

## Decision Notice and Statement of Reasons

Site visit made by R Dickson BSc (Hons) MSc MRTPI on 13 August 2024

**Decision By Helen Hockenhull BA(Hons) B.PI MRTPI**

**A person appointed by the Secretary of State**

**Decision date: 27 August 2024**

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**Application Reference: S62A/2024/0047**

**Site address: 39-43 College Green, Bristol BS1 5SH**

- 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 12 June 2024 is made by Empire Bristol PLC and was validated on 1 July 2024.
  - The development proposed is for the change of use of part of the ground floor commercial space to purpose-built student accommodation and external alterations.
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### Decision

1. Planning permission is granted for change of use of part of the ground floor commercial space to purpose-built student accommodation and external alterations in accordance with the terms of the application dated 12 June 2024 subject to the conditions set out in the attached schedule.

### Statement of Reasons

#### Procedural matters

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the application.
3. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council have been designated for non-major applications since 6 March 2024
4. Consultation was undertaken on 8 July 2024 which allowed for responses by 7 August 2024. Responses were received from the parties listed in Appendix 1. No other interested parties or local residents submitted responses.

5. Bristol City Council submitted comments on 7 August 2024. The consultation response summarises these documents and sets out the Council's objections to the proposed development on a number of grounds.
6. One consultation response was submitted a day late. Having regard to the Wheatcroft Principles, I accepted the response, which was dated 8 August 2024. The consultation response did not highlight any substantive matters that would require reconsultation.
7. I carried out a site visit on 13 August 2024, which enabled me to view the site internally and externally, the surrounding Conservation Area and Listed Buildings.
8. I have taken account of all written representations in reaching my recommendation.

### **Main Issues**

9. Having regard to the application, the consultation responses, and the Council's report, together with what I saw on site, the main issues for this application are:
  - the effects of the proposed development on the character or appearance of the area, whether it would preserve or enhance the character or appearance of the College Green Conservation Area (CA), and the effects of the development on the setting of nearby Grade II Listed buildings;
  - The effects of the proposed development on the vitality and viability of the secondary shopping area;
  - whether adequate access to the site, and sufficient cycle parking, can be provided; and
  - whether the recycling and refuse storage is sufficient.

### **Reasons**

#### *Relevant Planning History and Background*

10. The site, 39-43 College Green forms existing student accommodation, with the first to fourth floors comprising the units, and a small area of the ground floor as the entrance lobby (08/04455/F, granted January 2009). A later application (11/01480/F, granted July 2011) expanded the ancillary accommodation into the lower ground floor level. Although I do not have plans for this before me, I noted during my site visit that this was being used as a meeting area for the occupants of the building, as well as staff offices.
11. A similar scheme to that submitted as part of this application was refused on 20 March 2024 (23/03117/F). This proposed the change of use of a much larger floor area, which would have utilized the whole of the neighbouring retail unit. It was refused owing to the loss of this retail unit which contributes to the vitality, viability and diversity of the secondary shopping frontage.

### *Character and Appearance*

12. The site is located within College Green Conservation Area (CA), an important civic space within the City. Its significance is derived from the areas rich heritage assets, townscape quality and important public spaces. The College Green Conservation Area Character Appraisal (2016) notes that the route of College Green, the location of the application site, has a strong commercial frontage. The site has a neutral contribution to the CA from the front, contributing to the tall frontage which turns the corner of College Green. The side and rear of the site, although less visible within the CA, contributes negatively owing to the visual clutter and bins within the service area. Although this area does not form a public space, it still contributes to the overall CA.
13. The proposal would not alter the front of the building, however, would make alterations to the side and rear. The side of the building is only visible in glimpsed views when walking along College Green, however the proposed rendering of the wall would unify the ground floor façade. The addition of windows in this elevation would be inconspicuous and given the width of the service lane, is likely to go unnoticed by those in the public realm. The changes to the side elevation would therefore have a neutral effect on both the character and appearance of the CA. The rear is less visible within the public realm, but is overlooked by other buildings within the CA. The new doorway would alter this elevation, but given its service functionality, it would have a neutral effect. Similarly, the louvres which would be fitted to both doors and covering the mechanical and electrical services above would unify this as a service area and have a neutral effect on the CA. This, together with the alterations to the side elevation would preserve the significance of the CA.
14. The proposal would enable the refuse bins from both the student block and one of the commercial units to be stored within the building. This would significantly reduce the amount of visual clutter to the side and rear of the building. This secondary effect of the external changes would improve the character of the CA and would overall enhance it's appearance. Accordingly, the proposal would preserve and enhance the significance of the CA.
15. There are a number of Grade II Listed buildings nearby. Those which the proposal has the potential to affect are 1-7 Denmark Street<sup>1</sup> and 8-11 Denmark Street<sup>2</sup> to the rear, and 38 College Green<sup>3</sup> separated by an alleyway to the side. The significance of the buildings to the rear on Denmark Street is derived from being part of a network of narrow lanes and inner courts which have retained their historic character. The site backs onto the rear of these listed buildings on Denmark Street and therefore makes a limited contribution to their setting. Given the boundary wall to the rear of the application site, and the significantly lower level of the heritage assets, it would be unlikely that the changes proposed at ground floor level would be seen from the listed buildings. Given that their

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<sup>1</sup> List Entry No. 1282291

<sup>2</sup> List Entry No. 1202194

<sup>3</sup> List Entry No. 1202128

significance is derived from the street pattern, I find that the proposal would cause no harm their significance.

16. Comparably, the building adjacent, 38 College Green, appears to derive its significance from the architectural detailing on its front façade, which is of an Art Nouveau style<sup>4</sup>. While the site contributes to the setting of the listed building, the proposal will not alter the front façade of the application site. As discussed, the side elevation is likely to only be glimpsed when walking past the site and No 38, and is therefore unlikely to be viewed in the same context. The proposal would have a neutral effect on the significance of the adjacent listed building, with the architectural detailing still being appreciated. The proposal would declutter the alleyway that separates the two buildings and would preserve the significance of the heritage asset.
17. Accordingly, the proposal would preserve and enhance the character and appearance of the CA, and it would preserve the setting of the surrounding listed buildings. As such, the proposal would be in accordance with the aims of Policy BCS22 of the Bristol Development Framework Core Strategy (2011) (Core Strategy) and DM31 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) (Local Plan). Together, they seek to ensure that any development conserves and enhances the heritage asset or its setting.

#### *Vitality and Viability of the Secondary Shopping Area*

18. The site is within a secondary shopping frontage. Policy DM8 of the Local Plan sets out that within the secondary shopping area, retail or other related uses will be acceptable where they would help to maintain or enhance the function of the centre. The proposal will result in the loss of an area of retail unit, owing to the student accommodation expanding into the rear of the existing unit. The applicant has identified that the existing restaurant would move into the adjacent larger unit (also proposed to be reduced in size), which is currently vacant.
19. College Green has a variety of shops, which appear to be in a range of unit sizes. The applicant has provided some information on the current market trends for retail premises within Bristol, with 'grab-and-go' food and beverage businesses, and smaller health and beauty salons being the most likely to occupy smaller units. I am mindful of the range of unit sizes along College Green, and of the need to have a mix of unit sizes to sustain businesses that would not be able to use, or potentially afford the rent for a larger unit.
20. I have not been provided with evidence showing how long the larger retail unit beneath the student accommodation has been vacant. However, given that it is vacant, and having the aim of Policy DM8 to resist fragmented frontages in mind, the reduction in the size of the smaller unit would be acceptable.
21. Policy BCAP17 of the Bristol Central Area Plan (2015) (BCAP) seeks to ensure that the proposed uses of buildings within the secondary shopping

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<sup>4</sup> Historic England List Entry Description for 38 College Green.

frontages will help maintain or enhance the function of the shopping area. In this respect, the student accommodation above is an established use within this area, and using some of the retail space would enhance this, whilst allowing a smaller business to rent the smaller unit. Policy BSC7 of the Bristol Development Framework Core Strategy (2011) (Core Strategy) also supports this, by supporting a wider range of appropriate uses within areas outside of the primary shopping areas.

22. For these reasons, I conclude the development would have no adverse effects on the vitality and viability of the secondary shopping area. In these regards, it would accord with Local Plan policy DM8, BCAP policy BCAP17, and Core Strategy policy BSC7.

### *Cycle Parking*

23. The proposals do not take the opportunity to include any provision for indoor cycle storage for the residents of the block. A non-material amendment to the original application for the building included external cycle pod storage at first floor level (10/02589/NMA), which was granted. During my site visit it was unclear as to whether this is still in use. Appendix 2 of the Local Plan sets out the requirements for cycle parking for student accommodation, which does not appear to be provided within the development. Secure cycle storage within the building at ground floor level would be preferable, though any bike would need to be lifted over a number of steps to gain access to the building, which would be inconvenient and unlikely to be used by the occupants.
24. Nevertheless, the proposal conflicts with policy DM23 of the Local Plan, which seeks to provide an appropriate level of safe, secure, accessible and usable parking provision within new development. I bear in mind that the application is for the change of use of part of the ground floor and the use of the building as student accommodation is the subject of a previous planning permission which included the provision of cycle storage. On this basis, I give very limited weight to this policy conflict.

### *Recycling and refuse storage*

25. The existing refuse storage for the student block is within the rear service yard, which appears to be shared with all the units within the block. During my site visit, it was evident that the bins occupied a large area of the service yard. The proposed refuse storage for the student accommodation would provide an internal storage solution that would be safe and convenient for the occupants. Bristol City Council (BCC) have commented that the refuse storage area would be unworkable, and likely to result in bins being left in the rear service yard. While this could be a likelihood, it forms a management issue for the applicant. Two conditions have been suggested to ensure this does not happen, requiring that the refuse storage area be provided and a waste management plan to be implemented.
26. The proposal would also provide an internal refuse storage area for the larger commercial unit, which would mean that refuse would need to be taken out of the front door and walked around to the rear of the units. This

appears to be the same as the existing situation and would therefore cause no additional harm.

27. Overall, the proposed internal refuse storage areas would provide a betterment to the appearance of the rear service yard, and would with the appropriate condition, accord with section 8 of the Waste and Recycling Storage and Collection Facilities SPD. As such, with the implementation of the suggested conditions, the development would accord with policy DM32 of the Local Plan, which seeks to provide adequate recycling and refuse areas.

## **Other Matters**

### *Designing out crime*

28. The Avon and Somerset Constabulary, Crime Prevention Through Environmental Design team have highlighted that the new windows and doors are likely to be vulnerable owing to their lack of natural surveillance. The consultee has provided suggestions for the security of these windows and doors, including appropriate materials for them, with which I agree. While these are important, they are not necessary to be captured through a condition, owing to the lockable gate at the entrance of the service area.

### *Biodiversity gain*

29. The application form states the biodiversity net 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 in this decision that refers to the relevant regulatory provisions on the biodiversity gain condition.

## **The Planning Balance**

30. 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. The Framework is such a material consideration.
31. I have found that the proposal would preserve and enhance the character and appearance of the College Green Conservation Area and would also preserve and enhance the setting of the Grade II Listed buildings nearest to the application site. The proposal would not cause harm to their significance as designated heritage assets. It would also cause no harm to the vitality or viability of the secondary shopping area and can provide sufficient recycling and refuse storage. I have also found that the proposal conflicts with policy DM23 of the Local Plan due to the lack of cycle storage provision, albeit in this case, I give this policy conflict very limited weight.
32. Given the above, when read as a whole, I conclude that the proposed development would accord with the development plan. As there are no

material considerations that justify making a decision contrary to the development plan, I conclude that planning permission should be granted subject to conditions.

### **Conditions**

33. I have considered the planning conditions suggested by BCC and I have imposed them. A condition requiring the development to be commenced within three years is required, as is a condition specifying the plans, for certainty. A condition requiring a waste management plan is necessary to ensure the refuse store is used appropriately, and to ensure any adverse effects on the CA are reduced. I have changed the trigger point for this condition from pre-commencement as suggested by BCC to pre-occupation. A condition requiring the implementation of the refuse area prior to occupation or use is also required to ensure that both the student accommodation and retail unit have appropriate refuse storage facilities.

### **Conclusion**

34. 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 Core Strategy, Local Plan and BCAP policies and so it would accord with the development plan when read as a whole. There are no considerations that justify making a recommendation contrary to it. Therefore, I recommend that planning permission should be granted.

*R Dickson*

Appeal Planning Officer

### **Inspector and Appointed Person's Decision**

35. I have considered all the submitted evidence and my representative's recommendation and on that basis planning permission is granted.

*Helen Hockenhull*

Inspector and Appointed Person

## **SCHEDULE OF CONDITIONS**

### **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: PL-GE-010 P1, PL-GA-010 P1, PL-L-010 P1 and PL-B-010 P1.  
Reason: To provide certainty.
3. Prior to occupation or use commenced of the development hereby permitted a waste management plan setting out how waste will be stored and collected has been prepared in connection with each of the uses within the proposal, shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan for the lifetime of the development.  
Reason: To ensure appropriate waste management facilities are provided to accommodate all waste generated by the development.
4. 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.



## **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 for 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)

## **Appendix 1**

### **List of consultee responses**

Bristol City Council

Avon and Somerset Constabulary - Crime Prevention Through Environmental Design