

Bristol City Council – LPA Appeal Statement Note / Final Comments



Appeal reference: S62A/2024/0043
LPA application reference: 22/06070/F
Appeal by: Mr James Bessell

1. Introduction

This statement of case relates to the appeal against Bristol City Council's failure to make a decision within the statutory period for the full planning application (LPA reference: 22/06070/F) for the Change of use from a residential dwelling (C3a) to a small house in multiple occupation (C4) for 3-6 people, including the erection of a rear roof extension and single storey rear extension at 85 Ruby Street, Bristol BS3 3DW the LPA to make a decision on the application it would have been refused for the following reason:

1. The proposed cycle parking provision for storing the HMO cycles by reason of its siting is considered inaccessible, being in the back garden, accessed through three internal doors and a narrow communal hallway area of the property. The application has therefore failed to demonstrate adequate cycle parking for the dwellings in order to encourage sustainable travel in accordance with the Council's policies, contrary to Policies DM2 and DM23 of the Site Allocations and Development Management Policies (2014)
2. The proposed waste storage would fail to provide adequate waste provision for the proposal where two sets of bins are required for a property which exceeds 3 bedrooms. As such, the proposal is contrary to the Waste SPD and policy DM32 of the Site Allocations and Development Management Policies Local Plan (2014).

2. Main Planning Considerations

The appellant has provided a statement of case to which the LPA would take the opportunity to provide a rebuttal in terms of each of the main considerations, as outlined below.

Principle of Development

The relevant planning policies of the Local Plan state that development 'should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.

(BCS18) With specific regard to HMOs the supporting text of policy DM2 states: 'For the purpose of this policy shared housing includes houses in multiple occupation (HMOs). Whilst making a valuable contribution to the city's housing requirements both sub-divisions of existing accommodation and shared housing can have an impact on residential amenity and the character and housing mix of an area. The policy states that the conversion of existing dwellings to be used as houses in multiple occupation will not be permitted where:

- i. The development would harm the residential amenity or character of the locality as a result of any of the following:

- Levels of activity that cause excessive noise and disturbance to residents; or
- Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or
- Cumulative detrimental impact of physical alterations to buildings and structures; or

- Inadequate storage for recycling/refuse and cycles.

ii. The development would create or contribute to a harmful concentration of such uses within a locality as a result of any of the following:

- Exacerbating existing harmful conditions including those listed at (i) above; or
- Reducing the choice of homes in the area by changing the housing mix.

It states that where development is permitted it must provide a good standard of accommodation by meeting relevant requirements and standards set out in other development plan policies.

It also states that the policy also seeks the provision of a good standard of accommodation for future occupiers.

Consideration should be given to layout, internal living space, external amenity space, outlook, privacy, adaptability, security, cycle and car parking and refuse and recycling storage.

The SPD expands on DM2 to provide a definition of what represents a 'harmful concentration' in the wording of the policy. This relates to two principles; local level and area level. At local level, a harmful concentration is found to exist where 'sandwiching' occurs. This is where a single family dwelling (use class C3) becomes sandwiched with HMOs at sites adjacent, opposite or to the rear. This can happen within a flatted building with HMOs above and below also. With regards to the wider area, a harmful concentration is found to exist where a threshold proportion of 10% HMOs within a 100m radius of the site occurs. This is generally identified as a tipping point, beyond which negative impacts to residential amenity and character are likely to be experienced and housing choice and community cohesion start to weaken.

The 2011 Census statistics for the area show that 5.75% of households in the Bedminster Ward are classed as multi occupancy housing. The picture in 2016 shows that, of the 6,158 households in Bedminster. With regards to the neighbourhood level, there are currently 5 licensed HMOs within 100 metres of the site which equates to 2.24%; a sixth HMO would not result in a harmful concentration of HMOs at either street or neighbourhood level and would remain below the 10% desirable threshold at area level quoted within the SPD.

In conclusion, the proposal would not result in a harmful concentration of HMOs in the vicinity.

Based on the above statistics there is a satisfactory mix of house types in the area. It is clear that the proposal would not lead to an over concentration of this type of housing. The residential character of the area would not be significantly affected by virtue of shifting the area from family size housing to smaller shared accommodation.

Standard of Accommodation

Bristol City Council Site Allocations and Development Management (2014) Policy DM2 states that houses in multiple occupation will not be permitted where:

- i. The development would harm the residential amenity or character of the locality as a result of any of the following: - Levels of activity that cause excessive noise and disturbance to residents; or - Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or - Cumulative detrimental impact of physical alterations to buildings and structures; or - Inadequate storage for recycling/refuse and cycles.

- ii. The development would create or contribute to a harmful concentration of such uses within a locality as a result of any of the following: - Exacerbating existing harmful conditions including those listed at (i) above; or - Reducing the choice of homes in the area by changing the housing mix.

Where development is permitted it must provide a good standard of accommodation by meeting relevant requirements and standards set out in other development plan policies.

Adopted Bristol Core Strategy Policy (2011) BCS18 makes specific reference to residential developments providing sufficient space for everyday activities and space which should be flexible and adaptable. In addition, Policy BCS21 sets out criteria for the assessment of design quality in new development and states that development will be expected to create a high-quality environment for future occupiers.

An HMO at this site may require a Mandatory License under the Housing Act 2004. The Local Authority also has adopted amenity standards which apply to HMO's under this separate legislative framework. Whilst it is recognised that this is non-planning legislation and therefore not a material consideration in planning decision making, these standards also provide an indication of the standard of accommodation expected within shared occupancy housing locally.

Planning permission is sought for the change of use of the property from a single dwellinghouse to a 4-bedroom HMO (Use Class C4). All four bedrooms would measure 9.3sqm and the proposal would include 13.7sqm kitchen and lounge spaces respectively. The bedroom sizes exceed the minimum floor area requirement for single person occupancy outlined by the NSSD.

The scheme also includes an adequate amount of internal communal living space which will also meet the Council's HMO licencing standards (which states that communal living space can include kitchens, dining rooms). The number of bathrooms and toilets will also meet the Council's HMO licencing standards.

All habitable room windows will contain window(s) providing adequate light for future occupants, with the property as a whole offering adequate levels of outlook and ventilation.

Following the above, it is concluded that the development would provide an acceptable standard of accommodation for future occupiers.

The application is subsequently considered acceptable in regard to satisfactory living environment for future occupants in this instance.

Design, Character and Appearance

Good design and protection and enhancement of the environment are critical components of central government guidance, as identified in the NPPF.

Adopted Bristol Core Strategy Policy BCS18 makes specific reference to residential developments providing sufficient space for everyday activities and to enable flexibility and adaptability by meeting the appropriate space standards.

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.

Policy DM27 requires development to respect the layout and form of existing development.

SPD2 states that dormers should be located only on the side or rear roof pitches, sit comfortably within the plane of the host building's roof, appear subservient in form to the roof of the host building, have front elevations which are restricted to the glazed area and necessary construction width for dormer cheeks, that the siting, scale and proportions of window detailing reflects that of the host building, and that materials generally reflect that of the host building.

The proposed single storey rear extension given its overall design, scale and siting would form a subordinate addition which respects the character and appearance of the host building. In addition, the proposed rear dormer extension would be set well within the rear roof profile. Given its scale and design it would form a subordinate addition to the host building. As such, the proposal is considered to comply with policies outlined above.

Amenity Impact

Policy DM2 in the Site Allocations and Development Management Policies (2014) states that shared housing will not be permitted where it would harm the residential amenity or character of the locality as a result of levels of activity that cause excessive noise and disturbance to residents.

Policy BCS21 in the Bristol Core Strategy (Adopted 2011) advocates that new development should deliver high quality urban design and safeguard the amenity of existing development.

Policy DM29 in the Site Allocations and Development Management Policies (2014) states that proposals for new buildings will be expected to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.

This policy, as well as Policy DM27, further states that new buildings will be expected to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.

Policy BCS23 in the Bristol Core Strategy and Policy DM35 in the Site Allocations and Development Management Policy also state that new development should also not lead to any detrimental increase in noise levels.

DM30 expands on this commenting that alterations to existing buildings will be expected to safeguard the amenity of neighbouring occupiers.

The proposed single storey rear extension given its depth and height would not result in any harmful impact on the amenities of the adjoining property at no. 87 in terms of loss of light, privacy, outlook or an increased sense of enclosure. The proposed rear extension is set back from the adjacent property at no. 83 and would not result in any harmful impact on the amenities of this property.

The proposed rear dormer extension would feature openings and it is considered that the proposal would not result in any greater overlooking or loss of privacy for neighbouring properties than currently experienced from the first floor level windows of the host building.

In terms of the HMO use, following consultation, the Council's Pollution Control Team confirmed that it is unlikely that the change of use of the property to a small HMO (4 to 6 persons) would lead to any significant increase in noise at neighbouring properties. The application is subsequently considered acceptable on amenity grounds. However there is concern regarding the bathroom and utility room with the washing machine at first floor level along the party wall with the adjoining neighbouring property. The adjoining property could potentially benefit from a bedroom and in the absence of sound insulation in order to safeguard the neighbouring property from noise and vibration a condition for noise insulation shall be imposed as part of any recommendation for approval.

Transport

Policy DM2 in the Site Allocations and Development Management Policies (2014) states that the subdivision of dwellings into houses in multiple occupation will not be permitted where the development would harm the residential amenity or character of the locality as a result of levels of onstreet parking that cannot be reasonably accommodated or regulated through parking control measures; as well as inadequate storage for recycling/refuse and cycles.

Policy BCS10 in the Bristol Core Strategy (2011) states that development proposals should be located where sustainable travel patterns can be achieved, with more intensive, higher density mixed use development at accessible centres and along or close to main public transport routes. Proposals should minimise the need to travel, especially by private car, and maximise opportunities for the use of walking, cycling and public transport.

Policy DM23 within the Site Allocations and Development Management Policies (2014) states that the provision in new development of secure, well-located cycle parking can be very important in encouraging people to cycle regularly.

It is important that development proposals incorporate these facilities and parking at the outset of the design process. Applicants should refer to the council's 'Guide to Cycle Parking Provision' for guidance on this matter.

Car Parking and Cycle Parking Provision

The application has been reviewed by the Council's Transport Development Management Team (TDM) who raised no objections to the application on highway grounds. A car-free development is proposed with no dedicated car parking. TDM find this acceptable given the sustainable location; the site is within close proximity to transport links as well as cycle paths.

In terms of on street parking it is considered that there will likely be sufficient space in the local area to accommodate the development and any increased demand. Should a residents parking scheme be introduced in the future however future occupants will be ineligible for parking permits given that the application has been assessed as car free, on the basis that future occupants will utilise sustainable modes of travel given the sustainable location.

The Council's Transport Development Management Officer raises objection to the cycle parking provision given that the only access to the cycles is through 3 doors and via the kitchen area and a tight hallway. Due to this it is considered that the cycles are likely to go unused and therefore should be moved to the front of the dwelling. However due to the site constraints where the forecourt would not be able to accommodate the cycle storage and bins as well, and as a result the cycle storage is proposed within the rear garden. On this basis the Council would have considered it reasonable to warrant a refusal.

Waste Storage

Policy BCS15 in the Bristol Core Strategy (2011) states that all new development will be required to provide satisfactory arrangements for the storage of refuse and recyclable materials as an integral part of its design.

Policy DM32 in the Site Allocations and Development Management Policies (2014) states all new developments will be expected to provide recycling facilities and refuse bins of sufficient capacity to serve the proposed development.

This policy further states that the location and design of recycling and refuse provision should be integral to the design of the proposed development.

In assessing recycling and refuse provision, regard will be given to the level and type of provision, having regard to relevant space standards; and the location of the provision, having regard to the need to provide and maintain safe and convenient access for occupants, while also providing satisfactory access for collection vehicles and operatives.

The proposed waste storage has been assessed by the Council's TDM Officer and they state there are four bedrooms and as per the Waste collection SPD there should be a minimum of one set of bins per 3 bedrooms. Given the number of bedrooms exceeds this two sets of bins should be provided. The proposal is contrary to the Waste SPD and policy DM32. It would have been reasonable to warrant a refusal on this basis.

Sustainability

Current planning policy within the adopted Bristol Development Framework, Core Strategy (2011) requires new development to be designed to mitigate and adapt to climate change and meet targets to reduce carbon dioxide emissions. This should be achieved, amongst other measures, through efficient building design, the provision of on-site renewable energy generation to reduce carbon dioxide emissions by at least 20% based on the projected residual energy demand of new buildings. The approach proposed should also be supported by the provision of a sustainability statement and an energy strategy. Policy BCS14 states that new development will be expected to demonstrate that the heating and cooling systems have been selected according to the following heat hierarchy:

1. Connection to existing CHP/CCHP distribution networks
2. Site-wide renewable CHP/CCHP
3. Site-wide gas-fired CHP/CCHP
4. Site-wide renewable community heating/cooling
5. Site-wide gas-fired community heating/cooling
6. Individual building renewable heating

The applicant has been submitted an energy statement with the application, the change of use does result in an increase in floor space of subdivision of units and the above energy demands would apply. The statement outlines that PV panels are the most suitable for the application site and 1.75kW PV panels would be installed on the south east roof slopes resulting in a CO₂ reduction of 25% which is considered acceptable and complies with policy. If planning permission were granted a condition would have been imposed to ensure this is met.

3. Conclusion

The proposed development is not considered to represent an acceptable scheme due to the reasons outlined above.

On this basis, the LPA respectfully requests that the appeal is considered for dismissal.

4. Conditions Suggested Conditions and Advices List

The LPA would recommend consideration of the following conditions and advices should the Inspector reach a different conclusion with regards to the merits of the case. These conditions listed below were also sent to PINS in document dated 24th May 2024.

1. Full Planning Permission

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Implementation/Installation of Refuse Storage and Recycling Facilities – Shown on Approved Plans

No building or use hereby permitted shall be occupied or use commenced until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

Reason: To safeguard the amenity of the occupiers of adjoining premises; protect the general environment; prevent any obstruction to pedestrian movement and to ensure that there are adequate facilities for the storage and recycling of recoverable materials.

3. Completion and Maintenance of Cycle Provision - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.

Reason: To ensure the provision and availability of adequate cycle parking. Post occupation management List of approved plans

4. List of approved plans and drawings

The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.

4259.PL2.01 A, 4259.PL2.02 A, 4259.PL1.03 A, 4259.PL2.04 D, Coal Mining Risk Assessment, Covering letter, DS SAP with baseline, DS SAP with PV, Sustainability Statement dated March 2024.

Reason: For the avoidance of doubt.

5. No commencement of use of the development shall take place until an assessment on the transmission of noise between the following areas and the adjoining residential property has been submitted to and approved in writing by the Council.

Ground Floor Bathroom & Bedroom 4 and 5, Tank area and Bedroom 5

The assessment shall be prepared by a suitably qualified acoustic consultant/engineer and if necessary shall include a scheme of mitigation measures.

Any approved scheme of mitigation measures shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: In order to safeguard neighbouring amenities.

6. The development hereby approved shall be carried out in full accordance with the Energy Statement prepared by Complete Energy Consultancy dated 6th March 2024, unless otherwise agreed in writing by the Local Planning Authority and achieves a total saving of 20 per cent on residual carbon emissions.

Reason: To ensure that the proposal reduces the impact on the environment and climate change in line with the adopted development plan policies.

Advice(s)

1. If planning permission has been granted, please note that your Notice of Decision refers only to consideration of your proposal under the Town and Country Planning Acts. It is not a building regulations approval and does not mean that you can disregard other Acts or Regulations, or avoid any other legal obligations. Some of these obligations, of particular relevance to your proposal are referred to elsewhere in this note
2. It must be stressed that the information included on this Notice of Decision may not include all your legal obligations, and it does not grant you rights to carry out works on or over land, or to access land that is not within your control or ownership. Compliance with the approved plans and conditions
3. The development hereby approved must be implemented in accordance with the approved plans and any conditions set out in the Notice. Some of the conditions may specify that works are to be carried out, and/or details submitted and approved before all or a part of the development is started. These will appear in the 'Pre Commencement Conditions' section of the Notice.
4. If work on implementing this permission is started without these requirements being fully met, the development may be unauthorised and the permission invalidated, and could lead to enforcement proceedings or in some cases to prosecution. Register a new address
5. Bristol City Council is responsible for all property numbering and street naming in Bristol. You will need to apply for a property number and address if your planning permission involves the creation of a new dwelling or flat. Find more information on how to register for a new address or make an amendment to an address Amendments

6. Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations, or under Section 73 of the Act for minor material alterations. An application must be made using the standard application form and you should consult with us, to establish the correct type of application to be made. Conditions compliance

7. Requests for confirmation of compliance with conditions associated with that permission should be made in writing or by using the application form 'Approval of Details Reserved by Conditions'.

8. A fee is payable for each request. A request may be for confirmation that one or more conditions imposed on the same permission have been complied with. We aim to respond within 8 weeks of receipt of the request.