



Planning Appeal - APP/Z0116/W/23/3327804

23/00649/P | Application for Outline Planning Permission with some matters reserved - Erection of 9no. self-contained flats (Use Class C3) with access, and associated cycle parking and bin storage. Approval sought for Access, Appearance, Layout and Scale. With all other matters reserved. | 171 - 175 Gloucester Road Bishopston Bristol BS7 8BE

Summary

We object to this application.

This proposal will result in the loss of 24 well-established trees, which provide significant amenity both to the residents of the adjacent residential properties on North Street to the east and along this part of the Gloucester Road to the west. The proposal does not say why these important trees cannot be integrated into the proposal or, if they cannot, how their loss can be mitigated or, failing that, compensated. This is contrary to local and national planning policy and is therefore not permitted.

We also rely to our interim comments of 17 April 2023, which point out a number of failures and omissions in this application.¹

The reasons for our objections are set out in more detail below.

The background

The development site is in the Gloucester Road Conservation Area and forms part of Character Area 2.² We calculate that the redline boundary is 1,198 square metres including the passage running from Bolton Road.

The site is currently only accessible via a narrow footpath running off Bolton Road. The proposals show that an access to the rear of the site will be created through the current access to the flats above the Tesco Express on the Gloucester Road. The main development will take place on the undeveloped land behind the Tesco Express. This area is largely waste ground, part of which is used as a cage store for the Tesco Express. The rest of the site appears to have been used to dump builders' and other waste and as a fly-tipping site for the adjacent shops on the Gloucester Road.

The trees on site

The 24 trees growing on this part of the site form both a visual and aural screen from the rear of the adjacent houses on North Road and provide significant amenity to the residents living there. They also form an important part of the wildlife corridor running between the rear of the Gloucester Road and the houses on North Road. The top part of the trees' canopy is visible

¹ <https://bristoltreeforum.org/wp-content/uploads/2024/02/BTF-Interim-Comments.pdf>.

² <https://www.bristol.gov.uk/files/documents/2923-gloucester-road-conservation-character-appraisal/file>.

from the Gloucester Road and Brookfield Avenue opposite and so provides an important visual amenity in an otherwise busy urban space with few street trees. These photograph show the state of the site on 13 April 2023 - <https://photos.app.goo.gl/DMUf413YVZWbPSr48>. We consider that all these trees justify protection with a Tree Preservation Order in addition to group TPO 702 mapped on the Council's Tree Preservation Order Canopy map.³ Figure 1 below shows the development site in context, with the almost 100% canopy cover to the rear.



Figure 1: A May 2023 Google Earth image showing the proposed development site and the canopy

³ https://opendata.bristol.gov.uk/datasets/f7611bcdee9b4574aa21722b392f1129_30/explore. This is tree group G01 in the applicant's arboricultural evidence - 23_00649_P-ARBORICULTURAL_REPORT-3400108.



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cover to the rear.

Although it is not expressly stated, it is clear from the plans submitted that all the trees on the site will need to be removed. This will result in significant harm, contrary to Paragraph 186 of the National Planning Policy Framework (NPPF), which says:

When determining planning applications, local planning authorities should apply the following principles:

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*⁴

The applicant has not explained why ‘significant harm to biodiversity resulting from a development cannot be avoided.’ Nor has the applicant explained how, if this harm cannot be avoided, it proposes to ensure that this is either ‘adequately mitigated, or, as a last resort, compensated for.’ Accordingly, this application must be refused.

Bristol Local Plan 2011 Core Policy, BCS9 states:

The integrity and connectivity of the strategic green infrastructure network will be maintained, protected and enhanced. Opportunities to extend the coverage and connectivity of the existing strategic green infrastructure network should be taken.

*Individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy. Appropriate mitigation of the lost green infrastructure assets will be required.*⁵

There is no evidence that this application has sought to comply with these requirements.

Local Plan 2014 Site Allocations and Development Management Policy, DM17 states that: *All new development should integrate important existing trees.*⁶ There is no evidence that this application has sought to do this.

However, where ‘... tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard’ (this is called the Bristol Tree Replacement Standard (BTRS)).

If tree loss or damage is indeed shown to be essential, then we calculate that 96 new trees would need to be planted to replace the 24 lost. Our calculation is set out in Figure 2 below.

⁴ https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf.

⁵ <https://www.bristol.gov.uk/files/documents/64-core-strategy-web-pdf-low-res-with-links/file>.

⁶ <https://www.bristol.gov.uk/files/documents/2235-site-allocations-bd5605/file>.



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Tree ID	Tree Category	Tree Count	Trees Removed	DBH (cm)	Trees x Trees Removed
Totals		24	24		96
G01	B2	9	9	60	54
T02	C2	1	1	19	1
T03	B2	1	1	41	4
T04	C2	1	1	28	2
T05	C2	1	1	48	4
T06	B2	1	1	54	5
G07	C2	4	4	35	12
G08	C2	2	2	37	6
G08a	C2	1	1	22	2
T09	C2	1	1	36	3
T10	C2	1	1	19	1
T11	C2	1	1	27	2

Figure 2: The BTRS calculation.

The lost biodiversity

Whilst this application was issued before the obligation for most developments to achieve at least 10% biodiversity gain under the Environment Act 2021 became law on 12 February last,⁷ paragraph 185(b) of the NPPF requires that plans should ‘... *identify and pursue opportunities for securing measurable net gains for biodiversity.*’

The only way of identifying ‘*measurable net gains for biodiversity*’ is by using the Statutory Metric which is now required for most developments, and which will be required for Small Site Developments (such as this one) after 02 April 2024.

On this basis, we have identified the trees growing on the development site as *Individual trees* habitat which has medium distinctiveness, is in moderate condition and has high strategic significance (trees are specifically protected under the Local Plan as set out above), as defined in both the Statutory Metric and the Small Sites Metric User Guides⁸.

These trees occupy 0.3302 hectares of habitat (see Figure 3 below) and have 3.04 Area Habitat Units value, none of which will be retained. In order to replace this lost habitat and comply

⁷ <https://www.gov.uk/guidance/biodiversity-net-gain>.

⁸ <https://www.gov.uk/government/publications/statutory-biodiversity-metric-tools-and-guides>.



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with the Statutory Metric trading rules, 222 new small size category trees will need to be planted. This will need to be offsite given the onsite constraints. Even so, there will still be a net loss of biodiversity of 0.06%, which will need to be compensated for with other habitat creation or enhancement, either on or off site. We have made no allowance for any other baseline habitat or habitat created or enhanced on site.

Tree ID	Common Name	Species	Native (Y/N)	Natives Count	Tree Count	Trees Removed	DBH (cm)	Baseline RPA (ha)	Statutory Metric Category	Baseline Habitat	Habitat removed (ha)	Habitat Retained (ha)
			100%	24	24	24		0.2305				
G01	Sycamore	<i>Acer pseudoplatanus</i>	Y	9	9	9	60	0.1466	Medium	0.1467	0.1467	0.0000
T02	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	19	0.0016	Small	0.0041	0.0041	0.0000
T03	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	41	0.0076	Medium	0.0163	0.0163	0.0000
T04	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	28	0.0035	Small	0.0041	0.0041	0.0000
T05	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	48	0.0104	Medium	0.0163	0.0163	0.0000
T06	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	54	0.0132	Medium	0.0163	0.0163	0.0000
G07	Sycamore	<i>Acer pseudoplatanus</i>	Y	4	4	4	35	0.0222	Medium	0.0652	0.0652	0.0000
G08	Sycamore	<i>Acer pseudoplatanus</i>	Y	2	2	2	37	0.0124	Medium	0.0326	0.0326	0.0000
G08a	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	22	0.0022	Small	0.0041	0.0041	0.0000
T09	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	36	0.0059	Medium	0.0163	0.0163	0.0000
T10	Sycamore	<i>Acer pseudoplatanus</i>	Y	1	1	1	19	0.0016	Small	0.0041	0.0041	0.0000
T11	Common Ash	<i>Fraxinus excelsior</i>	Y	1	1	1	27	0.0033	Small	0.0041	0.0041	0.0000

Figure 3: Statutory Metric Individual tree habitat calculation.

The application of the Biodiversity Gain Hierarchy

It is notable that the mitigation hierarchy set out in paragraph 186(a) of the NPPF (discussed above) now needs to be interpreted differently when considering issues relating to biodiversity gain. The biodiversity net gain guide uses the term Biodiversity Gain Hierarchy and advises:

This hierarchy (which does not apply to irreplaceable habitats) sets out a list of priority actions:

first, in relation to onsite habitats which have a medium⁹, high and very high distinctiveness (a score of four or more according to the statutory biodiversity metric), the avoidance of adverse effects from the development and, if they cannot be avoided, the mitigation of those effects; and

then, in relation to all onsite habitats which are adversely affected by the development, the adverse effect should be compensated by prioritising in order, where possible, the enhancement of existing onsite habitats, creation of new onsite habitats, allocation of registered offsite gains and finally the purchase of biodiversity credits.

... The Biodiversity Gain Hierarchy has been designed for the purpose of the statutory framework for discharge of the Biodiversity Gain condition to reflect the habitat

⁹ Individual trees habitat has medium distinctiveness.



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categories in the biodiversity metric and the type of ways that the objective of at least a 10% gain can be achieved.¹⁰

It then goes on to make it clear that:

The Biodiversity Gain Hierarchy is distinct from the mitigation hierarchy set out in paragraph 186(a) of the National Planning Policy Framework which states that a planning application should be refused if significant harm to biodiversity resulting from the development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for. How biodiversity net gain will be secured for a development may be relevant to consideration of the policy in the Framework, especially in relation to adequate mitigation and compensation.

We invite the Inspector to consider the impact of this advice when considering this appeal.

¹⁰ <https://www.gov.uk/guidance/biodiversity-net-gain> - Paragraph 008 Reference ID: 74-008-20240214.