



Appeal Decision

Site visit made on 3 and 17 March 2025

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025

Appeal Ref: APP/Z0116/W/23/3327804

171-175 Gloucester Road, Bishopston, Bristol BS7 8BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 D Iles of Whitehorse Homes Limited against Bristol City Council.
 - The application Ref is 23/00649/P.
 - The development proposed is Erection of 9no. self-contained flats (Use Class C3) with access, and associated cycle parking and bin storage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The application was made in outline with matters relating to access, appearance, layout and scale to be determined at this stage. Landscaping is reserved for future determination. I have proceeded on that basis.
3. The Council did not determine the application. It set out in its statement of case that had it gone on to determine the application it would have been refused for seven reasons which can be summarised as overdevelopment of the site, design and impact to the Gloucester Road Conservation Area, impact on neighbouring living conditions, failure to meet all minimum national space standards, loss of mature trees including protected trees, loss of nature conservation value and failure to provide biodiversity net gain and potential harm to the viability of the retail units.
4. In response to the Council's concerns, the appellant has submitted amended drawings showing single beds in some of the bedrooms and a revision to a second floor window in the eastern elevation to make it an oriel window. From the elevational drawings and commentary by the appellant it appears the same change was intended to a first floor window but this is not shown on the floorplan. A revised site plan was also submitted to show areas for biodiversity net gain (BNG) as well as a draft BNG metric.
5. As originally submitted, the supporting information to the application referred to the proposal providing 3-person, 2-bedroom units of 61 square metres (sqm) although the submitted drawings showed these units as double occupancy in both bedrooms. The amended drawings rectify this inconsistency. I have therefore accepted this correction.

6. The alterations to the windows are unclear given the discrepancy between the plans. In any event, such an amendment to the window would materially change the scheme from that on which interested parties were originally consulted. I have therefore considered the scheme on the fenestration as originally submitted with the application and proceeded accordingly.
7. The revisions to the site plan do not alter the layout as originally submitted. They do however provide an indication of where space for BNG could be provided and which could be determined through an application seeking approval of landscaping details. I have accepted the revised plan in respect of this but treated it as indicative only.
8. The appellant submitted a draft Heads of Terms in respect of a tree replacement contribution as part of the appeal. However, no agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to secure this planning obligation has been submitted. I have not therefore considered this matter further.

Main Issues

9. The main issues are:
 - the effect of the proposal on the vitality and viability of the Gloucester Road Town Centre;
 - the effect of the proposed development on the character and appearance of the area, including the Gloucester Road Conservation Area;
 - the effect on trees;
 - the effect on biodiversity;
 - the effect of the proposed development on the living conditions of existing and future neighbouring occupiers, with particular regard to privacy, overshadowing and overbearing effects; and
 - whether the proposal provides satisfactory living conditions for future occupants, with particular regard to internal space.

Reasons

Viability of the town centre

10. The appeal site is located in the Gloucester Road Town Centre and within a designated primary shopping area frontage as identified in the Bristol Core Strategy 2011 (the CS) and Site Allocations and Development Management Policies 2014 (the SADMP). It is currently occupied by a Tesco Express in the form of a single, large retail unit extending across three shop units (Numbers 171, 173 and 175). These have been merged and extended to the rear at ground floor level to provide storage for the retail unit. It is understood that the current occupant does not intend to renew its lease which is due to expire soon. The rest of the site comprises an undeveloped area of land behind the retail units.
11. The proposal involves the partial demolition of the ground floor commercial storage space and the subdivision of the existing unit into two smaller units. An accessway, in the form of a corridor through No 173 directly from Gloucester Road

to a proposed block of flats behind the frontage buildings, would separate the units.

12. The proposal would reduce the retail floorspace by 137sqm which is around 37% of the total area, predominantly the rear storage space but some lost to provide the corridor access. The submitted plans provide limited details about the reconfigured retail space. The appellant has stated that the units would have a floorspace of 107sqm and 122sqm respectively. There would be a reduction in the amount of space at the rear of the units which would impact on the availability of storage and staff areas for the proposed commercial units. This could affect the ongoing viability of these or reduce their versatility, therefore making them less appealing to future commercial occupants. In such circumstances, the units may remain vacant with associated harm to the vitality and viability of the centre. I observed that many of the units along Gloucester Road are single units. However, I have limited information as to how these compare in floorspace with the proposed units, particularly in respect of space at the rear for storage and staff areas.
13. The appellant asserts there is not the demand for larger units as demonstrated by such units being in the minority along Gloucester Road and due to the limited parking available. I appreciate that deliveries to the existing store are challenging due to the absence of vehicular access to the rear. However, firm evidence to substantiate these assertions has not been submitted and I cannot be certain that the appeal scheme would provide viable units, attractive to commercial operators. I am therefore not assured that the proposal would not result in vacant commercial units in the primary shopping area frontage.
14. The formation of the access from Gloucester Road would interrupt the continuous, fully occupied and thriving retail frontage along this section of the road. However, provided the two units either side incorporate a window display as is characteristic along this frontage, the proposed corridor access to the rear would not amount to a significant break in the shopping frontage and the integrity of the retail frontage would not be undermined. This does not mean that the creation of the two units would be acceptable from a character, appearance and heritage perspective. I come on to this later in my decision.
15. I appreciate that Gloucester Road benefits from a long stretch of retail premises, claimed to be the longest row of independent shops in Europe at one point. The overall scale of the loss arising from this proposal would not undermine the role of this town centre as a whole. However, it could, if the units become vacant, diminish the shopping frontage with associated harms to the thriving character of the centre.
16. The land to the rear, which would accommodate the proposed flats is used for storage in association with the retail unit but from my observations, appears to have been predominantly fly-tipped and is overgrown. There is no evidence that the loss of this area of undeveloped hardstanding would be harmful to the functioning of the retail unit.
17. The proposal has not demonstrated that the proposed commercial units would be viable. Consequently, I am unable to conclude that the scheme would not harm the vitality and viability of the town centre. It would therefore conflict with Policy BCS7 of the CS and Policy DM8 of the SADMP which together seek uses that contribute to maintaining the vitality and viability of centres and require proposals which

would result in the loss of retail floorspace, including storage or service areas, to demonstrate that they will not be detrimental to the continued viability of the retail unit.

Character and appearance

18. The appeal site comprises a combined retail unit within a terrace on the east side of Gloucester Road and an area of undeveloped land, in a backland position behind this, surrounded by residential properties. It lies within the Gloucester Road Conservation Area (the CA) which extends along a large section of Gloucester Road and incorporates residential streets off this. This relationship between the main retail area along Gloucester Road and the residential streets behind gives the CA its character, as identified in the Gloucester Road Conservation Area Character Appraisal 2017.
19. Development along the east side of Gloucester Road comprises two-storey terraced gable-fronted properties with purpose-built shop units at ground floor. There is a uniformity and rhythm to the terrace derived from its architecture but also from most of the commercial units occupying a single unit within the terrace, thereby retaining the integrity of the built form. Several of these have retained their traditional shopfronts. On the opposite side of the road, there is greater variation with some three-storey buildings with good architectural detailing as well as two-storey terraces. Together these make a positive contribution to the mixed commercial uses along Gloucester Road and contribute to the special character of the CA.
20. The appeal properties, configured as a single large ground floor retail unit, appear anomalous within the terrace along the east side of the road and are harmful to the character of the CA. The proposal to create smaller commercial units would be more in keeping with the character along this stretch of Gloucester Road. However, because the newly formed units would extend into part of No 173, they would not match the smaller units within the terrace which are aligned within a single building. In the absence of elevational drawings of the Gloucester Road frontage, it is not clear how the shopfronts and any associated signage would appear from the street. It seems to me that should they extend across the frontage of No 173, they would be at odds with the rhythm of the single units within the terrace whilst on the other hand, the absence of signage to No 173 would create a visual gap in the frontage.
21. The recessed entrance would additionally be an uncharacteristic feature which would fail to correspond with the pattern and grain of commercial development along the street, although it would be limited in its extent. Thus, whilst the proposal would be an improvement on the existing merged retail unit, it would not be sympathetic to the character and appearance of development within the terrace.
22. There are examples of recessed doorways which have been drawn to my attention. However, I observe that these are associated with the entrance to a retail unit or business and not creating a dedicated entrance to residential development. They do not justify the proposal here.
23. The appellant suggests that the detailing of the shopfront could be controlled through a condition. However, this is an important part of the scheme with implications for the character and appearance of the proposed development and how it relates to the CA. Without information at this stage as to how this

reconfiguration of the ground floor would be, I cannot be certain that this aspect of the scheme could achieve a satisfactory appearance that would be appropriate for the location. The changes to the Gloucester Road elevations would be harmful to the character and appearance of the area, including the CA.

24. The rear part of the appeal site is enclosed by the frontage buildings, the rear garden of Number 3 Bolton Road (No 3) and the gardens of several residential properties fronting North Road. The southern site boundary adjoins an area of vacant land beyond which there is a substantial late 19th century warehouse building, predominantly three-storey with additional roof extensions, which has been converted into student accommodation. This is positioned behind Gloucester Road frontage development.
25. There are a number of mature trees, both within and near the appeal site which soften the urban landscape. The trees are not widely visible from the public domain although they can be seen above the roofline of the terrace from Brookfield Avenue as well as in glimpsed views through the gaps between houses along North Road. They additionally provide significant visual amenity to a large number of surrounding properties. The current unkempt appearance of the site detracts from it. The contribution of this part of the site to the CA is limited due to its enclosed nature although the trees make a positive contribution.
26. The proposed building would have a large, irregular footprint and a flat roof. Predominantly set over two floors, the southern part of the building would be three-storey accommodating a single flat with a south and west facing roof terrace. Where the building would be three-storeys, it would not appear subservient to the two-storey frontage development along Gloucester Road.
27. The presence of the student accommodation, albeit it within an historic building, establishes this form of relatively large-scale and tall development on a backland site within the locality. In addition, due to the sloping topography of the area, the North Road properties appear as three-storeys when viewed from the rear. In the context of these, the proposal would not appear unduly tall. However, this does not overcome the building's dominant form arising from its height and proximity in relation to the Gloucester Road terrace.
28. The flat roof would help to limit the overall height but it would result in a development unlike the more traditional built form featuring pitched roofs that are characteristic of surrounding development. There are examples of flat roofed buildings locally along Gloucester Road, but these are on the opposite side of the road and unrelated to the appeal proposal. Furthermore, the building would result in significant site coverage with small setbacks from the surrounding boundaries. Its backland position and the absence of significant other development in this location would allow for some variation from the established form of development. However, the proposal would result in a cubic form of development, of a scale and mass that would make it appear overly large and cramped within its plot.
29. The detailing of the building would fail to reflect locally characteristic architectural styles in terms of fenestration, features and patterns which in combination with its flat roof would be out of keeping. Whilst it would not be widely visible from the public realm, it would nevertheless be an unsympathetic form of development that would be harmful to the character and appearance of the area generally as well as to the special character of the CA.

30. The proposal would fail to preserve or enhance the character or appearance of the CA which I am required to pay special attention to in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm the proposal would cause to the significance of the CA would be less than substantial. Paragraph 215 of the National Planning Policy Framework (the Framework) states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. I conclude on this matter in the Planning Balance below.
31. The proposal would harm the character and appearance of the area and it would fail to preserve or enhance both the character and the appearance of the CA. It would therefore conflict with Policies BCS21 and BCS22 of the CS and Policies DM26, DM27, DM29, DM30 and DM31 of the SADMP. These policies together seek development of a high quality of design that contributes to the character and identity of the area, reinforcing local distinctiveness by respecting local pattern and grain of development, responding appropriately to the height, scale, massing, shape and form of existing buildings and reflecting locally characteristic architectural styles, with backland development being subservient to surrounding frontage buildings. They also require shopfronts to have regard to the host building and wider streetscene in terms of scale, proportion and overall design and to reinstate traditional or distinctive architectural features that safeguards heritage assets and preserve or enhance the special character or appearance of conservation areas.

Trees

32. A number of mature trees are growing on the appeal site, forming a small but mature green infrastructure group within the urbanised area, locally referred to as 'Sycamore Wood'. These trees make an important contribution to the character and quality of the urban area and the CA. They provide a high degree of visual amenity value, although primarily to surrounding occupants of the site due to the limited number of public viewpoints from which the trees can be seen. They also provide ecological value and space for nature which I address in more detail below. Several of the trees are protected under a Tree Preservation Order¹ (TPO).
33. An arboricultural report was submitted as part of the application. This included a tree survey and identification of constraints posed by existing trees. The assessment of the trees has been carried out in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations. The survey identified that the trees on the site are mature specimens with considerable life expectancy and categorises them in accordance with the BS category grading. The report does not set out details of tree removal or work necessary to accommodate the proposed development.
34. Based on the scale and layout of the proposal, it would inevitably lead to the removal of a significant number of trees, potentially all, including those protected by the TPO. This accords with the assessment set out in the submitted draft BNG metric. This would cause a loss of a small but important area of green infrastructure within the urban area with an associated loss of visual amenity and value to the CA.

¹ TPO No 702

35. The indicative site plan shows planting of seven trees along the southern and eastern site boundaries but suggests all existing trees have been removed. Landscaping is a reserved matter and still to be determined. However, due to the proposed layout and the size of the proposed building within the site the remaining space for meaningful landscaping is limited. Moreover, due to the limited space, it is unlikely that larger specimens could be maintained on site in the long term due to pressure to prune or remove trees arising from their proximity to the flats.
36. Neither justification for the removal of the trees nor satisfactory mitigation for their loss has been provided. Their loss would cause significant harm to both visual amenity and, as I address in more detail below, biodiversity. The proposal would therefore conflict with Policies BCS9, BCS21 and BCS22 of the CS and Policies DM15, DM17, DM26, DM27 and DM31 of the SADMP. Together these policies seek to protect against the loss of green infrastructure and unidentified open space which is locally important for townscape and visual amenity; for new development to integrate important existing trees and where loss is essential, to provide replacement trees in accordance with tree compensation standards; and for development to incorporate existing green infrastructure, to reinforce the character of streets and spaces, to contribute to an area's character and identity, and to safeguard or enhance the special character of conservation areas.

Biodiversity

37. The planning application subject to this appeal was submitted prior to 2 April 2024 and pre-dates the mandatory requirement for BNG. Nevertheless, Policy DM19 of the SADMP requires that where loss of nature conservation value would arise development will be expected to provide mitigation on-site and where this is not possible, off-site. The Framework sets out that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
38. Whilst not a mandatory requirement, the appellant has submitted a draft BNG metric to demonstrate the effect of the proposal. This assesses the on-site habitat baseline and on-site post-intervention changes. These include proposals shown on revisions to the site plan to provide an area for BNG enhancements on the eastern and southern boundaries of the site as well as planting of seven trees. The on-site net change would be -1.97 habitat units, equivalent to a 91.37% on-site loss of habitat, primarily due to the loss of trees. Whilst additional compensation and enhancement features are proposed, including the use of green roofs where possible, provision of bat, bird and invertebrate boxes and gaps within fencing to allow hedgehogs and badgers to move through the site, this would not address the significant loss of habitat that would arise.
39. The appellant has indicated that they would commit to undertaking a BNG assessment and providing 10% BNG by purchasing off-site units from a habitat bank, which they propose could be conditioned. I have been provided with no details in respect of this, including whether this option is available to the appellant. I acknowledge the example condition submitted by the appellant that is used by a neighbouring authority, however, this relates to securing approval for a Biodiversity Gain Plan which would not be required in this case as its purpose is to demonstrate how development proposals meet statutory requirements in respect of BNG.

40. The proposal has failed to demonstrate that it would adequately compensate for the loss of trees and make measurable net gains for biodiversity. It therefore conflicts with Policy DM19 and the Framework as referred to above.

Living conditions – neighbouring occupants

41. Number 3 Bolton Road is a residential property located to the north of the appeal site. Its rear elevation and garden face towards the proposed block of flats which would be positioned between 3 and 5 metres from the shared boundary. At this closest point, the proposed building would be two storeys in height. Three oriel windows, serving the main living area and two bedrooms at first floor level would face towards No 3. Whilst these would be a suitable distance away from rear facing windows to avoid any undue loss of privacy, they would appear to overlook the rear garden. It is proposed that these windows would be obscured glazing which would prevent direct overlooking. Nevertheless, due to their proximity, occupants of No 3 would experience perceived overlooking to the detriment of their enjoyment of their private garden space. There are outbuildings and well-established vegetation within the garden to No 3 which provide a significant degree of natural screening. However, the extent of this will vary throughout the years, the plants may die or need to be thinned and therefore cannot be relied upon in the long term to protect the privacy of these occupants.
42. Furthermore, with the building being positioned to the south of No 3 and two and three-storeys in height, it may give rise to some overshadowing of this garden space due to its proximity to the garden, scale, mass and bulk. No technical evidence has been submitted to demonstrate that this would not be the case and I cannot be certain that no such harm would arise.
43. The proposed building would be positioned behind Numbers 167 to 175 Gloucester Road and its west elevation would face towards the upper floors of these properties. The evidence is inconclusive about how these upper floors are occupied and whether they are flats as stated by the Council or used for storage as asserted by the appellant. My own observations on site, led me to no firm conclusions on this. Nevertheless, the windows serving living and kitchen areas in the proposed upper floor flats as well as a substantial second floor terrace would face towards these neighbouring properties. With a separation distance of 12 to 17 metres between facing windows, both direct and perceived overlooking of the rear facing first floor windows in the Gloucester Road properties would occur. The slight angle of the building to the rear elevation of these properties would not prevent this. This would be harmful to the privacy of occupants of these units.
44. The eastern elevation of the proposed building would face towards several residential properties on North Road. These benefit from reasonably long gardens of around 20 metres. The proposed building would be set back between 3.3 and 7 metres from the shared boundaries and the separation distance between facing windows would be acceptable. However, with bedroom windows at first and second floor facing the private rear gardens and close to the shared boundaries, an unacceptable degree of overlooking of these private spaces would occur to the detriment of these neighbours. Furthermore, due to the proximity to the boundary and the height of the proposed building which would be three-storeys at the rear of Numbers 149 to 153, it would appear overbearing when viewed from these adjacent amenity spaces.

45. The proposed building would have several windows and a large second floor roof terrace in the southern elevation, facing towards and close to the boundary with the undeveloped area of land between the appeal site and the student accommodation beyond. These would be close to the shared boundary and could prejudice any future proposals for development on this site.
46. I conclude that the proposed development would harm the living conditions of neighbouring properties through loss of privacy, overshadowing and its overbearing impact. It would therefore conflict with Policy BCS21 of the CS and Policy DM27 of the SADMP which together require new development to safeguard the amenity of existing development and that proposals should not prejudice future development potential of adjoining sites. I have found no conflict with Policy DM30 of the SADMP as this relates to alterations to existing buildings. This aspect of the scheme would not give rise to harms to neighbouring amenity.

Living conditions – future occupants

47. Policy BCS18 of the CS sets out that residential development should provide sufficient space for everyday activities and to enable flexibility and adaptability by meeting appropriate space standards. The Nationally Described Space Standards (NDSS) set out minimum gross internal floor space for different sizes of units. Relevant here, is that a 2-bedroom, 3 person unit set over a single storey should have a minimum of 61sqm gross internal floorspace.
48. The plans indicate that flats 1, 2, 4, 5, 6 and 8 would be 2-bedroom, 3-person units and would meet the NDSS minimum floorspace requirements for that type of occupancy. They would therefore provide sufficient space.
49. I therefore find that the proposal would provide satisfactory living conditions for future occupants in respect of internal space. It would therefore accord with the requirements of Policy BCS18 of the CS as referred to above and Policy DM14 of the SADMP which requires developments to deliver a healthy environment.

Planning balance

50. The Council cannot demonstrate a five year supply of deliverable housing land, advising that it has a supply of 4.08 years. As such, the provisions of paragraph 11(d) of the Framework are engaged.
51. The proposal would provide nine new homes and would make a modest contribution to the supply of housing in an accessible location and makes effective use of land that is, in part, brownfield land. I attach significant weight to these benefits. In addition, other socio-economic benefits would arise including temporary construction and associated jobs, local spending and use of services by workers and, in the longer term, by future occupants. The proposal would also generate Community Infrastructure Levy payments to the Council as well as generating Council tax revenue. The proposal would additionally exceed the Council's policy standards in respect of CO2 emissions, meeting the BREEAM excellent standard. Together, these benefits are of moderate beneficial weight.
52. The scheme complies with space standards including the provision of external amenity space, makes adequate provision for cycle storage and would be designed to meet 'Secure by Design' principles. These are neutral factors.

53. There would be less than substantial harm to the CA heritage asset, albeit this would be at the lower end of less than substantial harm. In accordance with the relevant provisions of the Framework I am required to weigh this less than substantial harm against any public benefits of the proposals.
54. Taking into account the Council's position regarding five year housing land supply, the significance of the public benefits identified above outweighs the less than substantial harm that would be caused to the heritage asset. As such, I conclude that the application of policies in the Framework that protect areas or assets of particular importance do not provide a strong reason for refusing the development proposed. The provisions of paragraph 11(d)(ii) of the Framework are therefore applicable.
55. In this case, notwithstanding that I have found the protection of heritage asset does not provide a strong reason for refusing the development proposed, my finding is that the proposal would harm the vitality and viability of the primary shopping area within the Gloucester Road Town Centre. In addition, the scheme would cause harm to the character and appearance of the area, result in an unjustified and harmful loss of trees and has failed to demonstrate that measurable gains in biodiversity would be achieved. It would also cause harm to the living conditions of neighbouring occupiers. These harmful impacts of the scheme weigh heavily against the proposal and carry substantial weight in the balance.
56. The adverse impacts of approving the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. . Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

57. For the reasons set out above, the appeal is dismissed and planning permission is refused.

Rachael Pipkin

INSPECTOR