

Decision Notice and Statement of Reasons

Site visit made on 16 April 2024

By Bhupinder Thandi BA (Hons) MA MRTPI

A person appointed by the Secretary of State

Decision date: 5 June 2024

Application Reference: S62A/2024/0039

Site address: 396 Hotwell Road, Clifton, Bristol BS8 4NU

- The application is made under section 62A of the Town and Country Planning Act 1990.
 - The site is located within the administrative area of Bristol City Council.
 - The application dated 18 March 2024 is made by Mr Howard Thom and Mrs Olga Grinchenko and was validated on 3 April.
 - The development proposed is change of use of dwelling to House in Multiple Occupation for up to 6 persons.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) The proposed development would result in a harmful concentration of HMOs creating an imbalance between HMOs and other housing at street level. It would also adversely affect the living conditions of the occupiers of 394 Hotwell Road by reason of excessive noise and disturbance through being sandwiched between two HMOs. The proposal is therefore contrary to Policy DM2 of the Site Allocations and Development Management Policies Local Plan (2014) and Supplementary Planning Document – Managing the development of houses in multiple occupation (2020).

Statement of Reasons

Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council have been designated for non-major applications since 6 March 2024.

3. Consultation was undertaken on 10 April 2024 which allowed for responses by 21 May 2024. Responses were received from the parties listed in Appendix 1 of this statement. A number of interested parties and local residents also submitted responses.
4. I carried out an unaccompanied site visit on 16 April 2024, which enabled me to view the site and the surrounding area.
5. I have taken account of all written representations in reaching my decision.

Background

Planning history

6. There is no planning history directly relevant to the proposal.

The proposal

7. The development proposed is for the change of use of the property from a single family dwelling to a small House in Multiple Occupation (HMO) for up to 6 persons. No internal or external alterations are proposed.

Main Issues

8. Having regard to the application, the consultation responses, comments from interested parties, the Council's report, together with what I saw on site, the main issue for this application is the effect of the proposed development upon the character of the area and the living conditions of nearby occupiers.

Reasons

9. The application property is formed of a three-storey mid terraced dwelling overlooking the river Avon and located within the Clifton and Hotwells Conservation Area. The property is elevated from the roadside set behind a raised footway and an ornamental front garden.
10. Policy DM2 of the Site Allocations and Development Management Policies Local Plan (2014) (LP) relates to residential sub-divisions, shared and specialist housing. It seeks to ensure that the residential amenity and character of an area is preserved and that harmful concentrations of HMOs do not arise. It specifies that harmful concentrations would arise where a development would reduce the choice of homes in the area, or exacerbate existing harmful conditions, including through excessive noise and disturbance.
11. Supplementary Planning Document – Managing the development of houses in multiple occupation (2020) (SPD) provides further guidance on the implementation of Policy DM2. The SPD identifies situations where harmful concentrations of HMOs are likely to arise at a neighbourhood area level and at a local street level.

12. At neighbourhood level the SPD establishes a threshold test, which sets out that where a proposal would result in 10% or more of the total housing stock within a 100m radius of the site being occupied as HMOs it is unlikely to be consistent with the LP.
13. Within a 100m radius of the application property are 2 HMOs that are either licensed or benefit from planning permission, but do not currently have a license. This equates to 3.45% of the housing stock being occupied as HMOs. Therefore, the proposal would not have a harmful impact upon housing choice or undermine community cohesion.
14. Whilst the applicant and third parties make reference to a greater number of HMOs within the immediate area, I have relied on the data provided by Bristol City Council in coming to my decision as it stems from official records held by them.
15. At street level a harmful concentration can arise where up to three existing dwellings would be sandwiched between two HMOs creating an imbalance between HMOs and other housing.
16. There is an existing licensed HMO at 392 Hotwell Road and the proposed development would result in 394 Hotwell Road being sandwiched by this HMO and the proposed development. This is something that the applicant acknowledges.
17. The occupiers of a HMO are likely to live independently whilst a family are likely to undertake a greater proportion of their day to day activities together as a family. A HMO of up to 6 persons would likely result in different and separate comings and goings associated with their independence and own daily routines and visitors. These activities would be markedly different and more intensive than that of a single family leading to increased levels of noise and disturbance. This would be detrimental to the occupiers of No 394 who would experience the cumulative impact of being located between two HMOs.
18. The applicant has indicated that the property could be reasonably managed by a management company to address such issues. However, as noise and disturbance would likely arise from day-to-day activities, I am not satisfied that management of the premises would ameliorate the harm that I have identified.
19. It is likely that a HMO generates more waste and recycling on account of residents living independently and given the transient nature of occupiers the proposal would likely lead to greater levels of on street refuse storage, particularly as the elevated footway and raised nature of the properties present an obstacle in respect of carrying/ putting out bins. As such, in the absence of any details of how waste and recycling would be managed I find that this could well undermine the character of the area.
20. As such, I find that the proposal would lead to a harmful concentration of HMOs at street level creating an imbalance between HMOs and other housing. The occupiers of No 394 would experience excessive noise and disturbance from being positioned between two HMOs contrary to LP Policy

DM2 and the SPD which, amongst other things, seek to prevent a harmful concentration of HMOs at street level and excessive noise and disturbance adversely affecting the living conditions of residents.

Other matters

21. The applicant indicates that the property has been on the market since September 2023 without any offers from family purchasers citing the lack of parking and unsuitability of the garden as some of the reasons why. However, based on the evidence before me I am not satisfied that a sufficient time period has elapsed to state with conviction that the property is not attractive to the family occupier market. Whilst some third parties have commented on the asking price, it is not for me in consideration of this application to come to a view on whether the price sought by the vendor is reasonable or not.
22. I acknowledge that the property is currently vacant. However, this is not justification for a scheme that I have found to be harmful.
23. I note that the bedroom sizes would accord with the National described space standards and could incorporate energy efficiency measures. However, this would not overcome the harm that I have identified.

Conclusion

24. For these reasons, and having regard to all other matters raised, the proposal does not accord with the development plan and therefore I conclude that planning permission should be refused.

B Thandi

Inspector and Appointed Person

Schedule

Informatives:

- i. In determining this application, the Planning Inspectorate has worked with the applicant in a positive and proactive manner to seek solutions to problems arising in relation to dealing with the planning application. In doing so, the Planning Inspectorate gave clear advice of the expectation and requirements for the submission of documents and information, ensured consultation responses were published in good time, gave clear deadlines for submissions and responses, and accepted further evidence submitted by the applicant in response to the matters raised during consultation.
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>

Appendix 1

List of consultee responses

Bristol City Council