

Bristol City Council – LPA S62A Statement Note

59 Langton Road, Bristol, BS4 4ER

LPA application reference: 24/02509/PINS

Applicant: Dr Klare Davis



1. Introduction

This statement of case relates to a full planning application (LPA reference: 24/02509/PINS) made under Section 62A of the Town and Country Planning Act 1990 for the 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 at 59 Langton Road, BS4 4ER. The LPA considers that the application does not overcome multiple reasons for refusal pertained in the previous submission (LPA reference: 24/00271/F) and would therefore recommend refusal on the following grounds:

1. The proposed development would fail to provide a high-quality and adequate living environment for future occupants due to cramped living conditions, poor outlook, and inadequate light, particularly in relation to Bedroom 6 in the attic and Bedroom 8 in the converted garage. The proposal is therefore contrary to Policy BCS21 of the Bristol Development Framework, Core Strategy (2011), and Policies DM2 and DM30 of the Bristol Local Plan, Site Allocations and Development Management Policies (2014).
2. The proposed development would have a harmful impact on neighbouring amenity due to the loss of privacy, noise transference, and disturbance as a result of the high number of occupants proposed. This is contrary to Policy BCS21 and BCS23 of the Bristol Local Plan, Core Strategy (2011), and Policies DM2, DM30, and DM35 of the Site Allocations and Development Management Policies (2014), as well as the requirements of the NPPF.
3. The application has failed to provide sufficient information to demonstrate that the proposed development would not result in harm to the amenities of the local area and would not exacerbate unacceptable traffic and highway safety conditions. This is due to the density of development, site context, and likely increase in demand for on-street parking in an area with limited on-street parking. The application is therefore refused due to conflict with the Council's 'Managing the Development of Houses in Multiple Occupation' Supplementary Planning Document (2020); Core Strategy (2011) Policy BCS10; Site Allocations and Development Management Policy (2014) DM23 and DM35; and the National Planning Policy Framework (2023).

The appellant has provided a statement of case to which the LPA would take the opportunity to provide some rebuttal to, as outlined below.

2. Main Planning Considerations

Principle of Development

Policy BCS18 (Housing Type) of the Core Strategy states that all new residential 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.

Policy DM2 (supported by the HMO Supplementary Planning Document, adopted 3 November 2020) aims to ensure that the intensification of use of existing HMOs preserves the residential amenity and character of an area and that harmful concentrations of HMOs do not arise.

Part 1 of Policy DM2 states that the intensification of use of existing HMOs will not be permitted if it would harm the residential amenity or character of the locality as a result of any of the following:

1. Levels of activity that cause excessive noise and disturbance to residents; or
2. Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or
3. Cumulative detrimental impact of physical alterations to buildings and structures; or
4. Inadequate storage for recycling/refuse and cycle

Part 2 of Policy DM2 refers to whether or not the development would create or contribute to a harmful concentration of HMOs; of which there are two parts:

- Harmful due to worsening effect on existing conditions (including 1-4 above); and or
- Harmful due to a reduction in the choice of homes in the area by changing the housing mix

The HMO Supplementary Planning Document (adopted 3 November 2020) explains that the intensification of an existing HMO, in either or both of the following two scenarios, is unlikely to be consistent with Local Plan policy:

1) An intensified HMO would sandwich up to three single residential properties (use class C3) between two HMO's (being the intensified HMO and an existing HMO), and/or, would sandwich a single residential property (use class C3) between two HMOs (being the intensified HMO and an existing HMO) in any two of the following locations: adjacent, opposite and to the rear.

2) An intensified HMO would be sited in an area (defined as a 100-metre radius of the application property) where 10% or more of the total dwelling stock is already occupied as HMOs. The assessment also includes the concentration and location of purpose-built student accommodation (PBSA) in relation to the development, and also the type/nature of the PBSA.

The HMO count is the number of licenced HMOs plus any properties that have been given planning permission for HMO use and do not currently have a licence.

The principle assessment for this application concerns policies BCS18 and DM2.

There is overlap between policies BCS18 and DM2, as both seek to avoid harmful concentrations of uses in areas, albeit DM2 provides further criteria to assess this. Policy BCS18 includes a more demographical approach, stating that new residential 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. For example, in common with policy DM2, policy BCS18 would resist a proposal that would reduce the choice of homes in an area by changing the housing mix. However, policy BCS18 is less explicit in defining what a harmful impact on the mix balance of a community would be, whereas policy DM2 defines that a harmful concentration of uses within a locality would exacerbate existing harmful conditions, including:

- 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.

The HMO 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 dwelling (Use Class C3) is sandwiched on both sides by HMOs. 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. The SPD suggests that 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. However, each case will need to be assessed on its own merits.

Paragraph 4.2 of the SPD states that proposal for additional bed spaces within an existing HMO where 10% of more of the total dwelling stock is occupied as HMOs within a 100-metre radius of the application property or site are unlikely to be consistent with Local Plan policy. The LPA can ascertain this through access to data in relation to the number of Licenced HMOs (Mandatory and Additional Licences) plus any HMOs that have been given planning permission and do not currently have a licence. The site is in an area where there is a lower concentration of HMOs than the Bristol ward level average. Specifically, the site is within the Brislington West. Data from the 2021 Census suggests that 7.7% of the properties in the ward are multi-family households, a similar level can also be seen at within the Lower Super Output Area (LSOA) of 7.1%.

As per the previous application, the LPA has no objection to the principle of development in that it would not lead to a weakening of community cohesion.

Additionally, it is not considered that sandwiching would occur from the proposed development. 'Sandwiching' is where a dwelling (Use Class C3) is adjoined on two sides by HMOs. The SPD states that sandwiching situations apply irrespective of limited breaks in building line, such as a vehicle or pedestrian access, apart from a separating road. As aforementioned, Council records indicate there are no HMOs (Mandatory and Additional Licences) as such would not result in the sandwiching effect as such would comply with policy in this regard.

Living Environment for Future Occupiers

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, and safeguard the amenity of existing development. 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 HMOs 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.

The application seeks to intensify occupancy of the existing HMO to incorporate 8 people. It should be noted that the specification of the property is the same as the previous refusal, and is as follows:

Bedroom 1 – 14.45m²

Bedroom 2 – 8.93m²

Bedroom 3 – 8.53m²

Bedroom 4 – 11.68m²

Bedroom 5 – 13.12m²

Bedroom 6 – 8.84m² (within sloped roof space reduced head height)

Bedroom 7 – 7.74m²

Bedroom 8 – 19.29m² (located in converted garage outbuilding)

Kitchen/Lounge – 32.72m²

All the bedrooms are proposed to be single occupancy, albeit are of the same size as before. The proposal would therefore still meet the floor space requirements for an HMO of this level of occupation given that every bedroom would exceed the 6.5m² standard.

The LPA considers that within an HMO, occupants rely on their bedrooms as their sole private space within a shared living environment, making the quality of the bedroom as a principal living area particularly crucial.

There are still concerns that Bedroom 6 would provide poor living conditions. Given that the diameter of the bedroom remains unchanged from the previous application (in which it was listed as Bedroom 7), the previous assessment highlighted within application 24/00271/F remains applicable

in this instance. Namely, that the bedroom is located in the front roof slope and would only result in 5.3m² of floorspace that is above 2m in height. The geometry of the room is such that the bedroom would only provide a 1.25m wide strip where it would be possible to comfortably stand. The only outlook of the bedroom would be solely provided by two roof lights, which would be exacerbated by their position at 1.2m from the first-floor level. Finally, the increase in occupancy coupled with the poor living conditions of Bedroom 7, would result in the occupant more heavily utilising communal space, of which the Kitchen will resultantly be the sole communal space available whilst the existing Office space would be lost. It is likely that Bedroom 7 would be more heavily used by future occupants due to the distance between the bedroom and the sole remaining communal space.

Whilst it is understood that this bedroom is currently in use by virtue of the issuing of a Lawful Development Certificate (LPA reference: 24/00349/CP). It is acknowledged that material consideration should be taken into this 'fallback position'. However, in this instance it is identified by the LPA that the harm caused is of a weight greater than what has been allowed under Permitted Development. It would therefore be inequitable to allow further harm to future occupiers through a full planning application where local policies are given consideration.

There are also still concerns that Bedroom 8 would also provide a poor living condition. The LPA considers that the revised proposal does not adequately consider the poor outlook – the application here still proposes a small window and glazed door. Given this, the bedroom would provide occupants an oppressive living environment with low natural light levels. Furthermore, the separation distance is such that the occupants would have to walk 14m outdoors all weathers to be able to cook food.

Given the above, the application would result in an unacceptably poor internal living environment for future occupiers of Bedrooms 6 and 8. These bedrooms would not constitute what can be considered a 'high quality development' and would result an oppressive living environment. On this basis, the application should be refused.

Impact on neighbouring amenity

Paragraph 130 of the National Planning Policy Framework (2023) states that planning decision should ensure developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Paragraph 185 further states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

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 requires development to safeguard the residential amenity of surrounding properties.

Whilst it is identified that the harm would be less than that of a 12-person HMO, which is what was applied for within the previous application, it is the LPA's view that the harm identified in the previous application has not been overcome. Whilst the Permitted Development fallback position is still given material weight, no information has been provided regarding how the property will be managed to control any noise or antisocial behaviour from residents. Comments from Bristol City Council's Pollution Control officer are still considered pertinent to this application. Concerns were raised regarding the potential for noise from the communal living room on the ground floor, which shares party walls with the adjoining properties. Considering the occupancy rate is above what is achievable through permitted development, this could be managed by way of an appropriate sound insulation condition. Additionally, however, the proposed outbuilding is still proposed to be converted into a living space – therefore, there would still be a higher level of coming and going in close proximity to the windows of number 57 (this is exacerbated by the bike store being located at the rear). Occupants approaching the main house would be able to look (or be perceived to be looking) directly into the first-floor bedroom windows of number 57, which would be significantly beyond what would be reasonable to expect for a neighbour using their garden or accessing a cycle store.

Given the above, the application is still considered to intensify the site to an extent that more information would be needed to manage any disturbance generated from the HMO. It is identified that the reduction of proposed occupants would reduce the previously identified harm, but not substantially enough to overcome the previous reason for refusal.

Transport and Highways

Section 9 of the NPPF (2023) states that transport issues should be considered from the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued and the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account including appropriate opportunities for avoiding and mitigating any adverse effects. This policy further states that development proposals should ensure that net environmental gains, and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places. The planning system should actively manage patterns of growth in support of these objectives.

Policy BCS10 in the Bristol Core Strategy (2011) states that developments should be designed and located to ensure the provision of safe streets and reduce as far as possible the negative impacts of vehicles such as excessive volumes, fumes and noise. Proposals should create places and streets where traffic and other activities are integrated and where buildings, spaces and the needs of people shape the area.

Policy DM23 in the Site Allocations and Development Management Policies (2014) in addition states that development should not give rise to unacceptable traffic conditions. Examples of unacceptable traffic conditions referred to in the policy include the introduction of traffic of excessive volume, size or weight on to unsuitable highways/or in to residential or other environmentally sensitive areas. This could result in high levels of transport noise and disturbance, a decrease in air quality and unsafe conditions both on the highway and for pedestrians. This policy further states that development proposals will be expected to provide an appropriate level of safe, secure, accessible and usable parking provision (including cycle parking) and that proposals for parking should make

effective and efficient use of land and be integral to the design of the development. The approach to the provision of parking aims to promote sustainable transport methods, such as walking, cycling and public transport, as encouraged by Core Strategy Policy BCS10.

Policy BCS15 in the Bristol Core Strategy 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 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 had to the level and type of provision, having regard to the above requirements and 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. Policy DM23 also states that the provision in new development of safe, 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.

Policy DM2 in the Site Allocations and Development Management Policies states that the sub-division 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 on-street parking that cannot be reasonably accommodated or regulated through parking control measures; as well as inadequate storage for recycling/refuse and cycles.

As per the previous application, the regular use of the church hall during evenings along with the representation made by residents means that the assessment taken by one of Bristol City Councils' Transport Development Officers, in that the parking survey does not fully assess the impact of parking at the peak parking times, is still pertinent for this application.

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 as such the proposed development is considered unacceptable on this basis.

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 application is considered for dismissal.

4. Suggested Conditions List

Without prejudice to the case set out within this Statement Case, the LPA would recommend consideration of the following conditions should the Inspector reach a different conclusion with regards to the merits of the case.

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. Noise insulation

Due to the increased numbers of occupants of the property, prior to the commencement of any development, an assessment, including any appropriate scheme of mitigation measures, for the transmission of noise between the following areas and the adjoining residential property has been submitted to and approved in writing by the Council.

Living room on any party walls

The sound insulation assessment shall be prepared by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233:2014 "Guidance on sound insulation and noise reduction for buildings. Any approved scheme of mitigation measures shall be implemented prior to commencement of the use and be permanently maintained thereafter.

3. 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.

4. 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.

5. 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.