



## Bristol Tree Forum (BTF) Response to Matter 17

### Examination of the Bristol Local Plan 2022-2040 (the Plan)

*Inspectors: Louise Gibbons, Steven Lee and Benjamin Clarke*

#### Draft Matters, Issues and Questions (MIQs)

#### The BTF Regulation 20 responses to the Plan

Our responses below are informed by and rely upon our responses to the 2023 consultation:

1. [Bristol Tree Forum representations in relation to the Bristol Local Plan 2023 Publication Version consultation](#) (19 January 2024 representations).
2. [BTF Representations on the Bristol Local Plan 2023 publication version - Addendum](#) (25 January 2024 representations).

We also ask the inspectors to take into account our representations regarding the 2019 consultation, which raised new proposals for the protection of open space that were not reproduced in the later 2023 consultation [PCD002b & TPC005]:

[Our response to the 2019 Open Spaces and Local Plan Review](#) (January 2023 representations).

Our representations below are shaded pale blue and prefixed 'Q[number.number] - BTF Response'. The word count does not include the headings above, this highlighted text or the reproduced text from the MIQs.

Paragraphs referred to in the National Planning Policy Framework (September 2023) are shown as NPPF [number].

We set out below why we believe the proposed Plan is neither justified nor effective, nor consistent with national policy, and therefore unsound.

#### Matter 17: Individual Site Allocation Policies (2,281 words)

**Issue 17.1: Whether the individual allocations are justified, consistent with national policy and the development requirements be effective in securing a sustainable form of development?**

##### Issue 17.1 - BTF Response

No. the NPPF defines Brownfield Land (called Previously developed land) as:

*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface*



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*structure have blended into the landscape.*

This list identifies the proposed allocation sites which do not fall within this definition and so do not secure a sustainable form of development:

Site reference	Site Address	Notes
SA510	Land at Dove Lane / Ervine Terrace / Wilson Place / Cheapside	No permanent structure. 90% rough grass and scrub, 10% tarmac
SA512	109 - 119 Newfoundland Road	No permanent structure. Rough grass and soil, line of trees
BSA0103	Land to the west and south-west of Deering Close, Lawrence Weston	No evidence of any permanent structure. Covered in mature woodland
BSA0111	Land off Ermine Way, Shirehampton	No permanent structure, 70% woodland and scrub, 29% tarmac
BDA0302	Land to West of Ashton Gate Stadium, Marsh Road / Winterstoke Road	50% permanent structure. 40% tarmac, 10% woodland
BDA0305	233-237 West Street, Bedminster	30% permanent structure, 30% tarmac 30% grass
BSA1305	Land to the north-west of Vale Lane, Bedminster Down	No permanent structure. Part of the Malago Valley SNCI. "Undeveloped" land. 10% woodland, 90% pasture. (see our specific comments about this site below)
BDA0601	Land at Latimer	No permanent structure. Adjacent to the Nightingale Valley



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Site reference	Site Address	Notes
	Close, Brislington	SNCI. Undeveloped land. 10% woodland, 90% pasture.
BDA0702	Land at Marmalade Lane (south), Brislington	No permanent structure. "undeveloped". Linked via a wildlife corridor with SNCI BC17. 80% mature woodland, 20% scrub/grass.
BDA0703	Land at Marmalade Lane (north), Brislington	No permanent structure. 20% scrub 80% tarmac
BDA0801	The Grove & Prince Street Car Park, Harbourside	10% permanent structure, 90% tarmac/cleared land. Previous car park.
KS10 / BDA0802	Redcliffe Way	<10% permanent structures. Partly (25%) treed. Important context site for St Mary's.
SA202	Land to the west of Lodge Street	No permanent structure. 40% covered with temporary structures. Partly (50%) treed, 10% tarmac.
SA301	55-59 St. Michael's Hill	No permanent structure. Any previously have not been there for at least 40 years and has blended into the landscape. 90% covered in trees with the remainder grass.
SA404	Gap site, 16 Narrow Quay	No permanent structure. Any previous has blended into the landscape. 100% trees, scrub and grass.
SA506	97-101 Stokes Croft	50% permanent structure, 50% trees and scrub.
SA610	Railway cutting, Lower Guinea Street	No permanent structure. 230% trees, 70% tarmac.
SA612	The Bell and adjoining buildings,	Mostly permanent structure. 20% trees.



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Site reference	Site Address	Notes
	Prewett Street	
BDA1002	Land at Whiteladies Gate, Clifton Down	20% permanent structure. 80% tarmac.
BDA1003	Land adjacent Alma Vale Road and Alma Court	No permanent structure. Tarmac and partly treed.
BDA1301	Stapleton Cricket Club	No permanent structure. 100% green space
BDA1302	Land south of Rose Green Close, Eastville	No permanent structure. 100% Green Space. 20% trees 80% grass
BDA1303	Land at Hendys Yard, Lower Grove Road	No permanent structure. Scrap yard. Mostly tarmac.
BDA1304	Land to the rear of Rose Green Road, Eastville	No permanent structure. Scrap yard. Mostly tarmac.
BDA1401	Previously developed land at Hartcliff Way, Bedminster	No permanent structure. 100% tarmac
BDA1402	Previously developed land to the west of Redford House, Nover's Hill	50% permanent structure, 50% Tarmac
BSA1108A	Previously developed land at Novers Lane,	No permanent structure. 20% previously developed. 80% trees and scrub.



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	east of Hartcliffe Way and west of Novers Lane	
BSA1109	Land adjoining Hartcliffe Way and Hengrove Way, Inn's Court.	No permanent structure. Undeveloped Green Space. 30% trees 70% grassland
BSA1115	Former Florence Brown school, west of Leinster Avenue	80% undeveloped green space, 20% previously developed.
BSA1116	Open spaces either side of Inns Court Drive	No permanent structure. Undeveloped important local Green Space. Trees and grass.
BSA1118	Broad Plain House and associated land, Broadbury Road	85% undeveloped green space, 15% previously developed.
BSA1120	Land and buildings between 2 to 20 Filwood Broadway	85% undeveloped green space (Trees and scrub), 15% previously developed.
BSA1122	Sports court and former swimming pool site on the north-east corner of the Filwood Broadway and Creswicke Road Junction	70% undeveloped green space (trees and scrub), 30% previously developed.
BSA1123	Filwood Library and adjoining	50% undeveloped Green Space (trees and grass), 50%



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Site reference	Site Address	Notes
	land, Filwood Broadway	previously developed.
BDA1501	Land at College Road, Fishponds	No permanent structure. Entirely undeveloped green space, trees and grass.
BSA0502	Glenside Campus, Blackberry Hill, Fishponds	50% undeveloped green space (important trees and grass), 50% previously developed.

None of these sites are shown on the Brownfield Land Register maintained by the Council, last reviewed in March 2024. The 2024 Brownfield Register shows that there are 20 brownfield sites comprising 13.27 hectares available for development.<sup>1</sup> 12 of these, comprising 7.58 hectares, were designated in 2014. Taken together, these sites are capable for providing 678 (693 in 2023) dwellings. None of the new site allocations proposed in the Plan appear on either Register.

It is notable that, of the 248 sites listed in the March 2023 Brownfield Land Register (376 in the 2024 Register), only these 20 sites do not already have some form of planning permission ranging from grants as long ago as 2004 to 2019 (2023 in the 2024 Register). Whether or not they have all been developed, we cannot say, though a random sample of sites suggests that most have been, or are being, developed. Given that the Brownfield Land Register Regulations require that Local Authorities maintain a register of sites that are least 0.25 hectares or are capable of supporting at least 5 dwellings and the land is available for residential development,<sup>2</sup> it is hard to understand why so many of those sites (which appear to have been developed) are still listed as available for residential development.

### Site Allocation site BSA1305 - Land to the north-west of Vale Lane, Bedminster Down

Proposed Site Allocation BSA1305 - Land to the north-west of Vale Lane, Bedminster Down - in Bishopsworth ward is within the Malago Valley SNCI. It is owned by the Council. Part of the site is also identified as allotments.

This site was allocated for development when the SADMP SA1 was adopted in 2014. However, this did not cause it to lose its designation as part of the Malago Valley SNCI. Even if this

<sup>1</sup> <https://www.bristol.gov.uk/business/planning-and-building-regulations-for-business/planning-for-business/brownfield-land-register> & <https://bristoltreeforum.org/wp-content/uploads/2024/01/Development-Allocations-Appendix-4.xlsx>. This is the number of sites which are shown as 'non permissioned' in column I, called *Planningstatus*. Using the same filter, the March 2023 Brownfield Land Register lists 20 sites covering 16.01 hectares.

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2017/403/regulation/4>



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proposed site allocation is approved, it will continue to remain part of the SNCI (see our **Q10.4 Response** below), as is recognised in the Bristol Local Plan Policies Map (map P30) submitted with the Plan [CSD003].

We are advised that this is an industrial allocation retained from the current local plan and that it has been retained to respond to assessed needs for industry and warehousing in the city and south Bristol. To the best of our knowledge, no proposals have been made to develop this site in the 10 years since it was allocated.

The development considerations regarding nature conservation are carried forward into the new local plan publication version. These considerations state that they should:

*... be informed by an ecological survey of the site and make provision for mitigation measures, which will include a financial contribution towards ecological enhancements within the adjacent Site of Nature Conservation Interest. The site currently has city-wide importance for nature conservation due to the presence and condition of particular species, habitats and / or features.*

No mention is made of the fact that the site forms part of the Malago Valley SNCI and so remains subject to the planning policy protections given to SNCIs. Nor has any evidence been adduced to show why the site has ‘city-wide importance for nature conservation due to the presence and condition of particular species, habitats and / or features’ even though this evidence is available.<sup>3</sup>

Proposed Policy BG2 states that: ‘Development which would have a significantly harmful impact on local wildlife and geological sites, comprising Sites of Nature Conservation Interest (SNCIs) ... as shown on the Policies Map, will not be permitted.’

These proposals are likely to result in the complete destruction of this part of the SNCI. This must amount to ‘a significantly harmful impact’ which would not be permitted under Policy BG2 should it be adopted as current worded.

The development considerations are also contrary to the Biodiversity Mitigation Hierarchy requirements as set out in Article 37A(a) of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 which states:

*In relation to onsite habitat with a habitat distinctiveness score, applied in the biodiversity metric, equal to or higher than four [medium distinctiveness] –*

- (i) avoiding adverse effects of the development, or*
- (ii) insofar as those adverse effects cannot be avoided, mitigating those effects;<sup>4</sup>*

This makes it clear that the first duty is to avoid adverse effects to medium and higher distinctiveness habitats which are the majority of habitats (see also our **Q10.4 Response** for a discussion about the impact of the introduction of the term ‘adverse effects’ as it relates to

<sup>3</sup> This evidence is available on request from <https://brerc.org.uk/index.htm>.

<sup>4</sup> <https://www.legislation.gov.uk/uksi/2024/50/regulation/19/made> - Article 37A.



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the meaning of 'harm').

Where 'adverse effects' cannot be avoided Article 37A(b) obliges developers to provide post-development mitigation, either on or off site. A '*financial contribution*' will almost always not be acceptable unless biodiversity credits are the last resort - '*insofar as registered offsite biodiversity gain cannot be allocated to the development, the purchase of biodiversity credits*' (Article 37A(b)(iv)).

The site is also an open space as defined the Open Spaces Act 1906 (see our **Q10.17 Response** above), yet it has not been established that the land is no longer required for its original purpose.

In light of all these issues, the site should not be allocated for development.

### Offsite biodiversity mitigation

The proposal to provide post-development biodiversity mitigation offsite on the remaining part of the Malago Valley (owned by the Council) faces a number of challenges. To be able to do this:

- The SNCI, or part of it, would have to have been registered and allocated to the development of BSA1305.<sup>5</sup>
- A legal agreement, probably a planning obligation, would need to be agreed.<sup>6</sup> However, as the Council will be responsible for both enforcing the agreement and the delivering the biodiversity mitigation on its own land (on behalf of the developer), this will not be possible. To overcome this, the LPA has entered into an agreement with Bath and North East Somerset Council delegating its Offsite BNG Mitigation supervision responsibilities to it.<sup>7</sup>

It is anticipated that this agreement will apply to all offsite biodiversity mitigation provided on council-owned sites, including all site allocation sites where offsite biodiversity mitigation is delivered on Council-owned land.

### The development considerations criteria

We have identified 28 instances of proposed site allocations where the development will be '*informed by an ecological survey [or appraisal] of the site ...*' An ecological survey is not the same as a BNG habitat survey which, in nearly all cases, is now obligatory. This needs to be addressed.

In fact, whether or not the proposed development of a Site Allocation site is exempt,<sup>8</sup> all site allocation sites ought expressly to include a development consideration which requires a BNG habitat survey together with a Statutory Metric baseline calculation.

<sup>5</sup> <https://www.gov.uk/guidance/register-a-biodiversity-site-and-allocate-to-a-development>.

<sup>6</sup> <https://www.gov.uk/guidance/legal-agreements-to-secure-your-biodiversity-net-gain>.

<sup>7</sup> Similar agreements with other adjacent Councils may also be signed.

<sup>8</sup> <https://www.gov.uk/guidance/biodiversity-net-gain#biodiversity-net-gain-submitting-a-planning-application> - Paragraph: 003 Reference ID: 74-003-20240214.





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Given all this, these site allocation proposals are not sound because they are not justified or effective, nor are they consistent with national policy.

### Miscellany

The former 2014 Site allocation (BSA1201) at Brislington Meadows has been removed from the Plan. We agree with its removal. As a result, showing the subsequent planning permission (22/01878/P) overlain on BSA1201 on the proposed Local Plan Policies Map (CSD003, map 27) serves no purpose which is relevant to aims of the Plan. It should be removed.

Homes England's representations at page 459 of Rep01 are incorrect. The overlay showing planning application entitled '22/01878/P Permission for 260 Homes' does not show the Redline boundary of the application. It shows the original Site Allocation boundary.

Homes England also objects to the site being designated as an SNCI and as a Reserved Open Green Space.

Sites of Nature Conservation Interest (SNCIs) are designated for their substantive nature conservation importance, either for wildlife or geology. LPAs have no power to designate (or dedesignate) SNCIs. This is controlled by independent Local Sites Partnerships (LSP) acting under guidance issued by Defra<sup>9</sup> and the LSP's own protocols.<sup>10</sup> The Brislington Meadows SNCI was designated before the 2014 Site Allocation (BSA1201) was designated. It did not lose its SNCI status as a result of this designation, though it (and many other SNCIs designated as Site Allocations) is incorrectly omitted from the current Bristol City Council Local Policies Map.<sup>11</sup>

We have argued elsewhere that all SNCIs, including the Brislington Meadows SNCI, should be given Local Green Space status.

### Conclusion

Given all this, as currently proposed, the Plan is not sound because it is not justified or effective, nor is it consistent with national policy.

We ask the Inspectors to find the Plan unsound as submitted, and to recommend non-adoption.

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<sup>9</sup>

<https://webarchive.nationalarchives.gov.uk/ukgwa/20130402204735/http://archive.defra.gov.uk/rural/documents/protected/localsites.pdf>

<sup>10</sup> <https://bristoltreeforum.org/wp-content/uploads/2022/08/designated-sites-protocolcriteria-v12-march-2011.pdf>

<sup>11</sup> <https://maps.bristol.gov.uk/policies/>