

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

Our ref: PR02342

Date: 18<sup>th</sup> June 2024

**Sent via e-mail**

Dear Sir/Madam,

**Town and Country Planning Act 1990**

**59 Langton Road, Bristol BS4 4ER**

**Change of use from a small dwellinghouse in multiple occupation for 3-6 people (C4), to a large dwellinghouse in multiple occupation (sui generis) for eight people.**

I write on behalf of my client, Dr Klare Davis, to apply for the change of use from a small dwellinghouse in multiple occupation (Use Class C4) to a large dwellinghouse in multiple occupation (sui generis). No external alterations are proposed, other than minor demolition to the existing garage and the blocking up of the garage door, and the erection of refuse, recycling and cycle stores. 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 7<sup>th</sup> June 2024. I can confirm that the development would not be liable for CIL. I attach the following documents as part of this application:

- Application forms and certificates;
- Drawing no. 4245.PL.01 – site location plan;
- Drawing no. 4245.PL2.02 rev. B – existing and proposed site plans;
- Drawing no. 4245.PL2.03 rev. B – existing plans;
- Drawing no. 4245.PL2.04 – existing elevations;

- Drawing no. 4245.PL2.05 rev. A – proposed plans;
- Drawing no. 4245.PL2.06 – proposed elevations;
- Drawing no. 4245.PL2.07 rev. A – existing garage;
- Drawing no. 4245.PL2.08 rev. B – proposed garden room;
- Technical note on highways;
- Covering letter dated 22<sup>nd</sup> January 2024 (which accompanied a previous application).

### **Site and planning history**

Planning permission was recently refused for a change of use from a C3 dwelling to a large house in multiple occupation (ref: 24/00271/F) comprising eight bedrooms and for up to twelve people. This application was accompanied by a covering letter, which is provided for information purposes as part of this current application.

Since the permission was refused, the applicant has exercised permitted development rights to commence the lawful use as a six-bed small HMO (Use Class C4). This lawfulness was confirmed by the LPA through the issuing of a certificate of lawfulness (ref: 24/00349/CP). The LPA has also issued a certificate of lawfulness in respect of the dormer roof extensions, which have since been completed (ref: 23/04943/CP).

### **Proposal**

My client proposes the change of use from a six-bedroom/person dwellinghouse in multiple occupation (Use Class C4) to a large dwellinghouse in multiple occupation for up to 8 people.

To facilitate the change of use, it is proposed to convert the garage to habitable accommodation.

Internally, 8no. single-occupancy bedrooms are proposed. The bedrooms would have a minimum floor area of 7.74sqm, exceeding the minimum 6.51sqm requirement for a single HMO bedroom.

The proposal includes a 32.73sqm kitchen/lounge/diner, in excess of the 24sqm Licensing requirement. Six en-suite bathrooms would be provided, together with two off-suite bathrooms for bedrooms 7 and 8, also exceeding the licensing requirements.

Refuse and recycling would be within the dedicate stores within the front forecourt, and secure and covered cycle storage for 8 bicycles would be provided within the rear garden.

### **Planning analysis**

The current proposal seeks to address the previous reasons for refusal attached to planning application 24/00271/F. These related to residential amenity, parking and refuse storage. It is a material consideration that, since the permission was refused, the property is now in use as a small HMO. The proposal would therefore result in an increase in occupancy of two people.

#### *Residential amenity*

The LPA previously objected to the living conditions for proposed bedrooms 7 and 8, with regards to the sloped roof to the former, and the proximity of the cycle store, and the need to cross the yard to access the communal facilities, for the latter.

It is a material consideration that bedroom 7 (no labelled bedroom 6) is now in use, and has been assessed by licensing as acceptable, and by the occupant as providing a suitable level of amenity that they are more than happy with.

With regards to bedroom 8 (within the existing garage), this would be the largest room in the house, and would provide the advantages of a quieter space away from the main house, whilst also benefiting from the shared facilities and the social benefits of communal living. Case law has established that the change from an incidental outbuilding to an ancillary outbuilding is not development, so theoretically, the garage could be used as ancillary annex accommodation, so long as the occupancy rate of the property as a whole did not exceed six people. The applicant considers that the small walk across the communal garden to cook and eat within the communal lounge would not be unacceptable, and would be no different to annex accommodation with a C3 use, a not uncommonplace situation.

The cycle store would be sited adjacent to the annex room but the applicant rejects the assertion that any comings and goings from fellow users of the store would be harmful, noting that such cycle storage is unlikely to generate significant movements (no more so than the use of the refuse and recycling store adjacent to the front bedroom window), and would generally follow working patterns. However, the store can be repositioned, subject to a planning condition, if the Inspector considers it necessary.

The second reason for refusal related to impact on neighbours due to the high number of occupants proposed. Occupancy has now been reduced from twelve to eight, and given that this would only be an increase in two from the present situation, it is not considered harmful to residential amenity. I attach a recent appeal decision at 17 Bloomfield Road (ref: APP/Z0116/W/23/3334839), where the Inspector was satisfied that an increase from 6 to 7 bedrooms, in an area where HMO numbers were similarly low (3.45% of dwellings within 100 metres in that instance, 1.39% in this instance) would not harm the amenity of neighbours.

Concerns were also raised that occupants of the annex would generate comings and goings harmful to the amenity of 57 Langton Road, as occupants approaching the main house would look directly into the first floor windows of 57. The applicant rejects this assertion, and considers that this would be no different to occupants using the garden in general, and normal within a suburban context.

#### *Highway safety and parking*

The LPA has no adopted parking standards for large HMOs (for C4 small HMOs, a maximum of 1.5 spaces are permitted). The proposal would have no on-site parking. During the course of the previous application, the LPA's Transport Development Management (TDM) team requested a parking survey. This was provided, and identified 36 and 37 spaces within 150 metres' walking distance of the site, on two separate evenings (the surveys were conducted after 10pm, as per TDM's guidance on parking surveys). TDM initially accepted this parking survey and recommended approval, before withdrawing this support following representations from neighbours. Both comments are attached to this letter.

Neighbours stated that the use of the church opposite the site, and the proximity of the primary school, resulted in parking stress, but provided no evidence.

The church hall schedule states that it is used for Kung Fu classes (430-830pm) of a Monday, Kick boxing and yoga of a Tuesday (6-815pm), brownies of a Wednesday (6-9pm) and Kung Fu/Rainbows of a Thursday (4-7pm). The applicant considers that brownies and rainbows would most likely be attended by local children, and as such parents would generally walk rather than drive their children there.

With regards to school drop-off/pick-up, this is a short period of the day, and is considered to be a traffic management issue, and not a parking issue. Similarly, as a local school for local children, a large number of pupils would likely be walking to school.

At the attached appeal at 17 Bloomfield Road (which lies 700 metres to the west of the site), the Inspector noted that there are no policy requirements for a parking survey, and that an increase from 6 to 7 occupants would result in modest levels of additional on-street parking, concluding that, *“There is no substantive evidence to suggest parking associated with the current HMO causes any problems. As such, it is fair to expect parking associated with the proposed HMO could also be reasonably accommodated on local streets.”*

The applicant considers that the same would apply in this situation. Indeed, of the six current tenants, only one owns a car. I also attach a recent appeal decision at 15 Hollywood Road (also in the Brislington area of Bristol) where the Inspector was satisfied that a 9-bed HMO would not generate any more on-street parking than a large family dwelling, given the pattern of car ownership in the area identified within the 2021 Census.

#### *Refuse storage*

This was previously shown in the rear garden, and formed the fourth reason for refusal. Policy-compliant storage (1 sets of containers for every three bedrooms, equating to two sets of containers) is now proposed to the front forecourt.

#### *BNG*

As of the 2<sup>nd</sup> April 2024, all sites are required to achieve 10% biodiversity net gain. Exemptions apply, including proposals which do not impact a priority habitat and impacts less than 25 square metres of on-site habitat, or less than 5 metres of on-site linear habitats such as hedgerows. As the proposal is for a change of use only, it would be exempt from BNG.

#### **Planning balance and conclusion**

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 eight individual flats).

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 £568 will be paid directly to the Planning Inspectorate on request. If you have any further queries, then please do not hesitate to contact me.

Yours faithfully,

**Stokes Morgan Planning Ltd**

# Consultee Comments for Planning Application 24/00271/F

## Application Summary

Application Number: 24/00271/F

Address: 59 Langton Road Bristol BS4 4ER

Proposal: Change of use from a dwellinghouse used by a single person or household (C3) to a large dwellinghouse in multiple occupation (sui generis) for eight households/twelve people.

Case Officer: [REDACTED]

## Consultee Details

Name: BCC TDM

Address: PO Box 3399, College Green, Bristol BS1 9NE

Email: Not Available

On Behalf Of: Transport Development Management

## Comments

Thanks for consulting TDM on this application.

The applicant must provide amended plans showing the proper number of refuse and recycling containers (1x sets of containers per 3x bedrooms) located within 30m of the adopted highway. This may involve relocating or removing the garage or locating the bins within the garage.

We acknowledge the numerous public objections to this application, but the applicant has provided evidence that there is likely sufficient on-street parking provision available locally to accommodate the needs of the development.

Subject to resolving the refuse storage concerns as above, TDM would recommend approval, subject also to the following conditions:

### CONDITIONS

C5A Implementation/Installation of Refuse Storage and Recycling Facilities Shown on approved plans

C13 Completion and Maintenance of Cycle Provision Shown on approved plans

D19 Restriction of Parking Level on site

### ADVICES

I055 Street Name and Numbering

I045A Restriction of parking permits future controlled parking zone/residents parking scheme

# Consultee Comments for Planning Application 24/00271/F

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Case Officer: [REDACTED]

## Consultee Details

Name: Transport DM

Address: 100 Temple Street, Redcliff, Bristol BS1 6AG

Email: Not Available

On Behalf Of: Transport Development Management

## Comments

In light of the further information about the regular use of the church hall during evenings, and the representations from the residents about the parking survey, TDM now conclude that the parking survey does not fully assess the impact of parking at the peak parking times.

In view of this, there is insufficient evidence that the impact of unrestricted parking arising from the development proposal on the local streets will not cause road safety issues, and TDM can not support the application in its current form.





# Appeal Decision

Site visit made on 5 June 2024

by **Jonathan Edwards BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17 June 2024**

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**Appeal Ref: APP/Z0116/W/23/3334839**

**17 Bloomfield Road, Brislington, Bristol BS4 3QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Jake Colwill (Innova Property) against the decision of Bristol City Council.
  - The application Ref is 22/05171/F.
  - The development proposed is described as “change of use from a residential dwelling (C3a) to a large house in multiple occupation (sui generis) for up to seven people, including the erection of an L-shaped rear roof extension.”
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## Decision

1. The appeal is allowed and planning permission is granted for change of use from a residential dwelling (C3a) to a large house in multiple occupation (sui generis) for up to seven people, including the erection of an L-shaped rear roof and ground floor extension at 17 Bloomfield Road, Brislington, Bristol BS4 3QA in accordance with the terms of the application, Ref 22/05171/F, subject to the conditions in the Schedule at the end of this decision.

## Preliminary Matters

2. The description of development in the header is taken from the application form. The Council’s decision notice and the appeal form also refer to a ground floor extension, which is shown on the plans. I am satisfied that no prejudice would be caused by including the ground floor rear extension as part of the appeal development as it is referred to by both main parties and is clearly indicated on the drawings. Accordingly, it is added to the description of development as set out in my decision above.
3. I am advised that during the Council’s processing of the planning application, the appeal property started to be used as a small house in multiple occupation (HMO) falling within Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Also, the appellant says that an amended application form was submitted to the Council to reflect this change of use. However, it is clear the Council’s decision is based on the original description with reference to a change of use from a residential dwelling (C3a). To be consistent, my assessment is made on the same basis.
4. I am provided with a copy of a certificate of lawfulness<sup>1</sup> that states as on 13 October 2022 the erection of a rear roof extension and a single storey rear extension to the appeal property represents lawful operations. However, the first schedule of the certificate includes no mention to any use of the building.

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<sup>1</sup> The Council’s reference number 22/04863/CP.

Nonetheless, the change of use of a building from Class C3 (dwellinghouse) to Class C4 (houses in multiple occupation) constitutes permitted development<sup>2</sup>. The submissions indicate the appellant has relied on permitted development rights in the change of the use of the property and there is no indication from the Council that the current HMO is unauthorised. It is likely the existing small HMO use would continue if the appeal is dismissed. This fallback position is a material factor in my assessment.

5. In association with the change to a HMO, I understand alterations have been carried out to the building. However, I am unaware whether these accord with the appeal drawings. As such, my assessment is based on the details as shown on the plans and on the basis the development has not yet commenced.
6. With their final comments, the appellant has provided a note on parking surveys. This note was not before the Council at the time it determined the planning application and it has not had the opportunity to comment on it through the appeal process. Therefore, taking the note into account may cause prejudice and so it has not been considered.
7. A revised version of the National Planning Policy Framework (the Framework) has been issued since the appeal was lodged. The parts of the Framework most relevant to this appeal remain largely unaltered and so there is no need to seek the main parties' comments on the revisions.

### **Main Issues**

8. The main issues are (i) the effect of the development on the mix of housing in the area, (ii) its effect on neighbouring residences and the locality in terms of noise, and (iii) the effects of parking associated with the development.

### **Reasons**

#### *Mix of housing*

9. The appeal property lies in a fairly long terrace of 2 storey dwellings on the one side of Bloomfield Road. I saw several of these properties have been sub-divided into flats but most appear to be used as single household residences.
10. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014 (the LP) sets out the situations where the conversion of a dwelling to a HMO will not be permitted. This includes where a development would create a harmful concentration of such uses within a locality so that the choice of housing no longer provides for the needs of different groups. The justification to the policy recognises the valuable contribution HMOs make towards housing requirements but highlights how they can also have an adverse impact on the housing mix of an area.
11. The Council refers to its Supplementary Planning Document - Managing the development of houses in multiple occupation 2020 (the SPD). This also explains how concentrations of HMOs can lead to imbalanced communities. The SPD describes the HMO threshold assessment (neighbourhood level) and sandwiching assessment (street level) to be used in establishing whether a harmful concentration of HMOs exists or would be created.

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<sup>2</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3 Class L relates.

12. In this case, the Council advises only 1 or 3.45% of the dwellings within 100m radius of the appeal property is a licenced HMO. As such, the proposed HMO would not cause a breach of the 10% threshold as set out in the SPD. As such, there would be no harmful concentration of HMOs at a neighbourhood level.
13. However, the other licenced HMO in the locality is at 11 Bloomfield Road (no 11). As such, a HMO at the appeal property would lead to 13 and 15 Bloomfield Road (Nos 13 and 15) being between 2 HMOs. Having regard to the guidance in section 4 of the SPD, it is clear that this represents a potential sandwiching situation. Therefore, the provisions of the SPD indicate the development would cause a harmful concentration of HMOs at street level.
14. At the same time, I am conscious of the aforementioned fallback position. To my mind, there is no meaningful difference in terms of housing choice between the property being used as a 6 person or a 7 person HMO. Section 4.1 of the SPD states that proposals for additional bed spaces within existing HMOs that sandwich residential property are unlikely to be consistent with LP policy. However, the use of the term "unlikely" indicates that there may be occasions when sandwiching would be consistent with LP policy.
15. In this instance, the introduction of an extra HMO on Bloomfield Road in addition to 1 other licenced HMO would not represent a harmful concentration. The other dwellings on the street when considered as a whole means the introduction of a 7 person HMO at the appeal property would cause no unacceptable imbalance or a reduction in the choice of homes. This is particularly the case given the strong likelihood of the appeal property being used as a 6 person HMO if the appeal is dismissed.
16. For these reasons, I conclude the development would not have a harmful effect on housing mix. In these respects, it would accord with Policy BCS21 of the Bristol Development Framework Core Strategy 2011 and LP policy DM2. Amongst other things, these promote diversity and choice through a balanced mix of housing. The development would not accord with the provisions of the SPD on sandwiching but there is sufficient justification to depart from the guidance in this case.

#### *Noise*

17. LP policy DM2 resists the conversion of dwellings to HMOs where they would result in levels of activity that cause excessive noise and disturbance to residents. The justification to the policy explains that issues could arise through the intensification of the residential use or the lifestyles of occupants.
18. As a residence, it is likely the proposed HMO would generate activities typical of a dwelling. The appeal property directly adjoins its neighbours and so it is likely that some of the noise associated with these activities would be heard by occupants of nearby residences. However, it does not follow that the noise would be excessive and unacceptable.
19. I would agree with the Council in that the occupation of the property by 7 adults would be a more intensive residential use compared to it being lived in by a single family. Nevertheless, it is likely the level of activity and associated noise from 7 occupants would be comparable to that generated by 6 adult residents as allowed for under the fallback position. There is no evidence to

indicate the current HMO use of the property has caused unacceptable noise and disturbance.

20. The SPD advises that increased numbers of HMOs can have harmful noise impacts resulting from the intensification of residential use. However, the SPD does not state that sandwiching situations are bound to lead to unacceptable disturbance. To my mind, this is a matter of judgement based on the particular circumstances of the proposal. In this case, there is no evidence to show the existing HMOs at the appeal property and at No 11 are causing excessive noise and disturbance. A change to allow 1 extra resident at the appeal property would only result in a modest level of additional activity and so it is fair to expect no significant extra noise compared to the current situation.
21. For these reasons, I conclude the development would have an acceptable effect on living conditions at nearby residences and on the locality in general by reason of noise. In these regards, it would accord with CS policy BCS23 and LP policies DM2 and DM35. Amongst other things, these look to ensure development safeguards environmental amenity from noise impacts.

### *Parking*

22. Like most of the other dwellings on Bloomfield Road, the appeal property provides no off-road car parking facilities. As such, occupiers of residences on the road are highly reliant on kerbside parking for vehicles.
23. Whilst there are some double yellow lines, parking is allowed along significant lengths of the stretch of Bloomfield Road outside the appeal property. Also, there is nearby parking opportunities within Junction Road and the large turning area where it meets Bloomfield Road. The Council has not sought to dispute the appellant's claim that there is parking space for 69 vehicles on the nearest streets to the appeal property. As such, there would be reasonable scope for the occupants of the proposed HMO to park on the highway near to the appeal property.
24. My visit can only provide a snapshot in time but I saw parking along large parts of Bloomfield Road and Junction Road during the middle of the day. Even so, there were several available spaces where additional cars could legally park. I note that there is no resident parking scheme for the area and that the demand for street parking will vary. However, my observations suggest there is sufficient roadside parking space near to the appeal site to meet the overall demand. In coming to this view, I have had regard to the appellant's claim that there is only 33 dwellings on Bloomfield Road and that the depot on the opposite side to the houses includes on-site parking to serve at least some of the requirements of its users.
25. Also, the stretches of double yellow lines provide places for vehicles to pass and the area at the junction of Bloomfield Road and Junction Road allows vehicles to safely turn around. As such, the kerbside parking causes no obvious need for vehicles to reverse or to carry out potentially unsafe vehicular movements on the highway.
26. It is highly probable that the occupants of the proposed 7 person HMO and visitors would generate traffic movements and parking on Bloomfield Road or Junction Road. However, I envisage the level of additional parking would be modest compared to the fallback position of a 6 person HMO. There is no

substantive evidence to suggest parking associated with the current HMO causes any problems. As such, it is fair to expect parking associated with the proposed HMO could also be reasonably accommodated on local streets.

27. LP policy DM23 requires development to provide an appropriate level of parking having regard to standards as set out in appendix 2 of the LP. The appellant points out that the car parking standards are defined as maximums and not as minimum requirements. As such, the lack of parking at the appeal site would not bring the scheme into conflict with appendix 2 standards. The Council is critical that no parking survey was provided with the planning application leading to this appeal. However, I am taken to no particular development plan policy that requires such a survey.
28. In any event, under LP policy DM23 the level of accessibility by walking, cycling and public transport will also influence the level of parking deemed appropriate. From the appeal property, it is a fairly short walk to a nearby supermarket and shops on Sandy Park Road as well as to bus stops with frequent services to Bristol city centre. Also, the Whitchurch Way cycle route runs near to the appeal property. Consequently, the proposed HMO's residents and visitors would not be highly reliant on car travel. This adds support to the view that the proposal would avoid street parking at a level that causes a nuisance.
29. For the above reasons, I conclude the development would not lead to unacceptable effects as a result of associated parking. In these regards, it would accord with CS policy BCS10 and LP policies DM2 and DM23. Amongst other things, these look to ensure new HMOs do not cause detriment through parking that cannot be reasonably accommodated.

### **Other Matter**

30. The proposed alterations and extensions to the building would not cause harm to the living conditions at nearby dwellings by reason of loss of light, privacy or outlook. As such, I conclude the development would accord with LP policy DM30 in these regards.

### **Conditions**

31. I have had regard to the list of conditions suggested by the Council in light of the relevant provisions of the Framework. Where appropriate I have amended the wording for reasons of precision.
32. In the interests of clarity, I attach a condition that requires the development to be carried out in accordance with the approved plans. There is no need for this condition to refer to the drawings that show the existing plans and elevations.
33. Condition 3 is imposed to ensure waste and bins are stored appropriately and without harm to the street scene. Condition 4 is included so cycling parking is provided in line with standards set out in the LP. Condition 5 is needed to ensure the development incorporates measures to minimise the effects of climate change. I have omitted reference in this condition to a total reduction of 22% in carbon dioxide emissions as this is in excess of the requirements set out in CS policy BCS14.
34. While not suggested by the Council, I have imposed a condition that limits the occupancy of the proposed HMO to 7 people. This is needed as the restriction forms the basis of my assessment and as additional occupants could lead to

harmful noise or parking effects. I am satisfied the inclusion of such a condition is uncontentious as it is consistent with the appellant's description of the development.

### **Conclusion**

35. For the reasons given above, I find the proposal would accord with the development plan policies when read as a whole. Therefore, I conclude the appeal should be allowed.

*Jonathan Edwards*

INSPECTOR

### **SCHEDULE OF 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 drawing nos 4086.PL.01 revision A, 4086.PL2.02, 4086.PL2.04 revision B and 4086.PL2.05.
- 3) The bin store as shown on the approved plans shall be provided prior to the commencement of the house in multiple occupation use hereby permitted. Thereafter it shall be retained and all refuse and recyclable materials associated with the permitted use shall either be stored within the bin store or internally within the building. No refuse or recycling material or bins shall be stored or placed on the highway (including the footway) except on the day of waste collection.
- 4) The bike store as shown on the approved plans shall be provided prior to the commencement of the house in multiple occupation use hereby permitted. Thereafter, it shall be retained and shall only be used for the parking of cycles.
- 5) Prior to the commencement of the house in multiple occupation use hereby permitted, the energy efficiency measures, renewable energy measures, sustainable design principles and climate change adaptation measures as set out in the Complete Energy Consultancy Energy Statement dated 31 October 2022 shall be fully provided. The measures shall be retained thereafter.
- 6) The number of occupants within the house of multiple occupation hereby approved shall not exceed 7 at any one time.



# Appeal Decision

Site visit made on 20 February 2024

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 08 March 2024**

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**Appeal Ref: APP/Z0116/W/23/3326501**

**15 Hollywood Road, Brislington, Bristol BS4 4LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Joseph Lovatt on behalf of Plot Investments Ltd against Bristol City Council.
  - The application Ref 23/02109/F is dated 26 May 2023.
  - The development proposed was originally described as change of use from a dwellinghouse used by a single person or household (C3a) to a large dwellinghouse in multiple occupation (sui generis) for up to nine people, including the erection of a ground floor front extension.
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## Decision

1. The appeal is dismissed and planning permission is refused.

## Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use from a dwellinghouse used by a single person or household (C3a) to a large dwellinghouse in multiple occupation (sui generis) for up to eight people. The Council dealt with the proposal on this basis and so shall I.
3. The appellant has submitted an amended existing and proposed block plan<sup>1</sup> with the appeal showing an alternative arrangement for bin storage and cycle parking to the front of the appeal site. The amended plans have not been the subject of further consultation. However, I am satisfied that no prejudice would occur to any interested parties since the amendments relate to the future living conditions of the occupiers of the proposed development. I therefore base my decision on the amended plans as the proposed development is not changed to an extent that all those with an interest in the application should have an opportunity to comment.
4. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its statement, that had the Council determined the application, it would have refused planning permission. The substance of the Council's statement has informed the main issues of the appeal.

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<sup>1</sup> 4171.PL.02 Revision F

## **Main Issues**

5. The main issues are:

- whether the proposed development would provide adequate living conditions for future occupiers with particular regard to outlook, daylight and ventilation,
- whether the proposed development would provide adequate and practical provision for the storage and manoeuvring of bicycles and bins; and
- the effect on highway safety with particular regard to the demand for on street parking.

## **Reasons**

### *Living conditions for future occupiers*

6. The proposed bedrooms would be set over three floors, with each bedroom exceeding Nationally Described Space Standards. Bedrooms 4 and 5 are located on the first floor and overlook a courtyard area which can be accessed externally from a set of steps to the side. The courtyard has a further set of steps which gives access to the garden which is on the second floor level.
7. Bedroom 4 has a large window which faces toward the steps that lead to the rear garden. However, the steps are steep and provide very limited views of the garden. Furthermore, due to the courtyard being enclosed on all other sides by high walls, the space experiences very limited daylight. As a result, the views from bedroom 4 would be poor and the amount of daylight received in the room would be very low throughout the majority of the year.
8. Bedroom 5 has a large window and also a door that gives access to the courtyard. However, these would face onto the high side wall of the neighbouring property which would mean that the outlook for the occupiers of this room would be dominated by this. As the courtyard is mostly enclosed on all other sides daylight would be very limited to this bedroom also.
9. The door to bedroom 5 could also encourage future occupiers of this room to access the room by the external steps and would mean that they would walk next to the window of bedroom 5. This could mean that the occupiers of bedroom 4 would be more likely to keep their curtains closed which would further harm their outlook and the amount of daylight received.
10. The Council consider that the bedrooms would not be adequately ventilated. However, while I have found outlook and daylight would be unacceptable, both rooms would have opening windows which would provide sufficient ventilation.
11. Notwithstanding my findings on ventilation, I conclude that the proposed development would not provide adequate living conditions for future occupiers with regard to outlook and daylight. It would be contrary to Policy BCS21 of the Bristol Development Framework Core Strategy Adopted June 2011 (CS) and Policies DM2 and DM30 of the Bristol Local Plan Site Allocations and Development Management Policies Adopted July 2014 (LP). Amongst other things, these seek to ensure that development creates a high-quality environment for future occupiers.



*Storage and manoeuvring of bicycles and bins*

12. The initial plans submitted to the Council showed that bin storage would be provided within the courtyard which would be accessed by a set of steps to the side of the property. It was also shown that a covered area for the parking of bicycles would be provided within the rear garden which would require another set of steps to be accessed.
13. On the basis of the steps that would need to be used to access these storage areas, it is clear that this would not be a practical solution for future occupiers and would have resulted in bins and bicycles being carried up and down several sets of steps.
14. The appellant has submitted an amended plan with the appeal which demonstrates that there is sufficient space to be able to provide the bin and cycle storage to the front of the site, within the existing driveway. This would allow all future occupiers to be able to access the storage facilities without the need to use any steps. Therefore, I am satisfied that subject to appropriately worded conditions that an adequate and practical provision for the storage and manoeuvring of bicycles and bins away from the highway could be provided.
15. I therefore conclude that the proposed development would provide adequate and practical provision for the storage and manoeuvring of bicycles and bins. I find no conflict with Policies DM2, DM23 and DM32 of the LP. Amongst other things, these seek to ensure that development provides adequate storage for recycling/refuse and cycles and that there is sufficient capacity to serve the proposed development as a whole.
16. I also find no conflict with guidance contained within the Department for Transport Cycle Infrastructure Design Local Transport Note 1/20 July 2020 and the Council's Waste and Recycling Storage and Collection Facilities Guidance for Developers of Residential, Commercial and Mixed-Use Properties Adopted December 2021-Updated March 2022. Amongst other things, these seek to ensure provision of safe and convenient access to waste storage and cycle storage.

*Highway safety*

17. The proposed development includes no parking provision for future occupiers. The area nearby the site has some parking restrictions through a narrow one way road that is close to the site and some road markings which also prevent parking. As a result, there is a high number of cars parked on the road close to the site. However, I noted during my site visit that while demand for on street parking seemed to be high, spaces were available within a short walking distance.
18. I have also had regard to the appellant's study of available parking spaces which found that there were a number of on street parking spaces available near to the appeal site during a weekday evening.
19. The Council consider that the proposal would generate four additional cars on the highway network. This estimate of car ownership has been taken from census data from 2011. The Council have no parking standards for large HMO's.

20. The appellant has provided more recent census data from 2021 which demonstrates that within the local area, occupiers of HMO's are more likely to have access to no private motor vehicles. The appeal site is also within a location that is a short walk from a number of services and is well connected by cycling and public transport which would reduce the reliance on future occupiers needing to have access to a private motor vehicle. I am also mindful that the existing use as a large family dwelling would have likely had access to private motor vehicles, so I am not convinced that the proposed development would generate four additional cars on the highway network.
21. In any case, even if the proposed development would generate four additional cars, I am satisfied that there is sufficient on-street parking within a short walking distance from the site to accommodate an increased demand.
22. I therefore conclude that the proposed development would not unacceptably harm highway safety. I find no conflict with Policy DM23 of the LP, Policies BCS10 and BCS13 of the CS and Paragraph 108 of the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure development provides an appropriate level of parking provision, ensures the provision of safe streets and encourage sustainable means of transport.
23. I also find no conflict with guidance contained within the Council's Managing the development of houses in multiple occupation Supplementary Planning Document Adopted 3 November 2020 and the Councils Transport and Development Guide which amongst other things, seek to ensure a reasonable level of safe, accessible and convenient car parking.
24. The Council have suggested the proposal would be contrary to Policy DM35 of the LP, however, this relates to noise for which the Council have found the proposal would not adversely effect.

### **Other Matters**

25. The appellant has put forward a fallback position in the form of permitted development rights which would allow the conversion of the dwelling to a HMO for 6 persons. I accept that the fallback position is available.
26. The appellant has stated their intention to carry out the fallback position should this appeal fail. I therefore accept that there is a greater than theoretical possibility that the fallback would be implemented should the appeal scheme be dismissed. It is therefore a material consideration in the assessment of the proposal.
27. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme.
28. The appeal scheme would result in an increase of two bedrooms over the fallback position. I appreciate that the rooms shown to be bedrooms 4 and 5 could still be used as bedrooms for the fallback position. However, there is no information before to suggest that this would be the case. Even if these bedrooms were still used, there would be two fewer bedrooms in which this space could be used to provide more shared internal space, or bigger bedrooms through the fallback position which could be of benefit to the occupiers of these bedrooms. I therefore find that the appeal scheme would be more harmful than the fallback position.

29. Consequently, for these reasons considered cumulatively, the fallback position carries limited weight in favour of the proposal.
30. The appeal site is located within the Brislington Hill Conservation Area (CA). The Council has not found that the proposed development would harm the character or appearance of the CA. The CA is centred around St. Lukes Church and its significance is derived from its architectural character of pantiled roofs , random stone walling, painted rendered walls and 17<sup>th</sup> century brick/stone boundary walls. The appeal proposes no external alterations, other than the demolition of a non-original conservatory to the rear and the infilling of a garage door with render to match the existing dwelling. I therefore find that the proposal would have a neutral impact on the setting of the CA.

### **Planning Balance**

31. The proposal would be contrary to Policy BCS21 of the CS and Policies DM2 and DM30 of the LP. These Policies are consistent with the Framework in focusing on creating places with a high standard of amenity for future users.
32. The Council is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 77 of the Framework. The figure quoted by the appellant is between a 2.2-2.4 year supply which is a substantial shortfall. The figure quoted is not disputed by the Council.
33. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.
34. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall, albeit the provision would be small. The proposal would result in the provision of housing suitable for single-person households with communal areas for future occupiers. It would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. There would also be some environmental benefits through the efficient use of land and potential reduced energy use through the heating of a single building.
35. In this instance, the inadequate living conditions that would be provided for future occupiers would significantly and demonstrably outweigh the very modest benefits and as such, the proposal would not constitute a sustainable form of development in terms of the Framework.
36. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

**Conclusion**

37. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed and planning permission should be refused.

*D Wilson*

INSPECTOR