



## Decision Notice and Statement of Reasons

Site visit made on 17 April 2025

**By N Robinson BA (Hons) MA MRTPI**

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

**Decision date: 23 June 2025**

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**Application Reference: S62A/2025/0091**

**Site address: 265-267 Church Road, Bristol BS5 9HU**

- 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 24 February 2025 is made by Westfarthing Property Ltd and was validated on 07 March 2025.
  - The development proposed is erection of a second floor roof extension, demolition and rebuilding of a single storey rear extension, and change of use of upper floors and part of ground floor from ancillary commercial space to a large a 8-bed HMO. New shopfronts to retained ground floor commercial units.
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## Decision

1. Planning permission is refused for the development described above, for the following reasons:

- 1.) The proposed retail unit would not be provided with adequate ventilated waste storage and thus would have all the facilities necessary for commercial operation. Without the provision of appropriate waste storage, the commercial unit would not have a reasonable prospect of being viable. Consequently, the proposal would result in harm to the vitality and viability of the Town Centre. The proposal would therefore be contrary to Bristol Development Framework Core Strategy (2011) policy BCS7 and policy DM8 of the Local Plan – Site Allocations and Development Management Policies (2014).
- 2.) The proposed cycle storage would require occupiers to wheel bicycles through a narrow corridor through the property. This inconvenient and impractical arrangement would deter occupiers from the use of the bike store. The proposal would therefore fail to provide adequate secure facilities to encourage travel by sustainable means. Therefore, the scheme conflicts with policies DM2 and DM23 of the Local Plan – Site Allocations and Development Management Policies (2014).

# Statement of Reasons

## Procedural matters

2. 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 (BCC) has been designated for non major applications since 06 March 2024.
3. Consultation was undertaken on 14 March 2025 which allowed for responses by 16 April 2025. BCC submitted an officer report on 10 April 2025. The consultation response sets out the Council's comments in relation to the proposed development and a list of suggested conditions. Amended plans were submitted on 15 May 2025 and a re-consultation was undertaken on 15 May 2025 which allowed for additional responses by 30 May 2025. BCC submitted further comments in relation to the amended plans. I have taken account of all written representations in reaching my decision.
4. I carried out an accompanied site visit on 17 April 2025 which enabled me to view the site and the surrounding area.

## Background

5. There is no relevant planning history to the application site.

## Main Issues

6. Having regard to the application and BCC's statement, I consider the main issues for this application are:
  - *the effect of the proposal on the vitality and viability of the Town Centre;*
  - *the effect of the development on the mix and balance of housing in the area;*
  - *the effect of the proposal on the highway network;*
  - *whether the proposal would provide an acceptable living environment for future occupiers;*
  - *the effect of the proposal on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties;*
  - and
  - *whether the proposal would comply with development plan policies regarding energy minimisation and renewable energy generation.*

## Reasons

### *The effect of the proposal on the vitality and viability of the Town Centre*

7. The application site comprises a mid terraced property on Church Road. The building comprises a retail and workshop area to the ground floor and office/ ancillary storage to the first floor. The proposal seeks a change of use of the

upper floors and part of the ground floor to a large a 8-bed HMO. A commercial unit will be retained to the ground floor.

8. The site is located in the St George (Church Road) Town Centre, a primary shopping area. Bristol Development Framework Core Strategy (2011) (CS) Policy BCS7 states that uses which contribute to maintaining the vitality, viability and diversity of centres will be encouraged. Local Plan – Site Allocations and Development Management Policies (2014) (LP) policy DM8 sets out that within Primary Shopping Areas change of use of shops to another use will not be permitted unless the proposed use would:
  - i. Make a positive contribution to the vitality, viability and diversity of the Primary Shopping Area and centre; and
  - ii. Not fragment any part of the Primary Shopping Area by creating a significant break in the shopping frontage; and
  - iii. Not result in a loss of retail floorspace of a scale harmful to the shopping function of the centre; and
  - iv. Be compatible with a retail area in that it includes a shopfront with a display function and would be immediately accessible to the public from the street.
9. The proposal makes provision for a 34m<sup>2</sup> ground floor commercial unit to the front of the building. This represents an overall increase in retail floorspace. The proposal would include a shopfront with a display function and would not result in the loss of active frontage within or fragmentation of the primary shopping area. Whilst the proposed ground floor residential use would not constitute an active frontage, neither did the existing workshop.
10. Whilst the applicant has indicated that refuse could be stored within the store area, the proposal does not include a ventilated bin store for the commercial unit. There is no compelling evidence before me that there would be a realistic prospect of this unit being commercially viable without the provision of appropriate waste storage, even if the use of the property were restricted to certain uses, as suggested by the applicant.
11. Given the inadequate bin storage provision I cannot be assured that the commercial unit would have a reasonable prospect of being viable. In light of this I find that the proposal would be harmful to the site's retail function, thereby resulting in harm to the vitality and viability of the town centre. Conflict therefore arises with those aims of LP policy DM8 and CS Policy BCS7.

#### *Mix and balance of housing*

12. LP Policy DM2 seeks to ensure that proposals for new HMOs don't contribute to a harmful concentration of such uses within a locality as a result of exacerbating existing harmful conditions or reducing the choice of homes in the area by changing the housing mix. The Managing the development of houses in multiple occupation Supplementary Planning Document (2020) (SPD) advises that a harmful concentration of HMOs can arise where 10% or more of dwellings within 100m of the application site are HMOs, beyond which negative impacts to residential amenity and character are likely to be experienced and housing choice and community cohesion start to weaken. It

also states that proposals for the introduction of new HMOs resulting in an existing residential property or properties (Use Class C3) being sandwiched by HMOs on both sides are unlikely to be consistent with Local Plan policy.

13. In this case 1.41% of properties within 100m of the application site are licensed HMOs and therefore the desirable 10% threshold within the SPD would not be exceeded. The proposal would not result in the sandwiching of properties between HMOs. Given this, the proposal would not result in an overconcentration of HMOs and there is no suggestion that it would reduce the choice of homes in the area by changing the housing mix. Thus, the proposal accords with those aims of LP policy DM2 as set out above and CS Policy BCS18 which 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. It would also accord with the SPD, the aims of which are set out above.

#### *The effect of the proposal on the Highway network*

14. The proposal would not make provision for any off-road car parking spaces and there is limited capacity within the surrounding area for on-street parking. Whilst there is no guarantee that future residents would be car free, the site is located within convenient reach of day-to-day services and facilities. It is also accessible by different means of transport including by foot and public transport. It would therefore be perfectly feasible for occupants to live in the property without the need for a car and who would be able to travel for work, education, services or leisure by public transport, bicycle or on foot.
15. Whilst the proposed retail unit would not be provided with any dedicated car or cycle parking, Appendix 2 of the LP sets out that there are no car or cycle parking standards for units below 250m<sup>2</sup> such as the application site. Additionally, I note that the existing use did not have any dedicated cycle or car parking.
16. The Bristol Transport Development Management Guide-Cycle parking (2022) advises that all cycle parking should have wide doorways and spacious corridors and where communal cycle parking provision is made, a minimum straight corridor width of 2m is required. The proposal makes provision for 8 cycle parking spaces for the occupiers of the HMO, located within a dedicated cycle store in the rear garden. However, whilst the quantum of cycle storage would accord with the standards set down in LP Appendix 2, the access to the cycle store would require occupiers to wheel bicycles through a narrow corridor through the property. This arrangement would be inconvenient and impractical and would have a negative impact upon the use of the bike store.
17. In light of the above whilst there is no indication that the proposal would result in a harmful increase in the demand for on-street parking, it would not provide adequate secure facilities to encourage travel by sustainable means. Therefore, the scheme conflicts with those aims of LP policies DM2 and DM23 which seek to encourage development proposals where sustainable travel patterns can be achieved.

*Living conditions for future occupiers*

18. Future occupiers of the HMO would each be provided with bedrooms which would exceed the Council's minimum standard of 6.5m<sup>2</sup> and would each have windows providing natural light and outlook. Future occupiers would have access to communal facilities which would provide a functional and adequately sized space for residents to spend time in. Residents would also have access to adequate external amenity space to the rear.
19. The proposed bedrooms within the front elevation contain window openings onto a busy road and the site borders a hot food takeaway and the extraction units to a nearby supermarket are located at the bottom of the garden. I am satisfied that, subject to conditions in respect of a noise survey and any necessary mitigation, occupiers of the HMO would be provided with an acceptable living environment with particular regard to noise, odour and air quality.
20. I note that the circulation spaces within the property have no natural light and are narrow. However, there is no indication that they are of inadequate width to accommodate the number of proposed residents, and, in light of the limited time future occupiers would spend in the circulation spaces this would not be particularly harmful to the living conditions of the occupiers of the property.
21. In light of the above I am satisfied that, subject to conditions, the development would provide an appropriate living environment for residents in accordance with CS policies BCS18 and BCS21 and LP policies DM2 and DM30 which require developments to provide sufficient space for everyday activities and a good standard of accommodation for future occupiers.

*Effect on the character and appearance of the area and the living conditions for neighbouring occupiers*

22. The site forms part of a terrace fronting Church Road which comprises a mixture of commercial and residential uses. To facilitate the proposal it is proposed to erect a roof extension, demolish and rebuild a single storey rear extension, and insert new shopfronts to the ground floor.
23. LP policy DM2 sets out that proposals for the conversion of existing dwellings to be used as 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.

24. Future occupiers would be provided with adequate communal facilities and the proposal would not appear to represent an overdevelopment of the site. The proposed dormer window would be sited a considerable distance from the windowed rear elevations of the properties to the rear of the site and would not result in any additional opportunities for overlooking of neighbouring land, loss of light or loss of outlook. There is no suggestion that the levels of activity generated by the occupiers of the HMO would cause excessive noise and disturbance to residents in the surrounding area.
25. I have found that it would be feasible for occupants to live in the property without the need for a car. In light of this, whilst no car parking is proposed, there is no evidence that the proposal would generate levels of on-street parking that cannot be reasonably accommodated.
26. The proposed alterations to the front elevation would have no harmful effect on the character and appearance of the building or the wider area. There would be limited views of the proposed dormer window from public vantage points and therefore this element of the proposal would not result in harm to the character and appearance of the area.
27. I have found that the proposed cycle storage arrangements would be inconvenient and impractical and would likely deter occupiers from the use of the bike store. Nonetheless, in light of the site's location and lack of front garden, there is no suggestion that this would lead to the storage of cycles to the front of the property where they might result in harmful effects on the character and appearance of the area.
28. The proposal would lead to waste/recycling containers being left on the street on collection day. However, the storage of containers on the street on collection day does not appear to be entirely uncommon within the area. Given this, and the limited time which the containers would be stored on the street, the harm arising to the character and appearance of the area from the storage of containers on the street on collection day would be limited.
29. In view of the above, the proposal would safeguard the living conditions of the occupiers of neighbouring properties and would not result in harm to the character and appearance of the area. I therefore find that the proposal would accord with those aims of LP policy DM2 set out above, as well as CS policies BCS21, BCS23 and LP policies DM27 and DM35 which seek to ensure development safeguards the amenity of existing premises.

#### *Energy minimisation and renewable energy generation*

30. CS policy BCS14 states that development should include measures to reduce carbon dioxide emissions from energy use by minimising energy requirements and by incorporating renewable and low-carbon energy sources. The policy goes on to state that development will be expected to provide sufficient renewable energy generation to reduce carbon dioxide emissions from residual energy use in the buildings by at least 20%. The proposal meets the 20% residual energy use target through the building fabric and the incorporation of an air source heat pump. I am satisfied that the proposal meets the requirements set down in CS policy BCS14.

## **Other Matters**

31. In support of the proposal, the applicant references alterations which could take place under Classes G and MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which allow for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. However, prior approval for the referenced change of use under Classes G and MA has not been granted and I cannot be certain that permissions would be forthcoming. Given this, I afford this limited weight as a fallback position.
32. The Community Infrastructure Levy (Amendments etc.) (England) Regulations 2025 came into force on 1 May 2025. Regulation 2 enables developments approved directly under Section 62A to be subject to Community Infrastructure Levy (CIL) contributions. The Council has set out that if the application had been submitted to them then CIL would have been payable. On the evidence before me, I have no reasons to disagree. Were the development acceptable and permission granted, it would be for the Council as the charging authority to issue a Liability Notice following the grant of planning permission.

## **The Planning Balance**

33. The Council accepts that it is unable to demonstrate a 5-year housing land supply. Paragraph 11d of the National Planning Policy Framework (the Framework) indicates that, in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
34. The provision of an additional dwelling would accord with the Framework's objective of significantly boosting the supply of homes and would improve local housing choice for those seeking smaller units of accommodation. However, the benefits of housing delivery, to which I have attached significant weight, are tempered by the fact that the provision of one HMO would only make a small difference to housing supply. The proposal would improve the energy efficiency of the building and would result in enhancements to the appearance of the building. There would be investment and employment during construction, and spending in the local economy by future occupants thereafter. Having regard to the overall scale of the proposal, these benefits collectively attract moderate weight.
35. Set against these benefits, the proposal would cause harm to the vitality and viability of the Town Centre and would fail to encourage travel by sustainable means. This results in conflict with the development plan as a whole, to which I afford significant weight. Conflict also arises with Chapters 7 and 9 of

the Framework which seek to ensure that decisions support the role the town centres play and pursue opportunities to promote cycling.

36. Therefore, whilst the Framework seeks to significantly boost the supply of housing, the adverse impacts would significantly and demonstrably outweigh the modest benefits of the proposal, when assessed against the policies in the Framework taken as a whole. As such, the proposal would not constitute a sustainable form of development in terms of the Framework and therefore does not benefit from the presumption in favour of sustainable development. Therefore, material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with the development plan.

## **Conclusion**

37. For these reasons, and having regard to all other matters raised, the proposal does not accord with the development plan and there are no material planning considerations which indicate that permission should be forthcoming in spite of this conflict. Therefore, I recommend that planning permission should be refused.

*N Robinson*

Inspector and Appointed Person

## **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. In doing so 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.
- 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 Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision.
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>



## **Appendix 1 - Consultee responses**

Bristol City Council