

Decision Notice and Statement of Reasons

Site visit made on 5 June 2024

By Jonathan Edwards BSc(Hons) DipTP MRTPI

A person appointed by the Secretary of State

Decision date: 21 June 2024

Application Reference: S62A/2024/0041

Site address: 20 Conway Road, Brislington, Bristol BS4 3RF

- 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 23 April 2024 is made by Jake Colwill (Innova Property) and was validated on 2 May 2024.
 - The development proposed is 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.
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Decision

1. Planning permission is granted for 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 at 20 Conway Road, Brislington, Bristol BS4 3RF in accordance with the terms of the application dated 2 May 2024, subject to the conditions set out in the attached schedule.

Statement of Reasons

Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990 (the Act). This 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 (BCC) has been designated for non-major applications since 6 March 2024.
3. As part of the application validation process, the applicant provided a revised "proposed plans and elevations" drawing. This plan has been subject of publicity and consultation exercises and so it forms part of the basis for my assessment.

4. Publicity of the application has been carried out by neighbour notification letter dated 8 May 2024 and through the posting of a site notice on 15 May 2024. These allowed for responses by 5 June 2024. Representations were received from interested parties and local residents and all of these have been considered in my determination of the planning application.
5. BCC has submitted a completed questionnaire with relevant information as well as 2 separate and slightly different lists of suggested planning conditions. I have had regard to this information in my assessment. BCC has not submitted comments on how it considers the application should be determined and there has been no response from any other consultee.
6. I visited the application site (No 20) and the local area on 5 June 2024. I saw scaffolding at No 20 but no alteration or construction works had commenced. Also, the rooms of the building corresponded with the details shown on the existing plans and elevation drawing. As such, the development has not started. My observations have informed this decision.

Main Issues

7. Having regard to the application, the information from BCC and comments from interested parties, together with what I saw on site, the main issues for this application are:
 - the effect of the development on housing mix;
 - its effect on the character and appearance of the area;
 - its effect on the living conditions of occupiers of nearby residences, having regard to noise, privacy, light and outlook;
 - whether associated parking would be accommodated safely; and
 - whether the development would provide satisfactory facilities for future occupiers.

Reasons

Planning history and fallback position.

8. I am referred to a certificate of lawfulness for a proposed use or development dated 5 April 2024, reference number 24/00560/CP. This certifies that the change of use of No 20 from a dwellinghouse to a house in multiple occupation (HMO) (Use Class C4) as well as the erection of a rear roof extension, 2 rooflights and a single storey extension is lawful as of 12 February 2024. Use Class C4 of the Town and Country Planning (Use Classes) Order (as amended) allows up to 6 residents.
9. The applicant states that, notwithstanding the outcome of this application, they intend to use No 20 as a HMO for up to 6 people and to extend the property in line with the development referred to on the certificate of lawfulness. As such, there is a fallback position in the event this application is refused. This is a material factor in my assessment.

Housing mix.

10. Policy BCS18 of the Bristol Development Framework Core Strategy 2011 (the CS) requires all new residential development to maintain or contribute towards a mix of housing tenures, types and sizes to create mixed, balanced and inclusive communities. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014 (the LP) relates specifically to residential sub-divisions. The policy sets out the circumstances where the conversion of existing dwellings to a HMO would not be permitted. This includes where a development would create or contribute to a harmful concentration of such uses by reducing the choice of homes and changing the housing mix in a locality.
11. I am also referred to BCC's supplementary planning document on managing the development of houses in multiple occupation 2020 (the SPD). This provides guidance on the implementation of LP policy DM2. It sets out the HMO threshold assessment (neighbourhood level) and sandwiching assessment (street level) to be used in ascertaining whether a harmful concentration of HMOs exists or would be created.
12. In respect of the HMO threshold assessment, the applicant indicates there is currently only 1 HMO within 100m radius of No 20. This represents about 0.7% of the 140 dwellings in total. With the proposed HMO this figure would increase to about 1.4%, well below the 10% maximum figure set out in the SPD. On this basis, the proposal would avoid a harmful concentration of HMOs at the neighbourhood level.
13. Interested parties have suggested there are more HMOs in the local area that are unauthorized and that have not been taken into account by the applicant. Even if this is correct, the SPD at section 4.5 explains it is only licensed HMOs and those with planning permission that are considered in the HMO threshold assessment.
14. The other licensed HMO identified within 100m of No 20 is at 19 Conway Road (No 19) on the opposite side of the road. If the proposed development is permitted and implemented, 18 Conway Road (No 18) would adjoin a HMO and be opposite the existing HMO at No 19. Similarly, 21 Conway Road (No 21) would adjoin No 19 and be opposite the proposed HMO. Interested parties have therefore suggested that sandwiching to No 18 and to No 21 would occur, contrary to the SPD guidance.
15. The applicant points out that the SPD states that sandwiching situations apply irrespective of limited breaks in building line, apart from a separating road. As Conway Road would lie between the proposed HMO and No 19, it is debatable whether the development would strictly result in sandwiching when having regard to the SPD as a whole.
16. In any event, the SPD only provides guidance to inform assessment of proposals against LP policy DM2. In this instance, it is likely No 20 would be used as a HMO regardless of any decision on this application due to the fallback position. Given this context, a decision to approve the development would have a negligible effect on local housing mix.

17. For these reasons, I conclude the development would have no adverse effects on housing mix. In these regards, it would accord with CS policy BCS18 and LP policy DM2.

Character and appearance of the area.

18. Conway Road is in an urban area and is a long, straight cul de sac where houses lie close together. The dwellings are similar in size to No 20 although there is variation in age and appearance.
19. Notwithstanding the level of occupancy, the proposed HMO would be a domestic use and so it would remain in keeping with the residential nature of the locality. Moreover, the proposal would not lead to a harmful concentration of HMOs that would significantly alter the existing character of Conway Road or the profile of the local community. The introduction of a single additional HMO would not meaningfully undermine the current social cohesion on the street as referred to by interested parties. The HMO at No 19 is within an older property but it does not follow that No 20 as a more recent construction is unsuitable for a HMO use.
20. Moreover, the development would cause only minor changes to the front of No 20 through the introduction of 2 rooflights and bin stores. These would not unduly affect the appearance of the property when seen from the street. The rear extensions would generally only be visible from the back of nearby properties although they would be partial views through a gap in buildings from Martingale Road. In the main, the additions would respect the scale and appearance of No 20. The roof extension would be quite large but it would be comparable in scale to the alterations allowed under the fallback position. Suitable external materials are proposed. As such, the proposal would avoid unacceptable detriment to the visual qualities of the locality.
21. For these reasons, I conclude the development would not harm the character and appearance of the area. In these regards, it would accord with CS policy BCS21 and LP policies DM2, DM27 and DM30. These seek high quality urban design that reinforces local distinctiveness and that avoids detriment to the locality's character.

Living conditions at nearby residences.

22. As a residential cul de sac, Conway Road is fairly quiet, although even during my short visit I saw people coming to and leaving houses. As it would accommodate more adult occupants, the proposed HMO is likely to generate more trips to and from No 20 compared to a single occupancy dwellinghouse. However, the number of additional trips would be modest compared to the HMO use allowed under the fallback position. Also, people and vehicles already move along the road to get to and from properties and I see no reason why trips associated with the development would be any more disruptive.
23. The noise from activities in the proposed HMO may be heard within neighbouring properties as they directly adjoin No 20. However, it is reasonable to expect these to be normal domestic activities so that the

associated noise would be typical of residences. Also, I would expect the level of activity from the proposed HMO to be similar to the use allowed under the fallback position, given it would only allow one additional occupant. Accordingly, the proposed development would avoid excessive noise and disturbance.

24. The other HMO on Conway Road is on the other side of the highway to the application site. Given this separation, there is unlikely to be a cumulative effect of noise from within each of the HMOs on any single dwellinghouse.
25. The proposed rooflights would not lead to a loss of privacy as they would provide views of the sky more than towards any nearby property. The windows in the rear extensions would face down No 20's back garden and so they would not lead to any significant invasion of privacy over and above the existing situation. The extensions would not cause any additional overshadowing of adjoining properties or impinge on outlook compared to the alterations allowed under the fallback position.
26. As such, I conclude the development would not have an unacceptable effect on the living conditions at nearby residences by reason of noise or loss of privacy, outlook or access to light. In these respects, the proposal would accord with CS policy BCS21 and LP policies DM2, DM27, DM29, DM30 and DM35.

Parking.

27. No 20 contains no car parking spaces. As such, the occupiers of the proposed HMO who own vehicles and visitors who travel by car would need to rely on street parking. However, this would be the same for the HMO allowed under the fallback position. Compared to the 6 people allowed to occupy a HMO falling within Use Class C4, it is likely the proposed 7 person HMO would generate only a modest additional demand for kerbside parking.
28. Moreover, No 20 is located within a reasonable walking distance of a supermarket off Bloomfield Link and shops on Sandy Park Road. Bus stops that allow access to frequent services to Bristol city centre and other locations would also be conveniently located for the HMO's occupiers. Furthermore, No 20 is a short distance from the Whitchurch Way cycle route that would allow safe and convenient access by bike to other parts of the city. Consequently, the development would be located where sustainable travel patterns could be achieved, in line with CS policy BCS10. This indicates that the residents of the HMO and visitors would not be reliant on private car travel, adding support to the view the proposal would not lead to significant additional roadside parking.
29. The site and the surrounding area are not subject to any resident-only parking permit schemes. Parking is allowed on most of Conway Road on both sides although there are a few spaces marked for disabled drivers. Several properties have hard surfacing to the front where vehicles could park, so reducing the demand for kerbside parking. My visit can only provide a snapshot in time but I saw parking on both sides of Conway Road

during the middle of the day. Even so, there were several free spaces near to No 20 where further parking could lawfully occur and without causing an obstruction. Roadside parking is also allowed along the nearby Bloomfield Road although on my visit there were only a few available spaces.

30. The demand for roadside parking will vary and I would expect higher numbers of cars on the street during evenings and weekends. However, I am satisfied the proposed HMO would not lead to illegal or unsafe parking given the modest additional demand generated by the proposal and the scope for legal parking on nearby streets. I find no reason why occupiers of the HMO or visitors would be bound to inappropriately park in the spaces reserved for disabled drivers.
31. Conway Road and other nearby streets are fairly narrow. As parking is generally allowed on both sides there are stretches where drivers cannot pass each other when vehicles are parked. I saw that this causes situations where reversing on the highway is required and this could be dangerous. Also, as it is a cul de sac, most drivers entering Conway Road need to turn around on the highway to avoid reversing onto Bloomfield Road. More parking on Conway Road because of the proposed HMO may increase the times where there is insufficient space to turn a vehicle around.
32. However, for the reasons given, I find the HMO would generate only a modest level of additional parking, particularly when compared to the fallback position. As such, I am satisfied the parking would avoid a materially unacceptable impact on highway safety. Furthermore, I find no reason why parking associated with the HMO would cause a significant risk to pedestrians on Conway Road given that there would be no need to cross or to park on the roadside pavements.
33. As such, I conclude the parking associated with the proposal would be accommodated safely. Therefore, it would accord with LP policy DM2 in these regards.

Facilities for occupiers of the HMO.

34. The proposed bin stores would be of a sufficient size to accommodate general and recyclable waste bins required to serve the needs of the proposed HMO. They would also help screen the visual effects of the bins so that they would not unduly affect the visual qualities of the street scene. The stores could be secured through the imposition of a planning condition. In these regards, the development would accord with the provisions on refuse as set out in LP policies DM2 and DM32.
35. A cycle store to accommodate 8 cycles would be provided in the back garden. This would be of a sufficient size to serve the needs of a 7 person HMO. Concerns are raised over the rear access path to No 20 which I saw was partly overgrown and inaccessible. However, occupiers of the HMO could take bicycles through the house to the back garden in the event of the rear access being impassable. Again, the cycle store could be secured by a planning condition. The development would be acceptable in these

regards and so it would accord with the provisions of LP policy DM2 on cycle storage.

36. The applicant has explained that the room sizes would meet or exceed BCC's minimum standards for HMOs' bedrooms and communal areas. All habitable rooms would be served by windows so as to allow adequate access to natural light and ventilation. There would be bedrooms on the same floor as the communal area but I am satisfied the HMO could be managed to avoid an unacceptable noisy living environment. Despite the proposed extension and cycle store, sufficient back garden area would be provided to serve the needs of up to 7 residents.
37. Overall, I conclude the HMO would provide a good standard of accommodation. In these regards, it would be in line with CS policy BCS21 and LP policies DM2, DM27, DM29 and DM30.

Other Matters

38. Various other matters have been raised through the application documents. The Coal Mining Risk Assessment provided by the applicant states that former coal mines pose a low risk to the stability of the site and no mitigation is required for the proposal to go ahead. There is no reason for me to disagree. The Sustainability Statement outlines how the development would incorporate measures to mitigate and adapt to climate change and to reduce carbon dioxide emissions from residual energy by at least 20%. In these regards, the development would comply with CS policies BCS13, BCS14 and BCS15. The measures could be secured by planning condition.
39. The application form states the biodiversity gain condition as set out in paragraph 13 of Schedule 7A of the Act would not apply as the proposed development would be subject to the de minimis exemption. I have no reason to disagree. However, in light of Article 24 of the Town and Country Planning (Section 62A Applications)(Procedure and Consequential Amendments) Order 2013, I have included a note on this decision that refers to the relevant regulatory provisions on the biodiversity gain condition.
40. Also, other concerns not covered previously in this statement have been raised through representations. The proposal before me includes no works to the rear accessway and so it would not directly affect any wildlife that it may accommodate. In any event, the access serves many dwellings and so it is likely to be used regardless of my decision on this application. There is no substantive evidence to indicate the proposal would harm features of ecological or biodiversity value at No 20 itself.
41. Even if the accessway is used by residents of the HMO, I find no reason why this would undermine the security of nearby properties. It is inappropriate to assume the occupants of the proposed HMO are bound to conduct unlawful or anti-social behaviour with consequential harm to the quality of life for local residents.
42. Compared to the maximum occupancy allowed under the fallback position, the proposed HMO would generate a single additional resident. As such, it

would have no meaningful effect on the provision of local services, even if it is accepted that they are under significant demand pressure. The use of No 20 as a home for a single family is likely to cease regardless of my decision on this application. As such, the proposal would have no impact on the financial sustainability of local schools or the provision of other local services. The proposed HMO would have no meaningful effect on water supply or local drainage infrastructure compared to the fallback position.

43. There is likely to be noise during the proposed alterations to No 20 as well as street parking and skips on the highway associated with the construction works. However, these would be low key and temporary effects given the scale of the development. The conversion and construction works would avoid unacceptable harm to living conditions at nearby residences.
44. I am advised that a large scale development of student accommodation would alleviate any need for new HMOs. However, occupancy of the proposed HMO would not be restricted to students. In any event, I am taken to no planning policy that requires a need to be established before allowing HMO proposals.
45. The planning system is concerned with land use in the public interest rather than to protect the interests of private property owners. As such, concerns over the proposal's impact on local property values fail to justify refusing planning permission.
46. I have considered the development having regard to the particular circumstances of the case. It does not follow that granting planning permission is bound to lead to other HMOs being permitted in the locality. Any future planning applications will need to be considered on their own merits and in light of the information and planning policies relevant at the time. As such, my decision does not set an irresistible precedent.
47. I note the strength of opposition to the proposal from local residents. However, a level of objection is not in itself reason to refuse planning permission. None of the other objections raised provide justification to refuse planning permission and so they do not affect my overall conclusion.

Conclusion

48. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I find the proposed development would comply with the aforementioned CS and LP policies and so it would accord with the development plan when read as a whole. There are no considerations that justify making a decision contrary to the development plan. Therefore, I conclude that planning permission should be granted.

Conditions

49. I have considered the planning conditions suggested by BCC and I have imposed those that meet the tests for conditions as set out in the National

Planning Policy Framework at paragraph 56. I have amended the wording where appropriate in the interests of clarity and to prevent the use of unnecessary pre-commencement conditions.

50. I have amended the condition that lists the approved plans as there is no need for this to refer to supplementary documents such as the covering letter to the planning application. I have not imposed the suggested conditions that require an assessment of noise transmission between specified rooms of the proposed HMO and adjoining residential property. Such conditions are unnecessary as the HMO would be used for residential purposes that I am satisfied would not generate excessive noise that requires any form of mitigation, particularly when considered against the fallback position.
51. While not suggested by the Council, I have imposed a planning condition limiting the occupancy levels of the HMO. A maximum number of 7 occupants forms the basis of my assessment. There is little evidence before me to show that a higher number of residents would be acceptable, particularly in terms of noise, parking and satisfactory living conditions for future occupants.

Jonathan Edwards

Inspector and Appointed Person

Schedule

Conditions:

1. The development hereby permitted shall begin not later than three years from the date of this decision.
Reason: As required by section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 4259.PL2.01 revision A, 4259.PL2.02 revision A, 4259.PL1.03 revision A and 4259.PL2.04 revision D.
Reason: To provide certainty.
3. The house in multiple occupation use hereby permitted shall not commence until the bin stores have been completed in accordance with the approved plans. Thereafter, the stores shall be retained and all refuse and recyclable materials associated with the development shall either be stored within the stores 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 ensure sufficient and appropriate space is included as part of the development for the storage of waste in accordance with policies DM2 and DM32 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014
4. The house in multiple occupation use hereby permitted shall not commence until the bike store shown on the approved plans has been completed. Thereafter, the store shall be retained and shall be kept free of obstruction and made available for the parking of cycles only.
Reason: To ensure the development includes adequate storage for cycles in accordance with policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014.
5. The development hereby permitted shall be carried out in accordance with the Sustainability Statement prepared by Complete Energy Consultancy dated 6th March 2024. The house in multiple occupation use hereby permitted shall not commence until the renewable energy and energy efficiency measures as set out in the Sustainability Statement have been provided so as to achieve a total saving of 20% on residual carbon emissions. The measures shall thereafter be retained.
Reason: To ensure the development contributes towards both mitigating and adapting to climate change and to meet targets to reduce carbon dioxide emissions in line with policies BCS13, BCS14 and BCS15 of the Bristol Development Framework Core Strategy adopted June 2011.
6. The number of occupants within the house of multiple occupation hereby approved shall not exceed 7 at any one time.
Reason: To ensure the development provides an acceptable standard of occupation for its residents and does not cause harm to the amenities of

nearby residences and the local area by reason of noise and parking, in line with policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014.

Informatives:

- i. In determining this application no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.
- 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 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>
- iv. Responsibility for ensuring compliance with this Decision Notice rests with Bristol City Council.
- v. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Bristol City Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply – in this case the exemption below:

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).