

Section 62A Applications Team
The Planning Inspectorate
3rd Floor
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Our ref: PR002418
Date: 23rd April 2024

Sent via e-mail

Dear Sir/Madam,

Town and Country Planning Act 1990

20 Conway Road, Bristol BS4 3RF

Change of use from a dwellinghouse used by a single person or household (C3a) to a large dwellinghouse in multiple occupation (sui generis) for seven people, including the erection of a rear roof extension, 2no. rooflights, and a single storey rear extension.

I write on behalf of my client, Innova Property, to apply for the change of use from a dwellinghouse used by a single person or household (Use Class C3a) to a large dwellinghouse in multiple occupation (sui generis), including the erection of a single storey extension, 2no. rooflights and a rear dormer roof extension. The appellant has chosen to take the Section 62A route and submit the proposal directly to the Planning Inspectorate. Notice of this intention was given on the April 2024. I can confirm that the development would not be liable for CIL.

I attach the following documents as part of this application:

- Completed application and CIL forms;
- Drawing no. 4259.PL2.01 rev. A – site location plan;
- Drawing no. 4259.PL2.02 rev. A – existing and proposed site plans;
- Drawing no. 4259.PL1.03 rev. A – existing plans and elevations;
- Drawing no. 4259.PL2.04 rev. C – proposed plans and elevations;
- Coal mining risk assessment;

- Energy statement.

Site and planning history

The site comprises a mid-terrace dwelling house on Conway Road, in the Brislington West ward of Bristol. The house is set back around 4 metres from the pavement edge, with a small front forecourt area enclosed by a low rendered boundary wall, a lawned garden to the rear, with gated access on to a (non-vehicular) alleyway which leads back through to Conway Road between no.s 4 and 6.

There is no planning history for the site. A certificate of lawfulness in respect of the proposed rear roof extension, 2no. rooflights, and single storey rear extension, together with the change of use to a small dwellinghouse in multiple occupation (Use Class C4), was submitted to the Council in February 2024, and a certificate issued 5th April 2024 (ref: 24/00560/CP)

The area is exclusively residential. The site is not within any Article 4 area restricting permitted development rights (PDR) from C3 to C4, not within any Conservation Area, there are no Tree Preservation Orders, and no other policy designations apply. The building is neither locally nor nationally listed. The site falls within Flood Zone 1.

There are bus stops within a short distance (240 metres), on Sandy Park Road, with the 1 service operating every 20 minutes between Broom Hill and Cribbs Causeway via Bristol City Centre. Further services are available from the A4 Bath Road (400 metres).

The mostly traffic-free Whitchurch Way cycle route (connecting the City Centre with the south of the city, and forming part of National Cycle Route 3 (Bristol to Lands End)) lies 125 metres to the west, at the end of Bloomfield Road. There is a Sainsburys Superstore 220 metres to the west, and the Sandy Park Road local centre lies 260 metres to the south.

Proposal

My client proposes the change of use from a three-bedroom dwellinghouse used by a single person or household (Use Class C3a) to a large dwellinghouse in multiple occupation (sui generis) for up to 7 people. Notwithstanding the outcome of this application, the applicant intends to utilise Part 3, Class L PDR to use the property as a C4 small house in multiple occupation for up to 6 people, and, to extend the property, as demonstrated through the concurrent certificate of lawfulness.

To facilitate the change of use, it is proposed to erect a single storey rear extension, and a rear dormer roof extension, with 2no. rooflights proposed to the front elevation.

Internally, 7no. single-occupancy bedrooms are proposed, each with have a minimum floor area of 8.09sqm (and an average size of 9.91sqm), exceeding the minimum 6.51sqm requirement for a single HMO bedroom. Four of the bedrooms would exceed the minimum requirement (9sqm) for a combined bedroom and living room.

The proposal includes a 27.26sqm kitchen/lounge/diner, exceeding the 22sqm minimum requirement. Three communal use bathrooms (one per floor) are proposed, in compliance with licensing requirements.

Refuse and recycling would be within the dedicate stores within the front garden, and secure and covered cycle storage for 8 bicycles would be provided within the rear garden, with gated access through to Conway Road via the alleyway.

Planning analysis

Housing mix

Policy BCS18 supports a neighbourhood with a mix of housing tenure, types and sizes to meet the changing needs and aspirations of its residents. The supporting text states that evidence provided in the Strategic Housing Market Assessment (SHMA) suggests that new developments should provide for more accommodation for smaller households. The SHMA was updated in February 2019 for the wider Bristol area. This states that single person households are expected to represent 40% of the overall household growth: an increase of 34,000 from 2016 to 2036. The proportion of single person households is therefore predicted to increase from 31.7% to 33.3%, whilst households with children are predicted to remain constant, at 26.2%. 'Other households' (which would include shared accommodation) are predicted to increase from 8.3% to 9.8%.

The 2019 SHMA states that, "*whilst there is projected to be an increase of 34,000 extra single person households, only 14,600 extra dwellings have one bedroom (5,000 market homes and 9,600 affordable homes). This reflects that many single person households will continue to occupy family housing in which they already live.*" (para 2.20). It therefore follows that the provision of accommodation for single households (which HMO rooms provide) would potentially free up family housing, in addition to meeting an identified need. The SHMA predicts that the need for 1-

bed accommodation will increase by 16.8% over the period, whilst the need for 3-bed houses will increase by a broadly similar figure (17.6%).

Further to the 2019 SHMA, the LPA has recently published the "City of Bristol Local Housing Needs Assessment Report of Findings" (November 2023), as a background paper to the new Local Plan. This predicts that, for the period 2020-2040, single person households will represent almost a third of the overall household growth (15,000, 32%), couples without dependent children will represent almost a further third of the growth (13,600, 29%), whilst families with dependent children will make up approximately one fifth of the overall household growth (9,000, 19%). Pertinent to the application, the need for HMO and student households (9,400, 20%) exceeds that for families with children.

At the start of the 2022/23 academic year, UWE had 485 students on the accommodation waiting list, whilst 137 UWE students were residing at accommodation in Newport, with other students having to commute from Gloucester and Bath (Source: BBC News website). For 2023/24, in addition to the Newport accommodation, UWE was also offering 86 rooms at Shaftesbury Hall in Cheltenham, and 63 rooms at Upper Quay House, Gloucester, indicative of the shortage of shared accommodation in the city. In December 2022, *The Guardian*¹ reported a 25% under-provision of student accommodation within the Bristol area. More recent research² suggests that there will be a nationwide shortage of some 600,000 student bedspaces by 2026; the same report notes that, in Bristol, bed demand has increased by 15,058 during the period 2017-2023, while the number of beds has only increased by 3,511.

In terms of rental property more broadly, Bristol City Council has publicly acknowledged that the city has a "rent crisis"³, with over one-third of the population (134,000 people) currently renting privately in Bristol. As the Council itself notes, "Over the last decade, private rents in Bristol have increased by 52%, while wages have only risen by 24%. On average, Bristol residents now need almost nine times their annual salary to buy a house. The spiralling costs mean housing is becoming increasingly unaffordable, pushing many further away from their place of work, family, and support networks."

There is no doubt that a shortage of supply of rental accommodation in the city has had an impact on rentals costs. A recent (October 2023) report by Unipol and HEPI⁴ shows that average

1 [REDACTED]

2 [REDACTED]

3 <https://www.bristol.gov.uk/council-homes/tackling-the-rent-crisis>

4 [REDACTED]

rental costs in Bristol, at £9,200 per room for the 2023/24 period, are the highest outside London, and have increased by 9% from 2021/22. It is not outlandish to suggest that the Council's adoption of Article 4 Directions, removing Part 3, Class L PDR to create small houses in multiple accommodation, introduced to limit the spread of HMOs, has also contributed to rising rents, for both young people in employment and students. Restricting supply will naturally increase demand.

The Bristol City Council 'JSNA Health and Wellbeing Profile 2023/24' reported a doubling in the number of households in temporary accommodation from 2019/20 Q3 (573) to 2020/21 Q4 (1124). Whilst numbers dropped back to 868 in the first quarter of 2021/22, they have increased in every quarter since then, with the latest figures (2022/23 Q3) showing 1178 households in temporary accommodation. The report states, *"Temporary Accommodation is a key indicator of homelessness and poor housing supply. The number of households placed in temporary accommodation in Bristol has doubled since 2020 and without the availability of affordable move-on accommodation there are no signs of it returning to pre-pandemic levels."*

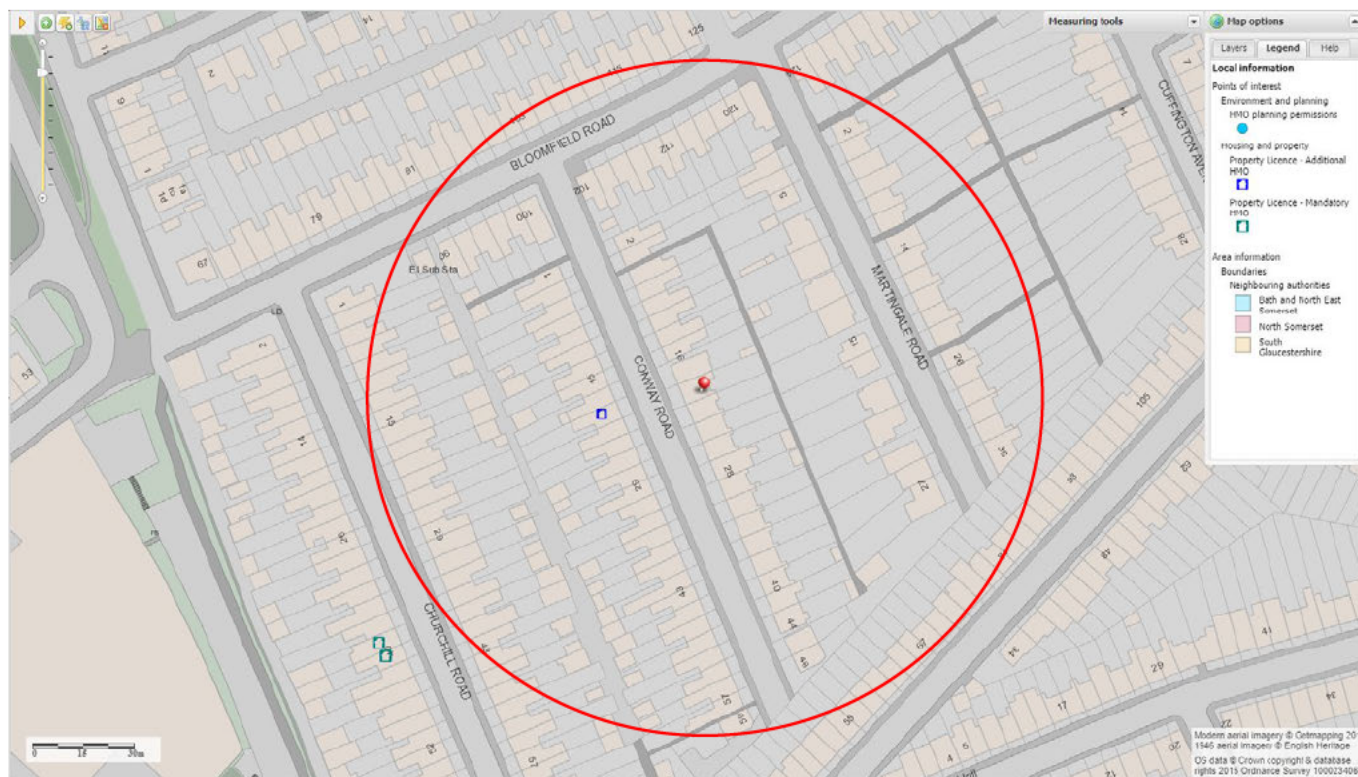
The 2021 Census data reports that, in the Brislington West ward, 62.4% of dwellings were three bedroom or more, 23.6% two bedroom, and 14% one bedroom. This compares with city-wide figures of 55.4%, 28.4% and 16.2% respectively, indicating a relative imbalance on a local level between three-bed and one-bed dwellings in comparison with the city as a whole.

At the LSOA level, the imbalance is even higher, with only 3.7% of properties being one-bed, and 88.9% being three-or-more bedroom. As such, the local housing stock is not sufficiently diverse enough to meet the projected needs of single persons solely through one-bedroom dwellings, which emphasises the requirement for HMO development to address this housing need. The proposed HMO use would therefore help to meet an identified need for accommodation for single households, in an area where such accommodation is lacking, as can be seen through the rise in rental costs, and the increased levels of homelessness in the city.

"Managing the development of houses in multiple occupation" Supplementary Planning Document

The Council's 'Managing the development of houses in multiple occupation' Supplementary Planning Document identifies what constitutes a harmful concentration of HMOs. On a street level, this arises when a proposed dwelling is sandwiched between two HMOs. On a

neighbourhood level, this arises when HMOs comprises 10% or more of the housing stock within a 100-metre radius.



Extract from Council's Pinpoint website, licenced HMOs indicated by green and blue house symbols (red circle indicates 100m radius).

With regards to the former, the SPD states that sandwiching can occur when, inter alia, there is a single HMO property in any two of the following locations: adjacent, opposite and to the rear of a single residential property. However, it also goes on to say that sandwiching cannot occur across a separating road. As can be seen from the extract from the Council's Pinpoint website above, 19 Conway Road is an existing HMO, and therefore 21 Conway Road would potentially be sandwiched between 19 and the application site, however, the properties are also separated by a road, and the application site does not share a boundary with 19 or 21.

Of relevance are appeal decisions at 195 Wordsworth Road (planning ref: 21/00551/F) and Flat 1, 10 Argyle Road (planning ref: 22/03553/F), both of which are attached to this letter. In respect of the former, the Inspector concluded:

"The appeal property comprises a semi-detached dwelling, located at the junction of Wordsworth Road and Bonnington Walk. The Council set out that 1 Bonnington Walk is an HMO

and that the proposed development would sandwich 196 Wordsworth Road (No 196) between this existing HMO and the proposed, due to 1 Bonnington Road being adjacent to, and the proposed development opposite, No 196.

However, the guidance of the SPD states that sandwiching will apply to circumstances apart from where there is a separating road. In this case, the appeal site lies on the opposite side of Wordsworth Road from No 196 and as such there is a separating road." (paras 6-7)

In respect of the latter, the Inspector concluded:

"It has been put to me that the appeal proposal would result in No 8 being sandwiched by HMOs in Nos 10 and No 6, and No 12 being sandwiched by HMOs in No 10 and Argyle Court. Even if I were to accept No 8 would be sandwiched, No 12 could not reasonably be described as being sandwiched given Argyle Court is on the opposite side of the road." (para 8)

Given the two appeal decisions above, it cannot reasonably be argued that a sandwiching situation would occur in this instance.

In respect of the neighbourhood, there is only 1 existing HMO within 100 metres of the site, out of 140 dwellings in total, resulting in an existing proportion of 0.7%, which would increase to 1.4% under the current proposal, and therefore the proposal would not result in the proportion of HMOs in the neighbourhood rising above 10%. This low proportion of HMOs is also relevant to the sandwiching argument. In allowing the appeal at 195 Wordsworth Road, the Inspector stated:

"There is nothing before me that convinces me that the existing situation causes, or the addition of one additional HMO would result in, harmful living conditions for existing occupiers. This is particularly so given that the Council sets out that only 1% of the housing stock in the Lockleaze ward comprises licenced HMOs, and that there are only two existing HMOs within 100 metres of the appeal site." (para 7)

The SPD also identifies a Good Standard of Accommodation, and proposes to adopt the current standards for licensable HMO properties. These state that a single bedroom should measure no less than 6.51sqm; the proposed development exceeds this requirement for all rooms. The standards also require 22sqm of communal living space for a 7 person HMO, which the proposal exceeds. Furthermore, and as noted earlier in this letter, four of the bedrooms would exceed the minimum requirement for a combined bedroom and living room.

Design

Policy BCS21 states that new development should contribute positively to an area's character and identity, whilst policy DM30 states that extensions will be expected to respect the siting, scale, form, proportions, materials, details and the overall design of the host building and broader streetscene. In a similar vein, policy DM26 requires development to respect the local pattern and characteristics, and to respond to the height, scale, massing, shape, form and proportions of existing buildings. Finally, policy DM27 requires development to respect the layout and form of existing development.

It is a material consideration that the proposed works could be carried out under Permitted Development Rights. Regardless of the outcome of this application, the extension, dormer and rooflights would be erected as per the submitted certificate of lawfulness, and this is a strong material consideration and genuine fallback position. It is also noted that rear dormers have been erected under Permitted Development Rights at 7, 11, and 13 Conway Road, and at 15 Martingale Road, opposite the site. There are no public views of the site (save for one glimpsed view between 13 and the aforementioned 15 Martingale Road, which is partially obscured by tree planting), and private views are limited to the gardens of adjacent dwellings.

SPD2 states Rooflights should not be of a size or number that will dominate the appearance of the roof. The 2no. low-profile, PDR-compliant front rooflights would comply with this requirement.

For rear extensions, SPD2 states that these should not exceed 3.5 metres depth, and should avoid breaching 45-degree lines to neighbouring windows. The 2.68 metres deep, mono-pitched extension would sit back of the extension at 18, and would not break the 45-degree line to the window of the rear outrigger at 22.

With regards to the proposed rear dormer, this has been designed to sit comfortably within the roofslope, set back 400mm from the eaves and 200mm from the ridge, and 200mm from both side boundaries. The fenestration would align with the windows below. As such, it would be subservient to the host building, sit comfortably within the roof slope, and reflect existing fenestration and materials.

The SPD states that "box-like" dormers may be inappropriate for the majority of domestic properties, though it is noted that the examples given are all shown on the front elevation, which is not proposed in this instance. Should the Council consider that the dormers are "box-like", then any harm arising from this would be small, given the lack of public views of the site, and would

not be outweighed by the strong material consideration of the fallback position. In this respect, an appeal decision at 9 Wolseley Road (ref: 09/05016/H) is of relevance. The Council refused retrospective permission for a full-width, full-height box dormer. Crucially, the lack of a 200mm set back resulted in the dormer not falling within PD limitations. At paragraph 10 of the appeal decision, the Inspector states:

"Whether or not this proposal is permitted development, rights exist to erect dormer extensions of a similar type. This fallback is a material consideration; in my judgement there is so little difference between what has been built and what can be achieved under permitted development rights that no good purpose would be served by dismissal of the appeal in the light of the fall-back position, which, bearing in mind the investment that has already been made in the loft conversion, would be likely to be carried out. I consider that this is a factor of sufficient weight in this case to outweigh the limited harm that I have identified above, and justifies my not determining the appeal in accordance with the development plan."

More recently, an appeal (attached) was allowed at 2 Bishopthorpe Road (ref: 23/01378/F), involving a rear dormer and change of use to a large HMO in a much more prominent and publicly visible location, as the image below shows.



The appeal was a non-determination appeal, however the Council indicated that it would have refused permission, as the certificate of lawfulness issued (NB – the appeal decision requires the white cladding to be removed and replaced with tiles, in line with PDR) related to a C3a dwellinghouse, and as the dormer and change of use had been implemented concurrently, the Council did not consider that PDR was a fallback position.

The Inspector noted at paragraph 11 that the Council had failed to give weight to *London Borough of Brent v Levelling Up, Housing and Communities [2022] EWHC 2051 (Admin)*, which held that householder permitted development rights apply equally to C3 uses and HMOs.

In respect of the rear dormer, the Inspector concluded:

"The Council's SPD provides detailed guidance on the design of roof extensions and alterations, and when applied to the site, the Council considers the dormer to be at odds with the guidance. However, it seems to me that some tensions are apparent between the guidance provided in the SPD, which is now almost 20 years old, and 'planning permissions' granted by central government under the provisions of permitted development. In particular, some of the examples provided in the SPD of unacceptable or inappropriate dormer development would appear to me to constitute permitted development. The overall form of the development carried out by the appellant would comprise permitted development, as the Certificate referred to earlier testifies." (para 10)

"I recognise however that the development may not accord entirely with some of the Council's design objectives set out in policies BCS21 of the Bristol Development Framework Core Strategy (CS), and policies DM26, DM29 & DM30 of the Site Allocations and Development Management Policies (DMP), and its SPD on house extensions. However, the material considerations indicate to me that a strict adherence to the development plan or to the Council's guidance is not necessary in this case." (para 14)

Similarly, strict adherence to SPD2 is not necessary in this case, and any conflict identified with SPD2 would be outweighed by the strong material consideration of the fallback position.

Residential amenity

Policy DM30 requires extensions to existing buildings to safeguard the amenity of the host premises and neighbouring occupiers. Policy BCS21 states that new development should safeguard the amenity of existing development and create a high-quality environment for future occupiers. Policy DM27 expects that new development will "enable existing and proposed development to achieve appropriate levels of privacy, outlook and daylight"; and "enable the provision of adequate appropriate and usable private...amenity space, defensible space, parking and servicing where necessary."

Policy DM2 seeks to ensure that the conversion of properties to HMOs results in adequate residential amenity, does not result in harm due to excessive noise and disturbance, any impact upon street parking, the character of the dwelling or through inadequate refuse or cycle storage.

The requirement for a mandatory HMO licence will help ensure that the property is well-managed, and that the amenity of neighbours is not prejudiced. Whilst a common concern with regards to HMO conversions is an increase in noise and disturbance, these issues, should they arise, can be dealt with through environmental protection legislation, and it would be considered unreasonable to request an HMO management plan in respect of this planning application, or to condition the provision of any such plan, when this separate legislation would apply in any case. In conclusion, the proposal would not give rise to significant harm to neighbour amenity.

With regards to residential amenity, all the bedrooms would exceed the requirements for a single bedroom, and policy-compliant shared facilities (living room and kitchen) are proposed. The rear garden is large and private, and is considered sufficient for the proposed use.

Parking, cycle and refuse/recycling storage

The Council's Waste Guidance states that for every three bedrooms (NB – the guidance does not state that this requirement should be rounded up) a refuse bin, two dry recycling boxes (44ltr & 55ltr), kitchen waste bin (29ltr) and cardboard sack (90ltrs) is required. For a 7-bed HMO, this equates to 2no. refuse bins, 4no. dry recycling boxes, 2no. kitchen bins and 2no. cardboard sacks (786 litres in total). These would be stored within the front forecourt area.

DM23 states that for both C4 and C3 dwellings, three bike storage spaces are required for properties with 3 or more bedrooms; no requirement is detailed for large HMOs. Notwithstanding, covered cycle storage for 8no. bicycles (more than one per bedroom) is proposed within the rear garden, utilising the access from the rear garden through to Conway Road via the alleyway.

The scheme is proposed as a car-free development, given that the dwelling is within easy walking distance of bus stops, offering regular services into Bristol City Centre, and parking is generally available to both sides of Conway Road, and to Bloomfield Road (one 160-metre stretch of which is within 150 metres walking distance of the site), The provision of one bike storage space per household is considered to mitigate any lack of parking, given that it will support sustainable transport methods to and from the site.

The Council has no adopted parking standard for large HMOs; DM23 states that the maximum number of spaces permitted for a C4 dwelling is 1.5 spaces (for properties with 3-6 bedrooms). This is in line with the supporting text to DM23, which states, *"The approach to the provision of parking aims to promote sustainable transport methods, such as walking, cycling and public transport, as encouraged by Core Strategy policy BCS10"* (para 2.23.7). The policy also states (in line with the NPPF), that development should not give rise to unacceptable traffic conditions.

It is likely that the use as a large HMO would generate fewer vehicles than as a large family dwelling, and that the proposal would not give rise to unacceptable traffic conditions, given the levels of on-street parking available locally. This is borne out by Census data, which shows that, at ward level whilst zero car ownership across all tenure stands at 21.5%, it is less prevalent within owned tenures (12.5%) and more prevalent within the private rented sector (32%). At the LSOA level, 26% of households in privately rented accommodation have no access to a car, compared to 12% of owner-occupied properties. Essentially, a rented property in the local area is 2 times more likely to have no access to a vehicle than an owner-occupied property. The provision of cycle storage in excess of policy requirements would help support the zero-parking approach.

A further material consideration is the fallback position of Part 3, Class L PD rights, to convert the dwelling to a 6-bed small HMO (as the certificate of lawfulness will confirm). On this basis, the proposal is effectively for an additional person, and it is not considered that an additional person living at the site would result in significant highways impacts, or even an additional vehicle parked on the street.

Other issues

Biodiversity net gain

The Environment Act 2021 introduces the mandatory "biodiversity net gain" (BNG) requirement for new housing and commercial development in England, subject to any exemptions that may apply. The exemptions that apply to the BNG requirements are habitats below a 'de minimis' threshold of 25 metres squared; or five metres for linear habitats like hedgerows.

As the proposed building works relate to an extension to replace an existing extension and patio (16.21sqm), the proposal would be exempt from the BNG requirement.

Sustainable energy

The accompanying energy statement confirms that the proposal can achieve a 20% reduction in carbon emissions through the provision of a 2kW photovoltaic panel system, installed to the (south-facing) roof of the proposed dormer, thereby achieving compliance with policies BCS13-15.

Coal mining risk

The site falls within the coal mining high risk development area. The accompanying CMRA confirms that the risk is low, and no further mitigation is recommended.

Conclusion

The HMO SPD was adopted not to prevent HMOs, but to ensure that they are not overconcentrated in particular neighbourhoods, and to direct them towards areas with lower concentrations. The current proposal would not result in any one property being sandwiched between existing HMOs, and the proportion of HMOs within 100 metres would remain far below 10%. As such, there can be no in-principle objection to the property being used as a large HMO, and the overwhelming proportion of properties in the area would continue to provide family accommodation.

The Council recognises, in its Equalities Screening for the HMO SPD, that, *"It is possible that a reduction in the supply of HMOs at a local level may have a disproportionate impact on the groups who typically occupy this type accommodation - i.e. younger people (e.g. students), migrants and those on lower incomes. Impacts may include possible increases in rent and/or increases in commuting distances for work or studying."* Similarly, in respect of draft policy H6 (Houses in multiple occupation and other shared housing) of the new Local Plan, the Equality Impact Assessment lists the potential adverse effects of the policy as, *"Deprivation/Age (younger people): People including younger people on lower incomes in need of more affordable accommodation, such as HMOs/shared housing, may experience supply issues in areas where imbalance exists between this form of housing and other housing types."*

As this letter details, rents have risen across the city since the introduction of the HMO SPD, and supply has shrunk, and whilst correlation does not necessarily equal causation, it is axiomatic that prices rise as supply falls. In this context, it is all the more important for the Council to approve HMOs in areas where the 10% threshold has not yet been reached.

The proposals would, in effect, provide additional accommodation for seven households, meeting a need identified in the latest SHMA and the Local Housing Needs Assessment, within an area where HMO and one-bedroom accommodation is currently at low levels. As such it would meet the aims of both BCS18 and DM2.

In the context of the Council not meeting the 2022 Housing Delivery Test (the fourth consecutive year that this has happened) and paragraph 11d of the NPPF currently being engaged, the proposal offers: social benefits through the provision of housing suitable for single person households, whilst providing communal living which can combat the acknowledged health impacts of loneliness; economic benefits through increased spending in the locality; and environmental benefits through the more efficient use of land to provide increased accommodation (over the provision of new-build one-bedroom accommodation), and reduced energy use (the heating of one large building requiring less energy than the heating of seven individual flats).

All of the building works could be completed under PDR, which represents a strong material consideration and genuine fallback position.

The proposal would provide a high standard of accommodation and represent a valuable addition to the housing stock in a sustainable location, within good sustainable transport links.

The fee of £578 will be paid directly to the Planning Inspectorate. If you have any further queries, then please do not hesitate to contact me.

Yours faithfully,

Stokes Morgan Planning Ltd

Attached

1. Certificate of lawfulness (ref: 24/00560/CP)
2. Appeal decision 195 Wordsworth Road (appeal ref: APP/Z0116/W/21/3277804)
3. Appeal decision at Flat 1, 10 Argyle Road (appeal ref: APP/Z0116/W/23/3323576)
4. Appeal decision at 2 Bishopthorpe Road (appeal ref: APP/Z0116/W/23/3325029)



**Town and Country Planning Act 1990 (as amended): Section 192
Town and Country Planning (Development Management Procedure)
(England) Order 2015: Article 39**

Certificate of lawfulness for a proposed use or development

- Decision:** Certificate of Lawfulness **be issued**
- Application No.** 24/00560/CP
- First Schedule:** Application for a Lawful Development Certificate for a Proposed use and development for the change of use from a dwellinghouse into a HMO (Use Class C4), erection of a rear roof extension, 2 rooflights and a single storey rear extension.
- Second Schedule:** 20 Conway Road, Bristol, BS4 3RF.

The council hereby certifies that on **12 February 2024** (the date the application was made), the use/operations described above in the First Schedule, in respect of the land specified in the Second Schedule, and in respect of drawings detailed below, is lawful within the meaning of the Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):-

1. CONCLUSION

Based upon the information supplied, the proposal does not exceed the dimension limitations and complies with the guidelines set out by Schedule 2, Part 1, Classes A, B, C and L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and therefore a Certificate of Lawful Development may be issued.
RECOMMENDED that Certificate of Lawfulness BE ISSUED

The proposal at 20 Conway Road does not exceed the dimension limitations and complies with Schedule 2, Part 1, Classes A, B, C and L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and therefore a Certificate of Lawful Development may be issued.

Plans and drawings

The plans that were formally considered as part of the application are as follows:

- Location plan, received 12 February 2024
- 4259.PL1.02 REV A Existing and proposed back plan, received 12 February 2024
- 4259.PL1.03 REV A Existing floor plans and elevation, received 12 February 2024
- 4259.PL1.04 REV B Proposed floor plans and elevation, received 12 February 2024

Date of Notice: 05.04.24

Notes:

- This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
- It certifies that the use/operations specified in the First Schedule taking place of the land described in the Second Schedule would have been lawful on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
- This certificate applies only to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operation, which is materially different from that described or which relates to other land, may render the owner or occupier liable to enforcement action.
- The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operation begun, in any of the matters relevant to determining such lawfulness.



Appeal Decision

Site Visit made on 21 September 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/Z0116/W/21/3277804

195 Wordsworth Road, Bristol, BS7 0EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sam Andrews, Andrews Capital Ltd against the decision of Bristol City Council.
 - The application Ref 21/00551/F, dated 2 February 2021, was refused by notice dated 15 June 2021.
 - The development proposed is the change of use from dwelling house (C3a) to a small house in multiple occupation (C4).
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling house (C3a) to a small house in multiple occupation (C4) at 195 Wordsworth Road, Bristol, BS7 0EF in accordance with the terms of the application, Ref 21/00551/F, dated 2 February 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 3882.PL.01, 3871.PL.02 and 3882.PL.03 Rev B
 - 3) The development hereby permitted shall not be occupied until the bin and recycling storage facilities as shown on the approved plans have been provided and made available for use. The approved facilities shall thereafter be retained at all times for this use only.
 - 4) The development hereby permitted shall not be occupied until the cycle storage facilities as shown on the approved plans have been provided and made available for use. The approved facilities shall thereafter be retained at all times for this use only.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force. In light of this, I have sought the views of the main parties in writing and any comments received have been taken into consideration.

Main Issue

3. The main issue is whether the proposal would lead to a harmful concentration of houses in multiple occupation in the local area, with consequential harm to the living conditions of nearby occupiers through noise and disturbance.

Reasons

4. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) sets out the circumstances where the conversion of an existing dwelling to a house in multiple occupation (HMO) will not be permitted. These include where the development would result in levels of activity that cause excessive noise and disturbance to existing residents.
5. Further guidance is contained within the Supplementary Planning Document – Managing the development of houses in multiple occupation (2020) (the SPD). With particular relevance to this appeal, it describes the situations where the sandwiching of an existing residential property, or properties, by HMOs on both sides will not be acceptable. One of the situations where this will be unacceptable is where there are single HMO properties adjacent, opposite and to the rear of a single residential property. It is also stated that sandwiching situations apply irrespective of limited breaks in building line, such as a vehicular access or pedestrian access, apart from a separating road.
6. The appeal property comprises a semi-detached dwelling, located at the junction of Wordsworth Road and Bonnington Walk. The Council set out that 1 Bonnington Walk is an HMO and that the proposed development would sandwich 196 Wordsworth Road (No 196) between this existing HMO and the proposed, due to 1 Bonnington Road being adjacent to, and the proposed development opposite, No 196.
7. However, the guidance of the SPD states that sandwiching will apply to circumstances apart from where there is a separating road. In this case, the appeal site lies on the opposite side of Wordsworth Road from No 196 and as such there is a separating road. Moreover, while the Council refers to “existing harmful conditions of activity”, there is nothing before me that convinces me that the existing situation causes, or the addition of one additional HMO would result in, harmful living conditions for existing occupiers. This is particularly so given that the Council sets out that only 1% of the housing stock in the Lockleaze ward comprises licenced HMOs, and that there are only two existing HMOs within 100 metres of the appeal site.
8. Accordingly, I find that the proposal would not lead to a harmful concentration of houses in multiple occupation in the local area, with consequential harm to the living conditions of nearby occupiers through noise and disturbance. Thus, it accords with policy DM2 and the guidance of the SPD.

Other Matters

9. There is no evidence before me to show that the proposal would result in any additional pressure on on-street parking within the vicinity of the site. Additionally, there is nothing to suggest that there would be any adverse effect on the living conditions of adjoining occupiers through the lack of appropriate boundary treatments at the appeal site.

Conditions

10. In the interests of clarity, I have imposed a plans condition to define the extent of the permission. In the interests of the character and appearance of the area, I have imposed a condition in respect of the provision of waste storage facilities and their retention. However, I consider that the requirement to only store such materials in these facilities, as well as controlling when material is placed out for collection, to be overly onerous and have not included this. In the interests of sustainable travel, I have also included a condition in respect of cycle storage.

Conclusion

11. For the reasons given above I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR



Appeal Decision

Site visit made on 28 November 2023

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal Ref: APP/Z0116/W/23/3323576

Flat 1, 10 Argyle Road, St Pauls, Bristol City, Bristol BS2 8UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Anne White, Edgehill Developments Limited, against the decision of Bristol City Council.
 - The application Ref 22/03553/F, dated 14 July 2022, was refused by notice dated 9 May 2023.
 - The development proposed is described as Retention of use as a small house in multiple occupation (C4) for 3-6 people.
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Decision

1. The appeal is allowed and planning permission is granted for use as a small house in multiple occupation (C4) for 3-6 people at Flat 1, 10 Argyle Road, St Pauls, Bristol City, Bristol BS2 8UU in accordance with the terms of the application, Ref 22/03553/F, dated 14 July 2022.

Preliminary Matters

2. The flat is already being used as a small house in multiple occupation (HMO). I have dealt with the appeal on this basis, albeit omitting 'retention of' from the description of development in my decision because such words do not describe acts of development.

Main Issue

3. The main issue is the effect of the proposed use on the living conditions of adjoining occupiers, with particular regard to Nos 8 and 12 Argyle Road.

Reasons

4. The appeal site is part of a relatively modern block of flats within a residential terrace. The subject of the appeal, Flat 1, is a maisonette split over the two lower floors of No 10 Argyle Road. Adjoining the site is No 8 which contains several flats, including similar maisonettes on the lower floors and one-bedroom flats above. On the other side is No 12, a residential property. The surrounding area contains various other residential units, including flats and some HMOs in Argyle Court (opposite the site) and an HMO at No 6 Argyle Road.
5. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies (LP) sets out various circumstances where proposals for HMOs will not be permitted. Of relevance to the appeal proposal, this includes where development would: harm the residential amenity of the locality due to, amongst other things, levels of activity that cause excessive noise and

- disturbance to residents; or create/contribute to a harmful concentration of such uses within the locality by exacerbating existing harmful conditions or reducing the choice of homes in the area by changing the housing mix.
6. In this instance, indicating the proposed use would not result in more than 10% of the total dwelling stock in the locality being occupied as HMOs, the Council do not allege that it would reduce the choice of homes in the area. However, concern is raised that the appeal proposal could harm the living conditions of adjoining residents due to its alleged sandwiching effect.
 7. The supporting text to LP Policy DM2 sets out that shared housing can have an impact on residential amenity through, amongst other things, noise and disturbance associated with intensification of the residential use and/or the occupants' lifestyles. It identifies that generally quieter surroundings usually contribute to a residential area being a satisfactory place to live and that harmful concentrations of HMOs are likely to arise when issues commonly associated with shared housing, such as noise and disturbance, cumulatively result in detrimental effects on the residential area's particular qualities and characteristics. Expanding on this, the Supplementary Planning Document (SPD), 'Managing the development of houses in multiple occupation', sets out that a harmful concentration can arise at a localised level when an existing dwelling is sandwiched between two HMOs and identifies that such sandwiching is unlikely to be consistent with LP policy.
 8. It has been put to me that the appeal proposal would result in No 8 being sandwiched by HMOs in Nos 10 and No 6, and No 12 being sandwiched by HMOs in No 10 and Argyle Court. Even if I were to accept No 8 would be sandwiched, No 12 could not reasonably be described as being sandwiched given Argyle Court is on the opposite side of the road. In any event, there is little substantive evidence before me that the proposed use of Flat 1 in No 10 would harm (or has already harmed) the living conditions of adjoining occupiers through, for example, noise and disturbance, or exacerbate existing harmful conditions, which is what LP Policy DM2 seeks to avoid. Indeed, despite Flat 1 having been used as an HMO for some time, no noise complaints or objections identifying noise disturbance have been submitted. The Council has also not evidenced its concerns about the proposal's effect on the living conditions of existing residents with any actual or alleged harm specific to the use proposed in this case.
 9. Consequently, the available evidence neither indicates the proposed use would create (or has created) levels of activity that cause excessive noise and disturbance nor would exacerbate existing harmful conditions. Irrespective of whether it would result in a sandwiching effect on No 8, and even if it would lead to a concentration of HMOs at a localised level, it has also not been demonstrated that the proposed HMO would create or contribute to a harmful concentration of such uses.
 10. For the above reasons, I conclude that the proposed use would not harm the living conditions of adjoining occupiers, with particular regards to Nos 8 and 12. I therefore find that it accords with LP Policy DM2. It would also be consistent with the provisions in the National Planning Policy Framework in relation to providing a high standard of amenity for existing users.

Conclusion and Conditions

11. For the above reasons, and having had regard to all other matters raised, I conclude that the development proposed would accord with the development plan as a whole. The appeal is therefore allowed.
12. No planning conditions have been suggested. With the HMO use having already commenced and the available evidence not indicating that conditions are necessary, I have therefore not imposed any in this instance.

T Gethin BA (Hons), MSc, MRTPI

INSPECTOR

Appeal Decision

Site visit made on 18 January 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 February 2024

Appeal Ref: APP/Z0116/W/23/3325029
2 Bishopthorpe Road, Bristol, BS10 5AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the Council's failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Joe Lovatt of Plot Investments Ltd against Bristol City Council.
 - The application Ref 23/01378/F, is dated 4 April 2023.
 - The development is a change of use from a dwelling house to a large house in multiple occupation (*sui generis*) for up to 7 people.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from a dwelling house to a large house in multiple occupation (*sui generis*) for up to 7 people at 2 Bishopthorpe Road, Bristol, BS10 5AA in accordance with the terms of the application Ref P23/01378/F, dated 4 April 2023, subject to the conditions set out in the attached Schedule to this decision.

Preliminary matters

2. Although the Council did not determine the application within the appropriate period it produced a statement for the appeal which clarifies that it opposes the development.
3. However, the Council confirms that having regard to the site's planning history, together with its development plan policies and guidance, that the principle of allowing a large House in Multiple Occupation (HMO) in this location is acceptable. The previous permission¹ for a large HMO at the site also permitted side and rear extensions to create the additional space required to facilitate the change of use. When the appeal was submitted, the appellant was in the process of converting the property from a dwellinghouse to a 6 person HMO. I was not asked to make an internal visit, and that change of use may therefore have taken place. Taking account of to all that I have read, I share the Council's view that the principle of the change of use is acceptable.
4. The appellant no longer requires the previously approved extensions, but instead relies on a hip to gable and dormer extension to create the additional space to facilitate the change of use. A roof structure matching this description has been built. The Council consider that the roof modifications that have taken place cause visual harm.

¹ Ref 21/03346/F dated 6 May 2021

5. The appellant's standpoint is that the roof structure was the subject of a Certificate of Lawfulness granted by the Council² which confirmed that the scheme comprised permitted development. But the Council contends that:

'..These works were consented under permitted development legislation and as such are only on the basis that the unit is still in lawful use as a dwellinghouse It is not accepted that the grant of an LDC sets any sort of fallback position, or reasonable justification against which conclusions made in-line with relevant policy should be watered down or eroded.'

6. Moreover, the Council points out that the works to the roof have not been carried out in accordance with the requirements of the Certificate or the Order³ in that the external cladding used on the roof extension does not match the materials used in the host property. I saw that to be the case.
7. Accordingly, the Council's objection is directed not to the principle of the change of use, but to the effects of the the roof alterations and extensions required to facilitate it.

Main issue

8. Having regard to the above, the main issue is the effect of the roof alterations on the character and appearance of the host property and its surroundings.

Reasons

9. The appeal property comprises one half of a pair of semi-detached dwellings. The pair stands at the junction of Bishopthorpe Road and Wellington Hill West in a predominantly residential and distinctly suburban part of the City. Viewed from the front the effects of the hip to gable conversion are clearest, since the pair has lost its original symmetry. Viewed from the side and rear, the large box dormer has transformed the appearance of the dwelling.
10. The Council's SPD⁴ provides detailed guidance on the design of roof extensions and alterations, and when applied to the site, the Council considers the dormer to be at odds with the guidance. However, it seems to me that some tensions are apparent between the guidance provided in the SPD, which is now almost 20 years old, and 'planning permissions' granted by central government under the provisions of permitted development. In particular, some of the examples provided in the SPD of unacceptable or inappropriate dormer development would appear to me to constitute permitted development. The overall form of the development carried out by the appellant would comprise permitted development, as the Certificate referred to earlier testifies.
11. The Council take issue with the timing of the roof alterations and whether they were carried out when the property was in use as a dwellinghouse (C3). It argues that if this was not the case, then the certificate could not be relied upon. However, in arriving at this view the Council to my mind has given insufficient weight to the implications of a fairly recent judgment⁵ which dealt

² Ref 22/02077/CP dated 8 June 2022

³ The Town and Country Planning (General Permitted Development) (England) Order 2015.

⁴ A Guide for Designing House Alterations and Extensions - Supplementary Planning Document Number 2 (2005)

⁵ *London Borough of Brent v Levelling Up, Housing and Communities [2022] EWHC 2051 (Admin)*

with permitted development rights and HMOs. In brief, it was held that householder permitted development rights apply equally to C3 uses and HMOs.

12. The Council is however correct when it says that the external cladding used in the construction does not match the materials used in the existing dwelling. I regard the materials used as striking and gaudy. However, this aspect could be remedied simply by the imposition of an appropriate condition.
13. I therefore conclude that, with appropriate mitigation, the development would appear as a form of permitted development consistent with the Certificate granted by the Council. This attracts substantial weight in my considerations, not least since government, through the permitted development system, and subject to certain safeguards and conditions, provides considerable flexibility to homeowners to alter and extend their properties.
14. I recognise however that the development may not accord entirely with some of the Council's design objectives set out in policies BCS21 of the Bristol Development Framework Core Strategy (CS), and policies DM26, DM29 & DM30 of the Site Allocations and Development Management Policies (DMP), and its SPD on house extensions. However, the material considerations indicate to me that a strict adherence to the development plan or to the Council's guidance is not necessary in this case.

Conditions

15. The appellant has had the opportunity to comment on the Council's suggested conditions. I find that the Council's suggested conditions are all necessary, albeit in a modified form.
16. It is necessary, in the interests of certainty, that the development shall be carried out in accordance with the approved plans.
17. To protect neighbouring living conditions, a condition relating to sound insulation shall be imposed. A condition requiring bike and bin storage to be provided and retained shall be imposed in the interests of maintaining residents' living conditions.
18. An additional condition, in relation to the cladding material used on the roof extension, shall be imposed in the interests of visual amenity. Should the permission not be implemented it is, of course open to the Council to instigate enforcement proceedings, as the appellant suggests.

Other matters

19. I have noted the references to other development plan policies but those to which I have referred are considered the most relevant having regard to the particular circumstances of the case. I have also taken account of the references to the *National Planning Policy Framework*.
20. All other matters raised in the representations have been considered but none outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1). The development hereby permitted shall begin not later than three years from the date of this decision.
- 2). The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 3883.PL.01; 4144.C.01 Rev B; 4144.C.02 Rev B & 4144.C.03.
- 3). Before the change of use hereby permitted takes place, the cycle parking and bin storage areas shall be provided in accordance with the details shown on the approved plans. Thereafter they shall be permanently retained.
- 4). Before the change of use hereby permitted takes place the upper and lower party walls of the appeal dwelling shall be soundproofed in accordance with details previously submitted and approved by the local planning authority. Once installed the soundproofing shall be permanently retained.
- 5). Within 6 months of the change of use hereby permitted taking place the existing cladding on the dormer roof extension shall be removed and replaced with materials matching those of the existing dwelling.