant agree that the proposed density is suitable for the site. Given the nature of the surrounding residential area and good accessibility, I agree. Nevertheless, I attach neutral weight to this factor in my Decision.

Sustainable modes of travel

98. It is agreed between the Council and the appellant that subject to planning conditions and the s106 obligation the development would be accessible using sustainable modes of travel. However, this would be a requirement for any development and, therefore, only attracts neutral weight in my Decision.

Landscape and Visual Impact

99. A Townscape and Visual Assessment (CD1.67) was undertaken to support the application. The Open Space, Townscape and Visual SoCG (CD8.6) sets out the agreed landscape/townscape effects between the Council and the appellant. The TVA identifies that the impact to the users of the Fred Perry Way would be moderate adverse at the section of the PRoW 126s which overlooks the green. Overall, the impact to the landscape character of the site is assessed to be minor adverse. The adverse effects on landscape elements, landscape character and visual amenity are localised, essentially to the boundaries of the housing area. The Council and the appellant agree that there would be no unacceptable harm, and that the impacts identified in the TVA are 'deemed to be acceptable'.
100. The appeal site is surrounded on three sides by residential development and has a limited visual envelope which is constrained to the boundary of the housing. Consequently, I agree that any landscape/visual impacts would be localised and acceptable. These factors attract neutral weight in my decision.

Economic

101. The Council and the appellant agree (CD8.8) that the proposal would support temporary jobs on-site and in the wider economy per annum over the 3.5 year build programme and generate gross value added (GVA) during the 3.5 year construction

period. In addition, it would generate spend in the Stockport local authority area during the 3.5 year construction period from on-site construction workers. Furthermore, the proposal would generate spend in the local area from future occupiers of the development.

102. It would provide homes for people that are economically active and generate first occupation expenditure within 18 months from the proposed new dwellings once fully built and occupied. Additional Council Tax revenue would also be generated from the construction of new homes.
103. The proposal would create funding for the management and maintenance of the Informal Open Space, in the form of a one-off commuted sum payment of £1,537,278 which would be invested, and the income would be spent locally on the management and maintenance of the POS. I agree with the Council that this is not an economic benefit in its own right; it is simply a mechanism to enable the Land Trust to manage and maintain the open space in the future as opposed to going into the local economy. Nevertheless, I afford the economic benefits of the proposal significant weight in my Decision.

Fall Back Position

104. The Council and the appellant agree that the appellant has permitted development (PD) rights to erect a 2m boundary fence around the site and that the fence could be impermeable.
105. The appellant is incurring around £20,000 annual costs in maintaining the Fields to address the issue of anti-social behaviour and also must hold public liability insurance to address the risk of injury to trespassers. I acknowledge that these are modest costs for a company like the appellant. Additional information provided by the appellant (AP6) indicates that the cost of erecting an approximately 2km fence would be in the region of £150,000. This would be compared to the ongoing costs of repairing the broken sections of the existing stock fence (around £1,500 per month). Furthermore, there would be a need to maintain the fields in a reasonable condition in any event.
106. Nevertheless, the Council accepts, in its submissions and in cross-examination that there is a real prospect of the fall-back position occurring, i.e. more than theoretical. Furthermore, the appellant could sell the site as it no longer wishes to own and manage it. It is reasonable to assume that it would be sold for best value on the open market. Moreover, despite research carried out into alternative futures for the Fields (CD7.3), there is no evidence that local residents or local organisations/trusts could buy and manage the site. Consequently, I consider that there is a more than theoretical prospect of the fall-back position occurring.
107. Were the fall-back position to be implemented, the fence would effectively corridor the PRoW. The Council and the appellant agree that the public could pass and repass along the PRoW but they could not see or experience the open space, save for the openness above a 2m high fence, situated either side of a 2m wide PRoW corridor. Under the fall-back position, there would be no lawful public access to the site and there would be no ecological enhancement work or ongoing ecological management or maintenance, landscape improvements; improvements to the PRoW etc. The fall-back position would, therefore, seriously limit the site's value as a future opportunity for recreation. Consequently, I consider that the fall-back position would be worse than the current position and significantly worse than that proposed by the appeal.
108. Even if the appellant did not enact the fall-back position and retained and repaired/reinforced the lower existing 1m high fence, whilst there would be views of the open space from certain points, there would still be no lawful access to the site

and none of the improvements or benefits of the scheme as referred to above. Consequently, I consider that the status quo would be worse than that proposed by the development the subject of this appeal.

109. I, therefore, attach significant weight to the fall-back position in my Decision.

S106 Obligation

110. The s106 obligation is made in the form of a deed. It sets out obligations by the appellant to provide affordable housing; informal open space (IOS); residential amenity open space management; education contribution; recreation and amenity open space contribution; climate action now contribution; parking restriction Traffic Regulation Order (TRO) contribution.

111. The First Schedule relates to the IOS and secures the works required to bring the IOS up to standard; the transfer of the freehold of the IOS to the IOS body; the management and maintenance of the IOS in perpetuity; and dedicating the IOS as public open space in perpetuity. I am satisfied that this obligation is necessary to offset and mitigate the loss of designated open space which would arise as a direct result of the development and to ensure that the open space would be managed and maintained in a way that can balance the needs of recreation with the ecological interests of the site. The IOS commuted sum is an endowment which has been calculated for the specific site, the details of which are set out at AP7. The endowment is invested and income for the investment drawn down monthly to meet site related expenditure. I am, therefore, satisfied that the obligation and contribution are necessary, directly related and fairly and reasonably related in scale and kind to the development.

112. The Second Schedule requires the housing area owner to submit the Residential Amenity Open Space Management Plan and confirm details of the management of the space. The need for this requirement arises directly from the development and it is necessary to secure the long-term management of the space in perpetuity for the benefit of future occupiers. The obligation is, therefore, necessary, directly related and fairly and reasonably related in scale and kind to the development.

113. Schedule 3 and Schedule 4 relate to the provision of affordable housing. Schedule 3 relates to the provision of First Homes and schedule 4 relates to the Council's proposed tenure mix. As set out above, the development should provide for affordable housing in accordance with the Council's preferred tenure mix. Consequently, Schedule 4 is engaged, and Schedule 3 does not apply. Schedule 4 requires that 50% of the dwellings within the development will be affordable comprising 30% social rented and 70% shared ownership units in accordance with Policy CS3 and DM Policy H-3 of the CS. The affordable housing is required to ensure that the development is policy compliant and meets the high need for affordable housing in Stockport.

114. Schedule 5 requires the Housing Area Owner to pay an Education Contribution. As set out in the CIL Compliance Statement (CO4.1) the development would place additional demand on primary, secondary and SEND education places within the catchment area. The financial contribution is determined by a formula (set out in CO4.3) based on the scale of development and the identified need for school places in the catchment area. As such I am satisfied that the contribution is necessary and directly related in scale and kind to the development.

115. Schedule 6 requires the Housing Area Owner to pay a Recreation and Amenity Open Space contribution. The provision of on-site public open space, including children's play is required to meet the recreational and amenity needs of future occupiers and to comply with Policy SIE-2 of the CS, particularly as there is a quantitative deficiency of

both formal open space and children's play provision in the area. Schedule 6 requires the first Reserved Matters application to include a scheme for the provision of the amount/location, delivery and future management and maintenance of the on-site open space. The open space would be provided in accordance with the FiT standard. Provision would, therefore, be proportionate to the scale of the development. The calculation of the contribution would be in accordance with the Open Space Provision and Commuted Payments' SPD taking account of the population of the development and any on-site provision.

116. New off-site planting is necessary to mitigate the loss Green infrastructure and the effects of climate change, in accordance with Policies CS1 and CS8 of the CS. Consequently, schedule 7 requires the Housing Area Owner to pay a 'Climate Action Now' contribution to fund projects for new tree planting, an orchard and a wildflower meadow in the locality. The contribution has been calculated with reference to the costs of planting (vegetation; labour; and materials), as set out in the CIL Compliance Statement. On this basis, I am satisfied that the contribution is necessary to make the development acceptable and directly related in scale and kind to the development.
117. Schedule 8 requires the Housing Area Owner to pay a TRO contribution (£7,500) and the Emergency Access Measures TRO Contribution (£9,500) to cover the costs of TROs in connection with the provision of parking restrictions on Mirrlees Drive, and to control the use of the Emergency Access and manage on-street parking on Flowery Field to ensure that an unobstructed access route into the site is available at all times for emergency vehicles. The contributions have been calculated based on average costs of implementing similar schemes in recent years as set out in the CIL Compliance Statement. Consequently, I am satisfied that the contributions are directly related in scale and kind to the development. Schedule 8 requires the Owner to enter into an agreement for the dedication of existing Footpath 124S as a bridleway reflecting the more intensive use of footpaths and bridleways arising directly as a result of the development.
118. The required legal and monitoring fees are necessary to cover the Council's costs in monitoring and reporting on the delivery of the numerous planning obligations. I am satisfied that the fees fairly and reasonably relate in scale and kind to the development.

Conditions

119. Conditions relating to the timing of the submissions of reserved matters and the timing of the commencement of the development are necessary. In the interests of certainty, a condition requiring the development to be carried out in accordance with the approved plans is necessary. A further condition is necessary requiring the first reserved matters application for layout to include a Masterplan layout for the whole site to ensure a high standard of development and design.
120. Conditions relating to site levels; boundary walls and fences; and requiring details of external materials are necessary in the interests of character and appearance.
121. A further condition requiring the provision of a Locally Equipped Area for Play (LEAP), is necessary to ensure that adequate and convenient provision is made for children's play. In addition, a condition requiring the submission of a full Crime Impact Statement in the interests of public safety and security.
122. Conditions requiring the submission of an Arboricultural Method Statement and the fencing off/protection of trees are necessary to protect the retained trees during construction, in the interests of biodiversity and character and appearance.

123. A number of conditions are necessary to ensure that: the development provides a safe access for pedestrians, cyclists and vehicles; the impact of the development on the local highway network is minimised; the site is fully accessible by all modes of transport and in particular modes of transport other than the private car; and that measures are incorporated to ensure that the development can mitigate and adapt to climate change.
124. An additional condition requires that PRow 126S shall be retained either along its existing alignment or along a new (or partially new) alignment which must where possible be through open space or other landscaped corridors which are overlooked. Improvements to the footpath are also secured by the condition. This is to ensure that the PRow is retained along an attractive route.
125. Conditions requiring a Construction Method Statement; an acoustic report/scheme; an environmental Construction Environmental Management Plan are necessary to ensure that the development is constructed in a safe way that would minimise disruption during construction and to control the environmental impacts of development relating to air quality and noise.
126. A condition requiring details of bin stores/bin storage areas to be submitted at reserved matters stage to ensure that waste and refuse are satisfactorily managed.
127. The report accompanying the application identified potentially unacceptable risks from contamination and so conditions are necessary to ensure that the risks are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, off-site receptors, water environment and ecology systems.
128. There is potential that the land may contain landfill gas and so conditions are essential to identify any risks and undertake any necessary remedial measures to safeguard workers and future occupiers.
129. Conditions relating to solar photovoltaics, bird species hazardous to aircraft, and external illumination/lighting plan are necessary in the interests of flight safety and to prevent distraction and confusion to pilots using the nearby Manchester Airport.
130. Conditions relating to flood risk and detailed surface water drainage schemes; foul and surface water to be drained on separate systems; and ensuring that both surface and foul water drainage is directed away from the railway are necessary to manage surface water run-off from the site, provide sustainable drainage and to protect the adjacent railway from the risk of flooding, soil slippage and pollution.
131. A number of conditions are necessary to ensure the ecological protection, mitigation and enhancement (BNG) of the ecology and biodiversity of the site. These include: the review and update of ecological surveys/mitigation measures where necessary (36); requirement for an CEMP; vegetation clearance/nesting birds; submission of an invasive non-native species protocol; and the submission of a BNG Management Plan.
132. Due to the proximity of the railway line conditions are required to ensure that the development can be carried out without adversely affecting the safety, operational needs or integrity of the railway and also to protect the railway from unauthorised access. These include the requirement for: a method statement and risk assessment for works within 10m of the operational railway; 1.8m high trespass proof fence; details of scaffolding works within 10m of the operational railway; risk assessment and method statement for vibro-compaction machinery/piling machinery within 10m of the operational railway; details of ground levels, earthworks and excavations; retention of minimum 3m gap between any buildings/structures and the railway boundary; no

trees to be planted within 10m boundary of the railway land; and details of appropriate vehicle safety protection measures.

133. Finally, a condition requiring a Local Employment and Skills Plan Agreement for the construction of the development is necessary to ensure that local employment benefits are addressed and secured in accordance with Policy AED-5 of the CS.

Planning Balance

134. It is common ground between the main parties that there is an absence of a five-year supply of housing land and that paragraph 11d of the Framework is engaged by virtue of footnote 8. I have determined that the supply of housing land is 3.78 years, a significant shortfall against the requirement.
135. Paragraph 225 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater weight that may be given to them.
136. The Stockport Core Strategy Development Plan Document was adopted in March 2011, prior to the first Framework (2012). It is common ground that the relevant parts of Policies CS2 Housing Provision (paragraphs 3.84 and 3.85), CS4 Distribution of housing (paragraphs 3.104 to 3.109); and H-2 Housing Phasing (paragraphs 3.115 to 3.118) are out of date due to the absence of a five-year supply of housing land.
137. The relevant parts of Policy CS8 Safeguarding and Improving the Environment are paragraphs 3.290-292. The Policy seeks to protect open space, allows consideration of whether there would be a benefit in the public value of the open space and allows consideration of the 'tilted balance' and is consistent with the Framework in this regard. Nevertheless, reference to the development of 'limited areas of open space' results in some conflict with paragraph 103 of the Framework. As a result, I attach moderate weight to the conflict of the proposal with Policy CS8 in my Decision.
138. Policy UOS1.2 of the UDP seeks to protect strategic open space. Only 'limited development' will be permitted. The overall thrust of the policy to protect open space is consistent with paragraph 103 of the Framework. However, as paragraph 103 allows for development if criteria a-c are met there is some conflict of the policy with the Framework. For this reason, I attach moderate weight to the conflict with the Policy.
139. Policy NE3.1 seeks to protect and enhance Green Chains. Development which would detract from the wildlife or recreation value of Green Chains will not be permitted. I consider that the Policy is consistent with the paragraph 185 of the Framework which seeks to protect wildlife corridors and paragraph 103 which seeks to protect open space. Consequently, I attach full weight to the accordance with the Policy. Overall, whilst there are some differences, due to the broad synergy with the objectives of paragraphs 103 and 185 of the Framework to protect open space and wildlife corridors, I consider that the 'basket of policies' is up to date.
140. Whilst I find that the proposal accords with Policy NE3.1, the proposed development conflicts with Policy UOS1.2 and Policy CS8 of the CS. As these policies go to the heart of the Decision, I consider that the proposal conflicts with the Development Plan as a whole. I attach significant weight to the conflict of the proposal with the Development Plan.
141. I conclude above that townscape and landscape matters, density and the accessibility of the proposal by sustainable modes of transport attract neutral weight in my decision.

142. The proposal would provide market and affordable housing – which the Framework seeks to boost significantly-in a situation where there is a significant shortfall of supply. I attach very significant weight to the social benefits of the proposal.
143. The proposal would have significant economic benefits and would, therefore, accord with paragraph 85 of the Framework which seeks to support economic growth and productivity. Overall, I consider that the economic benefits carry significant weight in my Decision.
144. In terms of ecology, the proposed development would deliver a BNG of 12.85% in accordance with paragraphs 185 and 186 of the Framework which seeks to secure measurable net gains for biodiversity. There would also be significant OLEMP works prior to the transfer of the site to the Land Trust or similar body and subsequent ongoing management and maintenance of the site for ecology.
145. Whilst there would be some limited loss of trees, the proposed development would entail the planting of 267 new native trees on the site in addition to providing £205,759 to fund the planting of 1,150 trees on greenspace sites, a new orchard and a new wildflower meadow in the Stepping Hill area. This would more than off-set the limited loss of the trees.
146. Although the proposed development may result in the re-alignment of the PRoW 126S, the proposal sets out an indicative PRoW improvement plan which would result in improvements to the PRoW network across the site. Overall, I consider that collectively, significant weight should be attached to the environmental benefits of the proposal.
147. The proposal would result in a quantitative loss of 4.4ha of designated open space and a loss of views of the open space from a limited section of the PRoW 126S. However, under the fallback position – a material consideration to which I attach significant weight - the only part of the site that would be accessible would be along the route of the PRoW. Under the proposed scheme, a significant proportion of the site would become public IOS and there would be formal management and maintenance of the space in perpetuity. In short, the proposal would authorise and guarantee greater public access across the appeal site. I attach significant weight to this benefit in my Decision. Furthermore, I have concluded that as the proposal would provide at least equivalent provision of open space that it would not conflict with paragraph 103 of the Framework.
148. Overall, I conclude that no conflict arises with the Framework when taken as a whole. Furthermore, I consider that any adverse impacts of granting planning permission, including the identified conflict with the development plan, would not significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development weighs in favour of the proposal.
149. In the particular circumstances of this case, I consider that there are significant material considerations including the benefits of the proposal, and the presumption in favour of sustainable development, which outweigh the conflict with the development plan.

Conclusion

150. For the reasons stated and taking all other considerations into account the appeal should be allowed subject to the conditions set out in the attached schedule.

CA Mulloy

Inspector

APPEARANCES***For the Local Planning Authority***

John Hunter, Counsel	Instructed by Stockport MBC
Shemuel Sheikh, Counsel	Instructed by Stockport MBC
Ifan Aslam	Solicitor Stockport MBC
<i>They called:</i>	
Carl Griffiths BA (Hons), MPlan	Planning Manager, Capita Plc
Steve Johnson BSc (Hons), MTPI	Stockport MBC
Andy Kippax	Strategic Housing Lead, Stockport MBC
Paul Richards	Director of Development and Regeneration, Stockport MBC/ Chief Executive of Stockport Mayoral Development Corporation.
James Alderson	Director, Cityheart
Alistair Chapman	Senior Director, CBRE
Adnan Siddiqi	Managing Director, Amstone
Joe Stockton	Senior Development Manager, Muse Properties
Ahmed Yaseem	Eamar Development UK

For the Appellant

Giles Cannock KC of Counsel Piers Riley-Smith of Counsel	
<i>They called:</i>	
Jeremy James BSc (Hons), MSc, MCIEEM, CEcol, CEnv	Director of Bowland Ecology
Jack Jewell BA (Hons), Masters LP, Associated Member Arboricultural Association; Chartered Member of the Landscape Institute	Director of Tyler Grange Group Ltd
Andrew Cook BA (Hons); MA Landscape Design; CMLI; CEnv; Member IEMA	Executive Director of Pegasus Group
Ben Pycroft BA(Hons) DipTP MRTPI	Director at Emery Planning
Neil Tatton BA(Hons)	Owner and Director of Resolve Affordable Housing Consultancy
Jon Suckley MTCP FRTPI	Managing Partner of Asteer Planning LLP

For Protect Mirrlees Fields from Development (PMFFD)

Malcolm Ranson	PMFFD
Dominic Wells	PMFFD
Elaine Leonard	PMFFD
Dr Tara Hughes	PMFFD
David Gosling	PMFFD

Interested Persons

David Kemp	Mirrlees Fields Friends Group
Mary Robinson MP	
Faizal Cader	

Inquiry Documents**Appellant Documents (AP)**

AP1	Opening Submission of the Appellant
AP2	Appeal Decision: APPB1605/W/19/3227293
AP3	Appearances on behalf of the Appellant
AP4	Updated S106 Explanatory Note
AP5	Addendum to the Explanatory Note of Main Provisions of Section 106 Agreement
AP6	Note of Fencing at the Appeal Site
AP7	Endowment Payment – Summary in perpetuity
AP8	Closing submission on behalf of the Appellant

Council Documents (CO)

CO1	Appearances on behalf of the Local Planning Authority
CO2	Opening remarks on behalf of the Local Planning Authority
CO3	PPG17 Planning for Open Space, Sport and Recreation
CO4.1	The CIL Compliance Statement
CO4.2	Monitoring Fee Statement
CO4.3	Education supporting document
CO5	Amended tables following Housing Land RTS
CO6	Agreed note on Affordable Housing Supply following the Round Table Session
CO7	Closing submissions on behalf of the Local Planning Authority

Protect Mirrlees Fields from Development (PMFD)

PMFD1	Opening Statement PMFD
PMFD2	Tesco Stores Limited (Appellants) v Dundee
PMFD3	Closing submissions on behalf of PMFD

Interested Parties

IP1	Statement by David Kemp -Mirrlees Fields Friends Group
IP2	Statement by Mary Robinson MP
IP3	Statement by Faizal Cader

Joint Documents

JT1	Agreed Final s106
JT2	Proformas for disputed sites
JT3	Public Open Space – Explanatory Note
JT4	Site visit itinerary
JT5	Conditions
JT6	Final and signed s106

Inspector Documents

INSP1	RTS Agenda for Housing Land Supply RTS
INSP2	RTS Agenda for Affordable Housing RTS

SCHEDULE

1. Application(s) for the approval of Reserved Matters shall be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Approval of the (1) layout (2) scale (3) appearance (4) access and (5) landscaping of the site ('the Reserved Matters') shall be obtained from the local planning authority before any development is commenced.
3. The development hereby permitted shall be carried out in accordance with the following approved plans/drawings unless otherwise required by another condition:
 - Location Plan SK003 Rev 0
 - Parameter Plan - Land Use and Building Heights MP_00_1001 Rev 19
4. The first reserved matters application for layout pursuant to this outline planning permission shall include a Masterplan layout for the whole of the application site which accords with the approved Parameter Plan (Land Use and Building Heights MP_00_1001 Rev 19) and Mirrlees Fields Design Code by 5Plus dated November 2022. Development shall be carried out in accordance with the Masterplan Layout approved by the local planning authority as part of that application.
5. No development shall take place until existing and proposed finished (i.e. once the development is complete) contours, at 0.5m vertical intervals, for the whole site have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the proposed finished contours/levels approved by the local planning authority.
6. Provision shall be made within the development for a Local Equipped Area for Play (LEAP) and its on-going maintenance, details of which shall be included with the first application for approval of Reserved Matters. The size, design and layout of the LEAP shall accord with the guidance contained in the Supplementary Planning Document "Open Space Provision and Commuted Payments" published by the local planning authority or any other equivalent adopted Council guidance that replaces it. The approved LEAP shall be provided prior to occupation of the 128th dwelling, and it shall subsequently be maintained in accordance with the approved details.
7. No dwelling shall be occupied until details of all screen and boundary walls, fences, gates or any other means of enclosure shall be submitted to and approved in writing by the local planning authority, and the enclosures have been erected in accordance with the approved details.
8. As outlined in the Preliminary Crime Impact Statement Version D: 02/08/2021, Reference 2008/0712/CIS/04, a full Crime Impact Statement shall be submitted with the first Reserved Matters application for layout. Development shall be carried out in accordance with the crime reduction and public safety recommendations contained therein.
9. No 'above-ground' building works shall proceed above damp-proof course level on any dwelling until (i) a schedule of all the materials of external construction has been submitted to and approved in writing by the local planning authority and (ii) samples have been made available for inspection on the site. No dwelling shall be

occupied until it has been completed in accordance with the approved schedule and materials.

10. No demolition, site clearance excavation or construction works shall take place until an Arboricultural Method Statement (AMS) regarding the technical design and working methods for both the construction works/ phase and the implementation of the development, has been submitted to the local planning authority for approval in writing. The approved AMS shall be fully implemented.

No development shall take place until all existing trees on the site except those authorised for removal by the local planning authority have been fenced off in accordance with BS 5837:2012 'Trees in relation to construction - Recommendations'. The fencing shall be retained during the period of construction and no work, excavation, tipping or stacking of materials shall take place within any such fence during the construction period.

11. No existing tree within the site shall be cut down, topped, lopped, uprooted, willfully damaged or willfully destroyed without the prior written approval of the local planning authority. Any trees or hedgerows removed without such consent or dying or being severely damaged or being seriously diseased, within 5 years of the development commencing, shall be replaced within the next planting season with trees of such size and species as may be approved in writing by the local planning authority.

12. This permission grants approval for the erection of a maximum of 200 dwellings with:

- All vehicular access from Bramhall Moor Lane via an improved and extended Mirrlees Drive, which shall include new pedestrian and cycle facilities, parking restrictions and traffic calming
- Access by emergency vehicles in the event of an emergency also via an emergency access route from Flowery Fields (which will also be available for use by pedestrians and cyclists at all times) and which shall include access controls, lighting and a crossing facility at the junction of the access route with Footpath 127S
- Access within the development being by means of a permeable network of access / estate roads, footways, footpaths and cycle tracks

No vehicular access shall be taken from any other street / highway.

No work shall take place in respect to the construction of these access routes until detailed engineering drawings of these access roads, paths and associated infrastructure have been submitted to and approved in writing by the local planning authority, together with:

- Details outlining how the access roads and paths will be managed and maintained
- A Stage 1/2 Road Safety Audit and Designer's Response for the access roads and paths
- Details of parking, loading and access restrictions to be provided, including details of associated Traffic Regulation Orders
- Details of how the design of the roads and paths will be checked and the construction of the roads and paths will be inspected

Access roads shall include areas for visitor parking, street trees and pocket parks and roads and paths shall include benches at regular intervals. Drawings to be submitted shall include a general arrangement plan, surfacing, levels, drainage, signing and lining, specification and street lighting details and details on structures, access controls, street furniture, street trees and any other landscaping, longitudinal sections and details of the access to the MAN Energy site.

Each plot within the site shall not be occupied until:

- The London Road (A6) / Mill Street / New Moor Lane signal-controlled junction has been improved in accordance with the approved details
- Mirrlees Drive has been extended and improved in accordance with the approved details
- The combined pedestrian, cycle and emergency access route into the site from Flowery Fields has been provided in accordance with the approved details
- The access roads and paths that will serve that plot have been constructed in accordance with the approved drawings and details, are available for use and a copy of a report confirming that their design and construction have been independently checked and inspected has been submitted to and approved in writing by the local planning authority.

The access roads and paths shall thereafter be retained, shall remain available for use and shall be managed and maintained in accordance with the approved details. Any visibility splays shall thereafter be kept clear of any structure, object, plant or tree exceeding the height specified on the approved drawings.

13.No development shall take place until a Construction Method Statement detailing how the approved development will be constructed (including site clearance, levelling and earth moving operations) has been submitted to and approved in writing by the local planning authority. The method statement shall include:

- A detailed construction phase layout plan
- A development / construction timetable
- Details of access arrangements, haul roads, loading / unloading areas and turning / manoeuvring facilities to be provided
- Details of vehicle movements, vehicle routing and traffic management arrangements
- Details of temporary road and footpath closures / diversions
- Details of parking requirements and provision for contractors / site staff
- Details of site cabins, welfare facilities and temporary buildings
- Details of the construction site boundary treatment, including hoardings, temporary fencing and gates
- Details of where materials will be loaded, unloaded and stored Details of measures to be implemented to prevent mud and other debris being deposited on the public highway (including details of wheel wash facilities and road sweeping measures).

The approved development shall not proceed except in accordance with the approved method statement for that phase of the development.

14.Details of proposals to improve the operation / capacity of the London Road (A6) / Mill Street / New Moor Lane signal-controlled junction shall be submitted with the first application for approval of Reserved Matters. The proposals shall include:

- Revalidation of the SCOOT system which controls the traffic signals at the junction
- Relocation / extension of the inductive loops for the SCOOT system, including the installation of associated ducting.

No dwelling shall be occupied until the junction has been improved in accordance with the approved details.

15.Public Right of Way 126S, which runs through the site of the approved residential development, shall be retained either:

- Along its existing alignment
- Along a new (or partially new) alignment which must be agreed with the local planning authority, which shall be, where possible, through open space or other landscaped corridors which are overlooked.

In either case, the path shall be improved so it is suitable for use for accessing the residential development at all times. Improvements shall include hard-surfacing the path, drainage, lighting, access controls and fencing (where required) and provision of wayfinding signage. No work shall take place in respect to the improvement / realignment of the path until detailed engineering drawings of the proposed improvements / realignment have been submitted to and approved in writing by the local planning authority. No part of the approved development shall be occupied until the path has been improved / realigned in accordance with the approved drawings and is available for use. The path shall then be retained and shall remain available for use at all times.

16. Car parking shall be provided for each dwelling within the development, together with car parking facilities for visitors and a car club vehicle/s, in accordance with the adopted parking standards and at a level that will meet expected demand. No work shall take place in respect to the construction of the car parking facilities to be provided for the approved development until detailed drawings of the car parking facilities have been submitted to and approved in writing by the local planning authority. Details shall include how the car parking facilities will be surfaced, drained, marked out, signed and illuminated, which car parking spaces will be allocated to each dwelling/s, visitors or car club vehicles. Each dwelling within the development shall not be occupied until the car parking facilities for that dwelling have been provided in accordance with the approved details and are available for use. No part of the development shall be occupied until the parking space/s for a car club vehicle/s has/have been provided in accordance with the approved details and is/are available for use. The car parking facilities shall thereafter be retained and shall remain available for use. The car parking facilities shall be illuminated at all times during the hours of darkness that the car park is in use (either permanently or using motion-controlled lighting).
17. Cycle parking shall be provided for each dwelling within the development. No work shall take place in respect to the provision of cycle parking within the site until details of proposals to provide long-stay cycle parking facilities for the approved dwellings (which shall be in the form of a covered and secure cycle store that will accommodate a minimum of one cycle for each dwelling) have been submitted to and approved in writing by the local planning authority. Each dwelling within the development shall not be occupied until the cycle parking facility for that dwelling has been provided in accordance with the approved details. The cycle parking facilities shall then be retained and shall remain available for use at all times thereafter.
18. Charging points for the charging of electric vehicles shall be provided for each of the approved dwellings and for the car parking space/s for car club vehicles. Prior to their provision, details of the charging points shall be submitted to and approved in writing by the local planning authority. Each dwelling within the development shall not be occupied until the charging point for that dwelling and the charging point/s for the car parking space/s for car club vehicles have been provided in accordance with the approved details and are available for use. The charging points shall thereafter be retained (unless they are replaced with an upgraded charging point in which case that should be retained).

19. Details of a scheme for the provision of bin stores / bin storage areas within the residential development shall be submitted with the first application for approval of Reserved Matters. Each bin store / bin storage area shall be of a size and design that ensures that it can accommodate the number and size of bins that will be required for the dwelling/s that it serves. Each dwelling within the development shall not be occupied until the bin store / bin storage area for that dwelling has been provided in accordance with the approved details. The bin stores shall then be retained and shall remain available for use at all times thereafter.

20. No dwelling within the approved residential development shall be occupied until a travel plan for the residential development has been submitted to and approved in writing by the local planning authority and has been brought into operation. The approved travel plan shall be operated at all times that the development is occupied and shall be reviewed and updated on an annual basis in accordance with details that shall be outlined in the approved plan. Measures to be included shall include:

- Providing occupiers of each dwelling with a Resident's Travel Pack
- Providing a minimum of one car club car (or more if it is determined demand will be higher) within the site for use by occupiers of the development and providing all occupiers of the development with access to the car club car/s
- Offering occupiers of each dwelling personalised travel planning
- Provision of measures to allow home working (e.g. high speed broadband)
- Provision of a travel information notice boards within the site
- Promotion of sustainable travel and travel awareness days/weeks
- Promotion of cycle training and car sharing

The travel plan and all updates shall be produced in accordance with current national and local best practice guidance and shall include details on the method of operation, appointment of a Travel Plan Coordinator/s, targets, infrastructure to be provided, measures that will be implemented, monitoring and review mechanisms, procedures for any remedial action that may be required and a timetable for implementing each element of the plan.

21. No dwelling in the residential development shall be occupied until the following works have been carried out to improve the site's accessibility by foot, cycle and public transport:

- Improvements to Public Right of Way 127S between Public Right of Way 124S and Public Right of Way 47HGB (including the provision of bound surfacing, lighting, signage and, where required, fencing)
- Provision of a pedestrian and cycle path through the retained Mirrlees Fields between the site access roads within the residential development and Public Right of Way 124S, with the path connecting to 124S towards its western end (including bound surfacing, signage and lighting)
- Provision of a pedestrian and cycle path through the retained Mirrlees Fields between the site access roads within the residential development and Barlows Lane South (in the vicinity of its junction with Bramhall Moor Lane) (including bound surfacing, signage and lighting)
- Provision of a pedestrian and cycle link path through the existing open space from the southern end of Kinross Avenue to Public Right of Way 127S (including bound surfacing, signage, access controls and lighting)
- Provision of a pedestrian and cycle connection from the northern end of Public Right of Way 47HGB and the site access roads within the residential development (either along the routes of Public Rights of Way 127S and 126S) or on a new alignment

running in a North-East direction (including bound surfacing, lighting, signage and any required fencing and structures)

- The upgrading of Public Right of Way 47HGB between the site and Ringmore Road to a pedestrian and cycle route (including widening, bound surfacing, lighting, signage, fencing, structures and access controls)
- The upgrading of the existing bus stops on Ringmore Road adjacent to Public Right of Way 47HGB, including the provision of raised boarding platforms, an uncontrolled pedestrian crossing point, carriageway markings and a bus shelter at the eastbound bus stop
- Improvements to Public Right of Way 126S between the approved residential development and Public Right of Way 124S (including widening to 2m in width, bound surfacing, lighting, signage and, where required, vegetation removal and fencing)
- Improvements to Public Right of Way 126S within the approved residential development, which shall take the form of a bound, lit path, of minimum width 2m, running either on the existing alignment of the right of way or a new alignment on the site access roads or within an overlooked landscaped corridor/s
- Improvements to the existing cycle link between Newby Road and the cycle path on the west side of Bramhall Moor Lane, including signage, tactile paving, carriageway markings,
- Provision of a crossing point on Bramhall Moor Lane (in the vicinity of its junction with Barlows Lane South)
- Provision of wayfinding signage to sign pedestrian and cycle routes between the site and key destinations in the area

The works shall be designed to adoptable standard. Prior to the commencement of any works in respect to these improvements / this infrastructure, detailed engineering drawings of the works shall be submitted to and approved in writing by the local planning authority, together with a Stage 1/2 Road Safety Audit and Designer's Response for the works and details of any associated legal orders. The drawings to be submitted shall include:

- A general arrangement / layout, based on a topographical survey, showing the works
- Specification details
- Levels information
- Drainage details (including any attenuation systems)
- Details of vegetation removal / replacement
- Details of all proposed street lighting, access controls, signage, markings, structures and street furniture.

The works shall be carried out in complete accordance with the approved drawings and specification information and the approved development shall not be occupied until new / improved infrastructure is available for use. The new / improved infrastructure shall thereafter be retained as constructed and shall remain available for use at all times.

22. In accordance with section 5.8 of the submitted acoustic report (BWB, MIRRLLEES FIELDS, HAZEL GROVE, NOISE IMPACT ASSESSMENT, MCP2225, August 2021, Doc No. MIR-BWB-ZZ-ZZ-RP-YA-0001_NIA_S0_P04, BWB ref MCP2225-004) any future reserved matters applications for layout pursuant to this Outline planning permission shall include an acoustic report and scheme for protecting occupants of the proposed dwellings from noise and vibration. No dwelling shall be occupied until such a report and scheme has been submitted to and approved in writing by the local planning authority, and all works which form part of the approved scheme have been completed.

23.No development shall take place until an 'Environmental' Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall address the environmental impact in respect of air quality and noise on existing residents during the demolition and construction phases. There shall be no burning of materials on site, and the approved CEMP shall be implemented throughout, the demolition and construction phases of the development. The approved dust and smoke suppression measures shall be maintained in a fully functional condition for the duration of the demolition / construction phases.

The CEMP shall show mitigation measures in respect of:

1. Noise Mitigation Measures

Noise and disturbance including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic route. Comply with BS5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites - Part 1: Noise and Part 2: Vibration

2. Dust Management

For the prevention of dust emissions beyond the site boundary, a scheme detailing all dust suppression measures and the methods to monitor emissions of dust arising from the development.

3. Smoke Management
For the prevention of smoke emissions, a scheme detailing all smoke suppression measures and the methods to monitor emissions of smoke arising from the development.

3. Pile Foundation Method Statement

Should piling be required as part of the development, the applicant shall submit a method statement, to be approved by the local planning authority. The piling work shall be undertaken in accordance with the approved method statement. The method statement shall include the following details:

- Details of the method of piling
- Days / hours of work
- Duration of the pile driving operations (expected starting date and completion date)
- Prior notification to the occupiers of potentially affected properties
- Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint.

24.No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- a survey of the extent, scale and nature of contamination;
- the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.

25. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out [and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.
26. Other than in terms that have received the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unexpected risk to controlled waters where adverse concentrations of land contamination are known or suspected to be present. No infiltration of surface water drainage into the ground shall be permitted where adverse concentrations of land contamination are known or suspected to be present, without the express consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unexpected risk to controlled waters.
27. Piling or any other foundation designs using penetrative methods is not permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unexpected risk to groundwater. The development shall be carried out in accordance with the approved details.
28. No development shall take place until (i) a method statement for the carrying out of an investigation and assessment of the potential for landfill gas being present on the land has been submitted to and approved in writing by the local planning authority and (ii) the investigation and assessment has been carried out in accordance with the approved method statement and (iii) a written report of the investigation and a copy of the assessment has been submitted to the local planning authority. All precautionary and remedial measures (whether relating to excavation and other site works, building development and construction, gas control measures or otherwise) recommended or suggested by the report and assessment shall be taken or carried out in the course of the development unless otherwise approved in writing by the local planning authority.
29. No dwelling shall be occupied until all works necessary to prevent landfill gas migration into the development have been approved in writing by the local planning authority and carried out in full.
30. No solar photovoltaics shall be used on the site without first consulting and receiving written approval from the local planning authority.
31. During construction and in perpetuity, robust measures will be taken to prevent species of birds that are hazardous to aircraft being attracted to the site. Any ponds should ideally be generally dry (holding water only during and immediately after an extreme rainfall event), with a quick drain down time. If this is not possible and they will hold water on a more regular or permanent basis, then they should be

designed to be as unattractive to hazardous birds as possible, being as small as possible, with a dense, continuous band of marginal vegetation to prevent easy access to the water, both for hazardous birds and for members of the public who may try to feed them.

32.No external illumination shall be provided with the site until a lighting plan has been submitted to and approved in writing by the local planning authority. The plan shall include full details of the location, size, design of luminaires and fittings, the type and power output of light sources with illumination levels, the location and design of any associated equipment and the intended hours during which the lighting will be used. Prior to occupation, a 'lighting design strategy for biodiversity' for areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and other wildlife (including badger) and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Notwithstanding the provision of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.

No external lighting shall be installed other than in accordance with the approved lighting plan and lighting design strategy for biodiversity unless the local planning authority has given written approval to any variation.

33.No development shall take place until the outline proposals and principles agreed in the Flood Risk and Drainage Strategy by Scott Hughes dated August 2021 Rev 5 have been developed further, to provide a detailed surface water drainage scheme that prioritises the use of the most sustainable surface water drainage systems based on the findings of a detailed ground investigation, and this has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation; satisfy the flow regimes and run-off rates set out in Policy SD-6 'Adapting to the Impacts of Climate Change' of the adopted Stockport Core Strategy DPD; and include maintenance arrangements to ensure an acceptable standard of operation for the lifetime of the development. The drainage scheme should confirm and incorporate as a minimum:

1. Final outfall arrangements in accordance with the SuDS Hierarchy. This should be supported by site specific data of infiltration potential together with comprehensive assessments of feasibility for alternatives for discharge to a water body, open watercourse, culvert or public surface water sewer.

2. Final SuDS template options with appropriate justification for selected / excluded components for all development areas eg.

- Highways / access roads.

- Development parcels
- Public open space
- Landscaped areas

3. Details of proposed attenuation including volumes and drain down times.

4. Detailed design of the fully integrated drainage system.

5. Details for management of infrastructure including preliminary discussions / agreements in principle with any adopting / controlling bodies.

6. Details of any discussions / agreements with any 3rd party land or asset owners.
The approved scheme shall be implemented in full in accordance with any approved timetable(s) for implementation.

34. Foul and surface water shall be drained on separate systems.

35. No development shall take place until details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted to the local planning authority for approval in writing. Development shall subsequently be carried out in accordance with the approved details.

36. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the submitted ecological surveys, the approved ecological measures secured through the below conditions shall be reviewed and, where necessary, amended and updated to ensure all survey data is no more than two survey seasons old. The review shall be informed by further ecological surveys commissioned to:

- i) establish if there have been any changes in the ecological baseline; and
- ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

37. No site clearance, excavation or construction works shall commence until an 'ecology' Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved CEMP. The CEMP shall include:

- a) risk assessment of potentially damaging construction activities
- b) identification of 'biodiversity protection zones'
- c) measures and sensitive working practices to avoid or reduce impacts during construction
- d) location and timing of sensitive works to avoid harm to biodiversity
- e) times during construction when specialist ecologists need to be present on site to oversee works
- f) responsible persons and lines of communication
- g) roles and responsibilities on site of an ecological clerk or works (EcOW) where one is required
- h) use of protective fences, exclusion barriers and warning signs

and shall include details of measures to:

- a) Avoid the impact on nesting birds

- b) Sensitive working measures relating to felling /demolition of trees/buildings with bat roost potential.
 - c) Avoid the killing or injuring of amphibians and reptiles
 - d) Avoid negative impact on sensitive ecological features during construction (such as retained woodland and trees, aquatic habitats etc.) and protect all retained features of biodiversity interest.
 - e) Reasonable Avoidance Measures (RAMS) to be adopted during works to minimise potential impacts to wildlife
 - f) Details of any required pre-works surveys (e.g. for badger to identify any newly created setts no more than three months in advance of works commencing)
- 38.No vegetation clearance works should take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately (no more than 48 hours) before vegetation clearance works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
- 39.No development shall take place until an invasive non-native species protocol has been submitted to and approved by the LPA, detailing the containment, control and removal of Himalayan balsam and Japanese knotweed on site, along with post-works monitoring. The measures shall be carried out strictly in accordance with the approved scheme.
- 40.No development shall take place until a Biodiversity Net Gain Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall follow the principles set out in the Outline Landscape and Ecological Management Plan (OLEMP) by Bowland Ecology dated November 2022. The management plan shall detail how the scheme will deliver a minimum of 12.85% Biodiversity Net Gain in Habitat Units and minimum increase of 5.54 Hedgerow Units and be demonstrated by the DEFRA Metric. The biodiversity net gain management plan shall include
- a) Detailed habitat creation proposals, for each habitat proposed
 - b) Detailed habitat management and enhancement proposals for retained and improved habitats;
 - c) Maintenance measures during the establishment periods;
 - d) Maintenance measures beyond establishment until target condition acquired;
 - e) Management and maintenance beyond target condition up to a minimum of 30 years;
 - f) Monitoring and review procedures with the Local Planning Authority (including regular update monitoring reports to be submitted to the LPA for review to demonstrate delivery of the required BNG (i.e. in years 1, 2, 5, 10, 15, 20, 25, 30)
 - g) Potential contingencies should a proposed habitat and/or target condition be concluded to be unachievable; and
 - h) Details of the organisations responsible and relevant legal/funding mechanisms for implementing, managing and monitoring the works.

The management plan shall also include mitigation and enhancement measures for nesting birds, bats and other wildlife: including bat boxes, bird boxes, wildlife towers and hedgehog gaps in boundary features. Product types, numbers of installations, locations, timetable for installation and details of management of the facilities within the development will be provided to the local planning authority for approval in writing.

The approved biodiversity measures shall be provided and maintained in accordance with the approved details whilst the development is in operation.

41. No development shall take place until a method statement and risk assessment (RAMS) for all works to be undertaken within 10m of the operational railway has been submitted to and approved in writing by the local planning authority. All works to be undertaken within 10m of the operational railway shall subsequently be carried out in accordance with the approved details.
42. The development shall not be occupied until details of a 1.8m high suitable trespass proof fence and its precise position, to be erected within the application site adjacent to the boundary of the application site with the railway/railway land, have been submitted to and approved in writing by the local planning authority and erected in accordance with the approved details. The fence must be set back at least 1.0m from the railway boundary. The fence shall subsequently be retained at all times.
43. Prior to the use of any scaffolding works within 10.0m of the railway boundary, details of such scaffolding works shall be submitted to and approved in writing by the local planning authority. Any such scaffolding works shall subsequently proceed in accordance with the approved details.
44. If vibro-compaction machinery/ piling machinery or piling and ground treatment works are to be undertaken as part of the development and within 10m of the operational railway, details of the use of such machinery and a risk assessment and method statement must be submitted to the local planning authority for approval in writing prior to the use of any such machinery or the commencement of such works. Development shall subsequently be carried out in accordance with the approved details, risk assessment and method statement.
45. No development shall take place until full details of ground levels, earthworks and excavations to be carried out within 10m of the boundary of the railway land have been submitted to and approved in writing by the local planning authority. Development shall subsequently be carried out in accordance with the approved details.
46. A minimum 3.0 metres gap must be retained between any buildings or structures proposed by this development and the railway boundary.
47. No trees shall be planted within 10m of the boundary with the railway land and the operational railway without the written approval of the local planning authority.
48. The development shall not be occupied until details of appropriate vehicle safety protection measures along the boundary of the application site with the railway have been submitted to and approved in writing by the local planning authority, and erected in accordance with the approved details. The safety protection measures shall subsequently be retained.
49. No development shall commence until a Local Employment and Skills plan Agreement for the construction of the development has been submitted to and approved in writing by the Local Planning Authority (LPA). The submitted agreement shall demonstrate how the development will use all reasonable endeavours to recruit unemployed local people to vacancies. The Priority target groups are the long-term unemployed, young people that are Not in Education, Employment or Training, young people that have recently left Local Authority Care,

Military Veterans and also people with Special Educational Needs or Disabilities from within the Boroughs of Stockport. The Employments and Skills Plan will include minimum expected outcomes in seven key benchmarks as stipulated in the Construction Industry Training Board (CITB) National Skills Academy for Construction Guidance. The minimum expected outcomes will be confirmed by the Council once the design and build costs of the development is provided by the developer. The appointed Construction contractor is expected to delivery on outcomes and have regular progress meetings with the nominated Council Officer who will support links with local partners for implementation.