

Decision Notice and Statement of Reasons

Site visit made on 19 July 2024

By Jonathan Edwards BSc(Hons) DipTP MRTPI

A person appointed by the Secretary of State

Decision date: 22 August 2024

Application Reference: S62A/2024/0050

Site address: 59 Langton Road, Brislington, Bristol BS4 4ER

- 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 21 June 2024 is made by Dr Klare Davis and was validated on 1 July 2024.
 - The development proposed is 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, including erection of refuse, recycling and cycle stores and minor demolition and external alterations to detached garage to facilitate use as habitable accommodation.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) The proposed development in relation to bedroom 8 in the converted garage would fail to provide high quality and satisfactory living conditions for future occupants due to a poor outlook and inadequate access to light. Therefore, the development would be contrary to policies DM2 and DM30 of the Bristol Local Plan, Site Allocations and Development Management Policies adopted 2014 and policy BCS21 of the Bristol Development Framework Core Strategy adopted 2011.

Statement of Reasons

Procedural matters

2. Section 62A of the Town and Country Planning Act 1990 (the Act) allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council (BCC) has been designated for non-major applications since 6 March 2024.

3. As part of the validation process, the applicant provided an amended planning application form with a description of development as set out in the header above. I note this description is different to that provided on the submitted Community Infrastructure Levy Form. Nonetheless, I am satisfied when reading all the application submissions together that my assessment should be made on the description in the header. No injustice or prejudice would be caused to any party by adopting this approach.
4. I visited the application site (No 59) and the local area on 19 July 2024. On my visit I noted that the position of doors and the room layout on the second floor of the property was slightly at odds with the details as shown on the submitted plans. To be clear, I confirm my decision is based on the layout as shown on the drawings.
5. Also, the description of development includes the erection of refuse and recycling stores. I saw wooden structures to the front of the property but these did not appear to be attached to the ground and were not designed nor positioned in accordance with the details on the submitted plans. Therefore, I am satisfied the development has not yet commenced.
6. Consultation was undertaken on 4 July 2024 which allowed for responses by 1 August 2024. BCC has submitted a completed questionnaire with relevant information as well as a statement note that sets out reasons why it considers planning permission should be refused. Responses have also been received from interested parties and local residents.
7. Since the application was submitted, the Secretary of State has issued a written ministerial statement (WMS) entitled "Building the homes we need". Also, the government has published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. I invited comments from the applicant and BCC on these documents and allowed an opportunity for each to provide a response. I have considered the WMS, the consultation and comments received on these documents in my assessment of the application.

Main Issues

8. Having regard to the application, the consultation responses, comments from interested parties, BCC's statement, together with what I saw on site, the main issues for this application are:
 - whether the development would provide satisfactory living accommodation for its occupiers;
 - its effect on the living conditions of occupants of nearby residences;
 - whether associated parking would be accommodated safely and without harm to the amenities of the locality; and
 - its effect on the character and appearance of the area.
9. In addition, I have assessed concerns raised by interested parties and the points made in support of the development by the applicant.

Reasons

Planning History.

10. Planning permission was recently refused by BCC for the change of No 59 from a C3 dwelling to a large house in multiple occupation (HMO) for 8 households/12 people (BCC reference number 24/00271/F). The refusal reasons relate to the inadequacy of the living environment for future occupiers, the effect of noise and loss of privacy on the living conditions at nearby residences and the effects of associated parking on highway safety and amenities of the locality.
11. Also, the applicant advises that a certificate of lawfulness (reference number 24/00349/CP) has been issued by BCC. This confirms the lawful use of No 59 as a six-bed small HMO (Use Class C4). This use has since commenced. Also, BCC has issued a certificate of lawfulness pertaining to dormer roof extensions that have since been completed.

Whether the development would provide satisfactory living conditions and facilities.

12. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014 (the LP) explains when the intensification of existing HMOs will not be permitted. The policy requires a good standard of accommodation that meets relevant requirements and standards set out in other development plan policies. LP policy DM30 states that alterations to existing buildings will be expected to safeguard the amenity of host premises. Policy BCS21 of the Bristol Development Framework Core Strategy 2011 (the CS) sets out a similar expectation. Factors to be considered are set out at paragraph 4.21.13 of the CS and include outlook and natural lighting. CS policy BCS18 requires residential development to provide sufficient space for everyday activities.
13. The proposal includes the alteration of a detached garage in the back garden and its use as a bedroom with en-suite bathroom and built in wardrobe (bedroom 8). The plans show that this building would only be served by a partly glazed door and small window in one wall with the other elevations being blank. Accordingly, the room would have a restricted outlook, particularly as views through the glazing would face out towards the proposed bike store and rear of the house, which is on a higher ground level. Moreover, the limited fenestration would not allow meaningful levels of natural light into the room. These shortcomings as well as the low floor to ceiling height within the building mean bedroom 8 would provide a poor standard of accommodation, even though the room would be quite large and would exceed minimum standards for bedrooms in HMOs.
14. The HMO would have a large communal kitchen/living area. However, it cannot be assumed that residents will always want to mix with each other. Therefore, it is important that bedroom 8 provides a good living environment as it would provide the only private space for its occupier.
15. The Council's other concerns in respect of this issue relate to bedroom 6. The drawings show this would have a floor area above the minimum

6.51m² required under BCC's standards for licensing HMOs. The room is in the roof space and its ceiling drops in height so that roughly half of its floor to ceiling height is below 2m. However, it is served by large rooflights that allow access to lots of natural light. Also, I saw how furniture in the room could be laid out to allow for storage of items and sufficient space for a bed and desk whilst maintaining appropriate circulation areas. As such, I am satisfied that bedroom 6 would provide an acceptable living environment, even if the adjoining office room becomes another bedroom as proposed.

16. An interested party has raised concern over the outlook from the front ground floor bedroom as the windows serving this room are fitted with frosted glass. However, this room is already being used as a bedroom as part of the established small HMO. The proposal would not alter the current situation and so I find no unacceptable harm in these respects.
17. In overall terms, the proposed development would provide sufficient internal space for 8 residents and so it would accord with CS policy BCS18. However, acceptability in these regards does not address nor overcome the identified deficiencies with bedroom 8 and the poor living environment it would provide. As such, I conclude the development as a whole would not accord with LP policies DM2 and DM30 and CS policy BCS21.
18. As a fallback position in the event of this planning application being refused, the applicant suggests the garage could be converted without the need for planning permission, provided No 59 overall provides accommodation for no more than 6 residents. However, it is unclear why the applicant would go to the expense and effort to convert the garage as there is already 6 bedrooms within the main house. As such, I consider there is no more than a theoretical possibility of the proposed fallback position being carried out. Therefore, the fallback attracts limited weight in my assessment and it fails to address or overcome the identified conflict with development plan policies.

Effect on living conditions at nearby residences.

19. The application site is a mid-terraced property in a predominantly residential area. I would envisage that noise generating activities associated with the proposed development may be heard at adjoining and nearby dwellings as properties are close to each other. However, noise from the HMO would be from typical domestic activities. Moreover, I would expect that the level of activity from the proposed HMO would be similar to the current use as only 2 additional people would live at the property.
20. It is fair to expect the proposal would lead to greater use of the communal kitchen/living area. The noise from such activities may be noticed from adjoining properties through shared side walls. However, it would be reasonable to attach a planning condition as suggested by the Council that would require the approval and implementation of mitigation measures so as to reduce the potential effects of internal noise on adjoining properties. As such, I am unconvinced that additional activity in the communal parts of the property is bound to lead to unacceptable noise effects.

21. Also, the development is likely to generate more trips to and from No 59 compared to the existing situation. However, these would occur in a residential street where movement of residents and visitors already occurs. Within this context, trips by 2 additional occupiers would have no meaningful noise effect.
22. The bike store and the creation of bedroom 8 would lead to more activity within No 59's back garden but this is likely to be low-key and not excessively noisy. Also, there are no intrusive views from the rear of the property into neighbouring residences and so the development would avoid an unacceptable loss of privacy.
23. For the above reasons, I conclude the proposal would have an acceptable effect on living conditions at residences near to No 59. In these regards, it would accord with CS policies BCS21 and BCS23 as well as LP policies DM2, DM30 and DM35.

Parking.

24. The development would result in the loss of a potential single vehicle parking space in the garage and no other off-road parking space exists at No 59. However, BCC's car parking standards as set out in Appendix 2 of the LP are expressed as maximum rather than minimum requirements and so this lack of on-site parking is not contrary to policy.
25. Occupiers of the proposed HMO who own motor vehicles and visitors who travel by car would need to rely on street parking. Compared to the current 6 residents at the property, it is likely the proposed 8 person HMO would generate only a modest additional demand for kerbside parking, even when considering the loss of the garage space. In arriving at this view, I am mindful that residents of the HMO would not be highly reliant on private car travel given the urban location of No 59 and the opportunities to walk from the property to local services and facilities. These would include the church and church hall opposite, the shops and medical centre on Wick Road and larger shops and bus stops on and around Bath Road. Moreover, a bike store would be provided as part of the development that would encourage residents to own and use cycles. The HMO would be located where sustainable travel patterns can be achieved, in line with CS policy BCS10.
26. Unrestricted parking is allowed on both sides along most of Langton Road and on parts of nearby streets such as Bloomfield Road, Hardenhuish Road, Salisbury Road, Buckingham Road and Braikenridge Road. On my visit I saw cars parked along local roads but when I arrived in the midafternoon there was significant space available for street parking. There was a noticeable increase in parking during the pick-up period at the nearby school but roadside spaces were still available even during this time.
27. I would envisage that events and classes at the church and church hall would increase demand for parking in the locality. No survey has been carried out of local parking during peak times but I am taken to no development plan policy that requires such a survey. While noting the local residents' concerns, there is no substantive evidence to indicate existing

demand for roadside parking causes unacceptable problems. Moreover, there is little to suggest the modest increase in street parking as a result of the development would lead to inappropriate parking or associated safety problems. Indeed, given the scope for kerbside parking in the surrounding area, I find parking associated with the development is unlikely to cause any detriment.

28. For these reasons, I conclude the parking generated by the proposal would be accommodated safely and without harm to the amenities of the locality. In these respects, the development would accord with CS policies BCS10 and LP policies DM23 and DM35.

Character and appearance.

29. The only change to the front of No 59 as a result of the development would be the provision of 2 bin stores. I saw bins being stored to the front of other properties in Langton Road and so these stores would not stand out as being unusual to the area. The bin stores would also ensure the development complies with the relevant terms of CS policy BCS15 and LP policies DM2 and DM32. The changes to the garage would only be seen from private property and a rear access way. As such, these alterations would not unduly affect the visual qualities and character of the locality.
30. Outwardly, No 59 is similar to all the other dwellings on Langton Road, despite being used as a HMO. The proposed HMO would be a residential use in line with the predominant character of the area. It would contain more occupants than the current situation but this change would not noticeably affect the nature of the property nor how it is seen within the street scene.
31. As such, I conclude the development would have an acceptable effect on the character and appearance of the area. In these regards it would accord with CS policy BCS21 and LP policy DM2.

Other concerns.

32. Interested parties have raised various other concerns. The development would not affect the provision of local services as it would result in only 2 additional residents at No 59. For the same reason, I am satisfied it would not materially increase the risk of fire occurring at the property.
33. The proposed HMO is likely to lead to more waste being generated from No 59 but this is not bound to result in the improper disposal of waste and associated vermin. Moreover, I see no reason why works to convert the garage would cause unacceptable construction noise or dust. Also, I am satisfied the works could be carried out without causing damage to any other property. I note interested parties' comments on the existing HMO use and how it is managed. However, it is inappropriate to assume that residents of the proposed HMO would cause anti-social behaviour.
34. I note the application has caused worry to some local residents. However, I find the development would avoid unacceptable harm to the living environment at nearby dwellings. As such, the proposal would not unacceptably interfere with any existing resident's right to a private family

life and home as referred to under Article 8 of the Human Rights Act 1998. Moreover, planning is concerned with land use in the public interest and so the claimed effect of the development on local property values as a purely private interest fails to affect my consideration of the application.

35. I have assessed the proposal on the evidence before me and in light of the current development plan policies and other relevant factors. Allowing the application would not set an irresistible precedent to be followed in the determination of any future proposals for HMOs in the area. This and the other objections raised do not provide sound justification to refuse planning permission and so they do not affect my overall conclusion.

Other matters and planning balance.

36. I have found the development would accord with CS and LP policies in many respects. Acceptability in these regards is a neutral factor in my overall assessment.
37. However, I have also found the proposed bedroom 8 would not accord with policies that require a good standard of residential accommodation. The proposal would conflict with the development plan when read as a whole. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. It follows to consider whether such factors exist in this case to justify granting planning permission contrary to the CS and LP.
38. BCC acknowledges that it is failing to meet the Housing Delivery Test requirements as referred to at paragraph 79 of the Framework published December 2023. Consequently, it also accepts that the circumstances as set out in footnote 8 of the Framework apply and so paragraph 11(d) of the Framework is engaged. This requires balancing the benefits of the development against the adverse impacts.
39. The applicant refers to 2 planning appeal decisions that relate to proposals for HMOs in Brislington. However, the current proposal is different to these appeal schemes, particularly in terms of the conversion of the garage. Also, no concerns were raised over the standard of proposed living accommodation with either of these referred to schemes. Given these differences, the appeal decisions fail to influence my deliberations on this planning application.
40. The application form states the biodiversity gain condition as set out in paragraph 13 of Schedule 7A of the Act would not apply as the proposed development would be subject to the de minimis exemption. I have no reason to disagree. The lack of harm to biodiversity is a neutral factor in my assessment.
41. The proposal would provide accommodation for 2 additional residents in an urban location with good links to services. Residents would support local businesses through expenditure and shared facilities within the property would help reduce energy usage per occupant. Also, the proposal would make the more effective use of previously developed land in a suitable

residential location. These factors weigh in favour of the development, although the benefits are modest given that the scheme would provide accommodation for just 2 extra residents.

42. At paragraph 135(f), the Framework states that planning decisions should ensure development provides a high standard of amenity for future users. Also, at paragraph 139, the Framework states that development that is not well designed should be refused. With such provisions in mind, I find the adverse impact of the poor standard of living accommodation in bedroom 8 would significantly and demonstrably outweigh the benefits when assessed against the Framework. Therefore, the presumption in favour of sustainable development as set out in paragraph 11 of the Framework does not apply. The WMS and the consultation draft of the Framework do not alter my overall view on the proposal.
43. BCC has recommended and requested conditions to be imposed should the application be permitted. In my view, imposing these conditions would not overcome or otherwise outweigh the harm I have found in my reasoning above.

Conclusion

44. For these reasons, and having regard to all other matters raised, the proposal would not accord with the development plan and therefore I conclude that planning permission should be refused.

Jonathan Edwards

Inspector and Appointed Person

Schedule

Informatives:

- i. In determining this application the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. The Planning Inspectorate gave clear advice of the expectation and requirements for the submission of documents and information, ensured consultation responses were published in good time and gave clear deadlines for submissions and responses. Also, the Planning Inspectorate accepted further submissions on the WMS and consultation draft of the Framework. However, the development is not acceptable and modest changes or additional information would not overcome the issues so that the proposal would accord with the development plan. In such circumstances it would have been inappropriate to work with the applicant to find solutions to the problems during the application process.
- 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 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Act is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision.
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>