

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

Our ref: PR02374
Date: 6th October 2025

Sent via e-mail

Dear Sir/Madam,

Town and Country Planning Act 1990

2 Merton Road, Bristol BS7 8TL

Erection of a second-floor extension to the above property, and the change of use to 5no. small houses in multiple occupation (Use Class C4); including creation of ancillary storage area.

I write on behalf of my clients, MSJ Developments (Bristol) Ltd, to apply for a second floor extension to the above property, to facilitate the change of use to 5no. small houses in multiple occupation. It is proposed to retain a small area of the ground floor as ancillary storage area for the use by the applicant as part of their property development operations. The applicant has chosen to take the Section 62A route and submit the proposal directly to the Planning Inspectorate. Notice of this intention was given on the 19th September 2025. I can confirm that the development would be liable for CIL. I attach the following documents as part of this application:

- Completed application and CIL forms;
- Drawing no. 1850-P-050 rev A – site location plan and existing block plan;
- Drawing no. 1850-P-051 rev A – existing floor plans;
- Drawing no. 1850-P-052 rev A – existing elevations;
- Drawing no. 1850-P-100 rev D – proposed block plan;

- Drawing no. 1850-P-101 rev G – proposed site plan;
- Drawing no. 1850-P-102 rev E – proposed ground and first floor plans;
- Drawing no. 1850-P-103 rev C – proposed second floor and roof plans;
- Drawing no. 1850-P-104 rev C – proposed elevations;
- Contaminated land report (from previous scheme);
- BNG exemption statement;
- Sustainability and energy statement;
- Noise assessment.

Site and planning history

The application site comprises a two-storey warehouse and associated hardstanding, to the rear of 369-375 Gloucester Road and accessed from Merton Road. It was most recently used in connection with the former electrical retail store (AE Horders) which occupied 369-375, and has now been converted to office accommodation (within the same Class E Use Class).

It lies within the Merton Road Industrial Estate (non-designated), which comprises a mixture of single and two-storey commercial and industrial buildings. The building adjoins the Gloucester Road Town Centre, and the Gloucester Road Primary Shopping Area. It is within Flood Zone 1 and no other policy designations apply.

The site benefits from an extant planning permission for the conversion to 6no. self-contained flats (ref: 23/02268/F), granted 5th September 2024. More recently, a Section 62A application for 6no. HMOs and a second floor extension (ref: S62A/2025/0090), and which is appended to this letter, was refused. This current application seeks to overcome the reason for refusal (residential amenity). The site has also been the subject of a pre-application for HMO development.

There are bus stops within short distances (60-120 metres), to both the south and north on Gloucester Road providing multiple, regular services towards Bristol City Centre, and the northern urban fringes of the city. The newly-opened Ashley Down Railway Station lies within 800 metres, and provides hourly services towards Bristol Temple Meads and Filton Abbey Wood, for connecting services to multiple destinations. The Concord Way cycle path (a mainly traffic-free route between the city centre and UWE/Bristol Parkway Railway Station) passes next to Ashley

Down Railway Station. Given the town centre location, the site has excellent access to a range of services and facilities.

Proposal

My client proposes to replace the existing double dual-pitched roof (facing Merton Road), and to erect a second floor extension. A standing seam mansard roof is proposed.

5no. small dwellinghouses in multiple occupation are proposed, with one unit at the front of the ground floor, and two units per floor at first and second floor levels, arranged to the left and right of a central communal access. The ground floor unit would have six bedrooms, and, the two second floor units would have three bedrooms each. All bedrooms are proposed as single occupancy.

A communal refuse and recycling store would be provided, together with a cycle store for 22no. bikes, and 6 sets of bins. It is proposed to retain the rear section of the ground floor as ancillary storage for materials relating to the applicant's property development company

Planning analysis

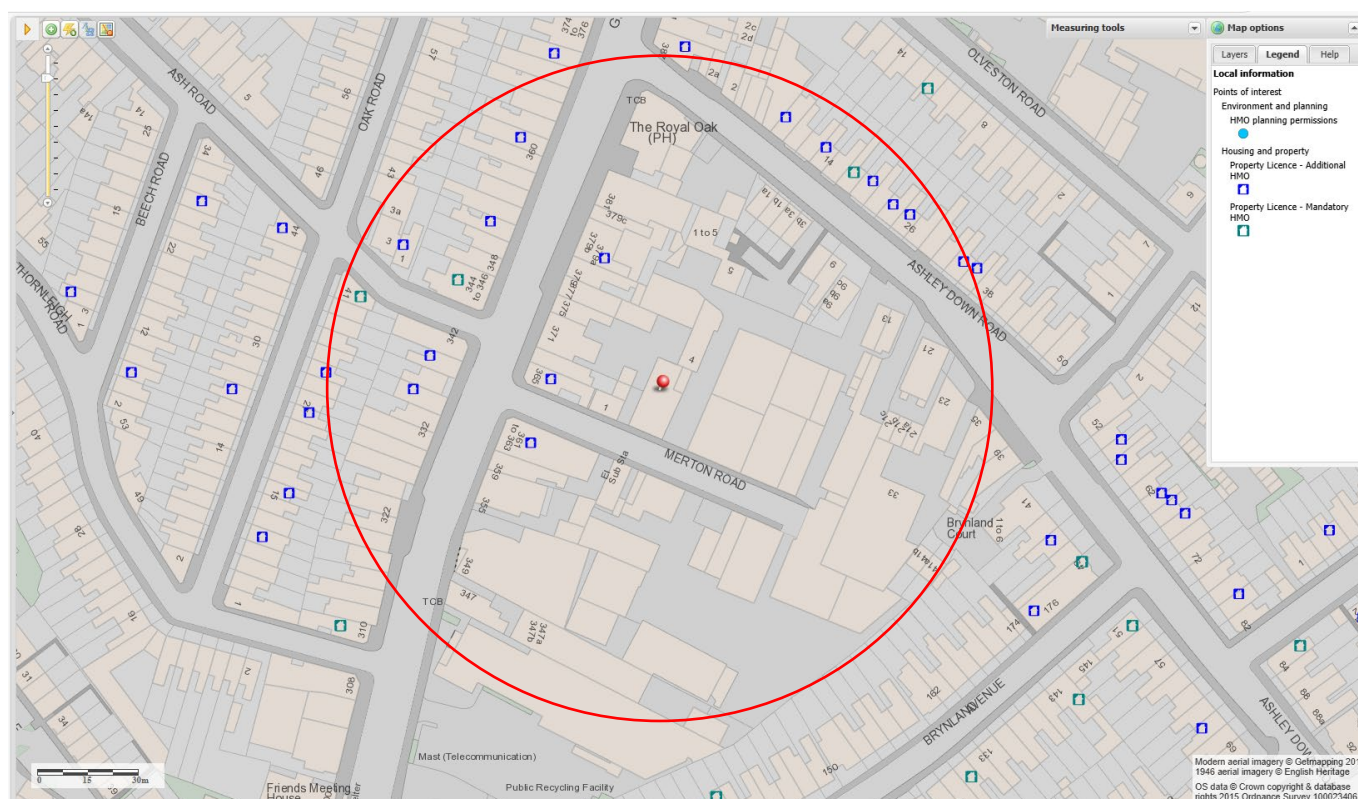
As noted above, the site has been the subject of a recent Section 62A planning application, and this current application seeks to overcome the reason for refusing that application (residential amenity). The only revisions relate to the ground floor, and these see the removal of one of the ground floor HMOs, and the provision of ancillary storage, with the ground floor HMO increased in size from four to six bedrooms. No other revisions have been made, and therefore in every other respect, the scheme is as per the previous scheme, which was found to be acceptable in terms of principle, housing mix, highways impact, sustainable energy and unstable land. The following analysis is therefore as per the letter submitted with the original application, and updated where relevant (residential amenity, and the principle of ancillary storage).

Principle of development

The principle of the loss of ancillary retail storage has been established through the extant planning permission (23/02268/F), as has the principle of residential accommodation in this location. It is therefore left only to examine whether the principle of HMO accommodation in this location would be acceptable.

The Council's 'Managing the development of houses in multiple occupation' Supplementary Planning Document identifies what constitutes a harmful concentration of HMOs. On a street level, this arises when a proposed dwelling is sandwiched between two HMOs. On a neighbourhood level, this arises when HMOs comprises 10% or more of the housing stock within a 100-metre radius.

As this map shows, whilst there are a sizeable number of HMOs in the vicinity, the number of residential properties in the area (both C3 and C4/sui generis) is relatively low, given the surrounding industrial area, and retail units on Gloucester Road. Other than three existing HMOs above retail units on Gloucester Road, the site is physically separated from the bulk of the HMOs in the vicinity, which are along the north side of Ashley Down Road to the north (and so separated by the industrial estate and Ashley Down Road itself, which is a busy, classified road), and to the west of Gloucester Road.



Existing HMOs within 100 metres of application site (red circle denotes 100 metre radius)

Of relevance is a recent appeal decision at Nailsea Electrical, Gloucester Road, Bristol (ref: APP/Z0116/W/23/3335671, appended to this letter). Similar to the current proposal, that site has an extant consent for a flatted scheme, and sought consent for an HMO scheme of 9 units. The LPA has objected on the grounds of a breach of the 10% threshold. The Inspector noted that the

SPD takes a two-part approach, and that a breach of the 10% threshold does not automatically lead to harm such that the Local Plan policies would be breached; it is only an indication that such a breach is likely (para 35). The Inspector concluded on this issue that:

"36. In this case, I note that the threshold would only be exceeded by 3%. In the context of this particular site, which is located on a corner plot, by a busy road in an area of a significant mix of uses, 3% above the nominal percentage threshold outlined in the SPD would be minor. In addition, having regard to the findings above, the development would not result in any of the harms, set out in the relevant Policy, in terms of noise and disturbance to residents, impact on on-street parking, and the effect of physical alterations to the building.

37. Compared to the two previous schemes at the site, there would be a different mix of housing. The Council notes that the previous proposal for 17 flats was acceptable as it would increase the availability of smaller properties in an area where houses, with a greater number of bedrooms was predominant. This proposal would introduce a number of HMOs rather than small flats. However, it would still introduce more housing choice for those seeking smaller types of accommodation. Therefore, both the 17 flats scheme and this appeal scheme would increase choice, and I have no evidence that one would be significantly more beneficial than the other."

The applicant considers that the current site has much in common with the Nailsea Electrical site, falling within the same Town Centre location, adjacent to the same busy road, and with a similarly significant mix of uses in the vicinity. Whilst in this instance the exceedance of the 10% threshold guidance would be more significant, it follows that if the harms identified with a breach of the 10% threshold are not present in this particular instance, then there would be no conflict with the relevant local plan policy (DM2).

In refusing the previous application, the Inspector stated that, "I have not found that the proposal would give rise to or contribute to existing harmful conditions including noise, disturbance or parking conditions. In terms of the second effect, the proposal would not involve the loss of any existing type of accommodation and as such would not reduce the housing choice in the area, but would add to it. As such, while there would be a concentration of HMOs in the area, I do not consider this would amount to a harmful concentration or conflict with parts i. or ii. of Policy DM2 or the SPD where it refers to this matter." (§10)

The principle of HMO accommodation in this location is therefore once more acceptable, subject to an analysis of neighbour impact, design and parking, which is included below.

With regards to the ancillary storage proposed, this would be for the sole use of the applicant (who would accept a condition to this effect). The applicant operates as property development and maintenance contractor, and the storage would be used for materials relating to this work (e.g. electrical fittings, ironmongery, pipework, handtools etc). The small-scale nature of the use would not be incompatible with the proposed residential use, and therefore raises no concerns.

Housing mix

Policy BCS18 supports a neighbourhood with a mix of housing tenure, types and sizes to meet the changing needs and aspirations of its residents. The supporting text states that evidence provided in the Strategic Housing Market Assessment (SHMA) suggests that new developments should provide for more accommodation for smaller households. The SHMA was updated in February 2019 for the wider Bristol area. This states that single person households are expected to represent 40% of the overall household growth: an increase of 34,000 from 2016 to 2036. The proportion of single person households is therefore predicted to increase from 31.7% to 33.3%, whilst households with children are predicted to remain constant, at 26.2%.

The 2019 SHMA states that, *"whilst there is projected to be an increase of 34,000 extra single person households, only 14,600 extra dwellings have one bedroom (5,000 market homes and 9,600 affordable homes). This reflects that many single person households will continue to occupy family housing in which they already live."* (para 2.20). The SHMA predicts that the need for 1-bed accommodation will increase by 16.8% over the period, whilst the need for 3-bed houses will increase by a broadly similar figure (17.6%).

Within both the pre-app response (and the delegated report for the extant 6-flat scheme), the Council noted that there was an evident shortfall of one-bedroom dwellings within the LSOA and wider area. As such, and given the findings of the SHMA, and taking into account the appeal decision at Nailsea Electrical, the provision of a total of eighteen individual bedrooms would introduce more housing choice for those seeking smaller types of accommodation. In the absence of evidence that the extant scheme for 5no. one-bed and 1no. two-bed flats would be significantly more beneficial than single-occupancy bedrooms, the proposal would contribute positively to the housing mix of the area.

Residential amenity

Policy DM30 requires extensions to existing buildings to safeguard the amenity of the host premises and neighbouring occupiers. Policy BCS21 states that new development should safeguard the

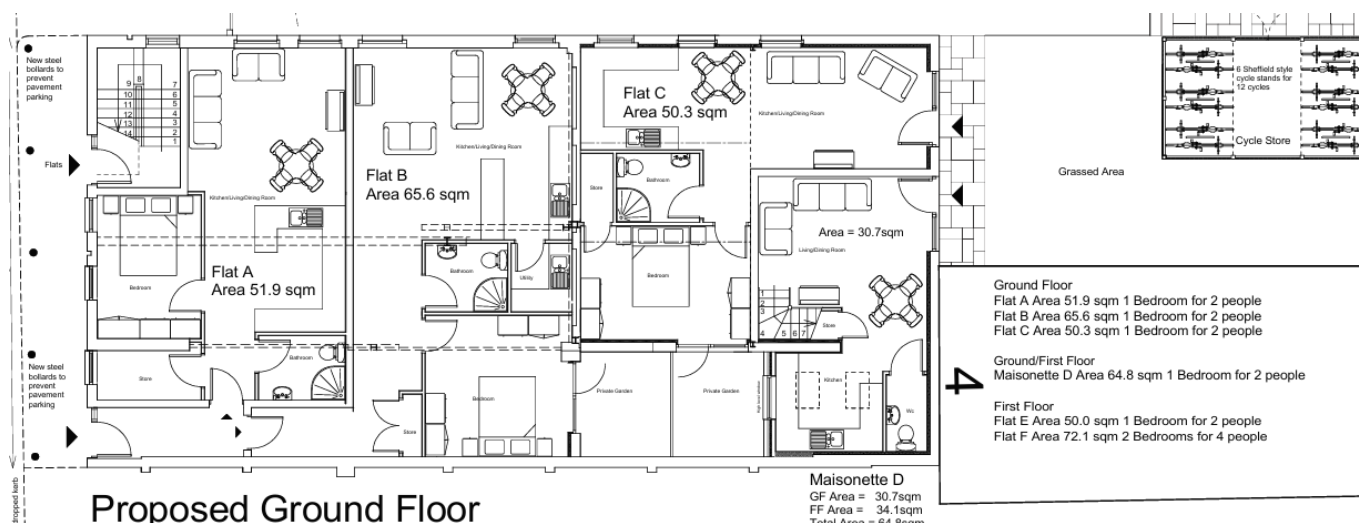
amenity of existing development and create a high-quality environment for future occupiers. Policy DM27 expects that new development will *"enable existing and proposed development to achieve appropriate levels of privacy, outlook and daylight"*; and *"enable the provision of adequate appropriate and usable private...amenity space, defensible space, parking and servicing where necessary."*

Policy DM2 seeks to ensure that the conversion of properties to HMOs results in adequate residential amenity, does not result in harm due to excessive noise and disturbance, any impact upon street parking, the character of the dwelling or through inadequate refuse or cycle storage. The Council's HMO SPD requires proposals to have regard to the current minimum room size standards applied by the Council to licensable HMO properties.

For single occupancy bedrooms, this amounts to a minimum room size of 6.51sqm. The bedrooms across all five units would range in size from 11.7sqm (excluding the en-suite facilities provided to all rooms) to 15.7sqm, and would exceed the 9sqm minimum requirement for a combined bedroom and living room. The rooms would all have good-sized windows and appropriate outlooks.

The standards require a 3-bed HMO to have 13.5sqm of total communal living space, and a 6-bed HMO, 20sqm (though if bedrooms exceed the minimum 9sqm for a combined bedroom and living room, then only a 9sqm communal kitchen is required). The communal lounge/kitchens would measure 44.8sqm for the six -bed unit, and 28.9sqm for the four-bed units. Given that the communal spaces exceed the requirement by some margin, and all bedrooms also exceed the minimum requirement for a combined bedroom and living room, the proposal would comfortably meet the needs of future occupant in terms of residential amenity. A further illustration of the spaciousness of accommodation is that the 3-bed units would have 96sqm of internal floorspace. By way of comparison, the national space standard for 3-person flats is 61sqm (based on occupancy of bedrooms).

With regards to residential amenity, in assessing the extant scheme, officers noted, *"Though the LPA would typically expect to see all dwelling units be dual aspect, officers appreciate the constraints of the site and the fact this is a change of use and therefore consider this acceptable in this instance. All habitable rooms are served by windows ensuring adequate ventilation and light. all the habitable rooms would have suitable outlook and access to natural light."*



Planning permission 23/02268/F – proposed ground floor

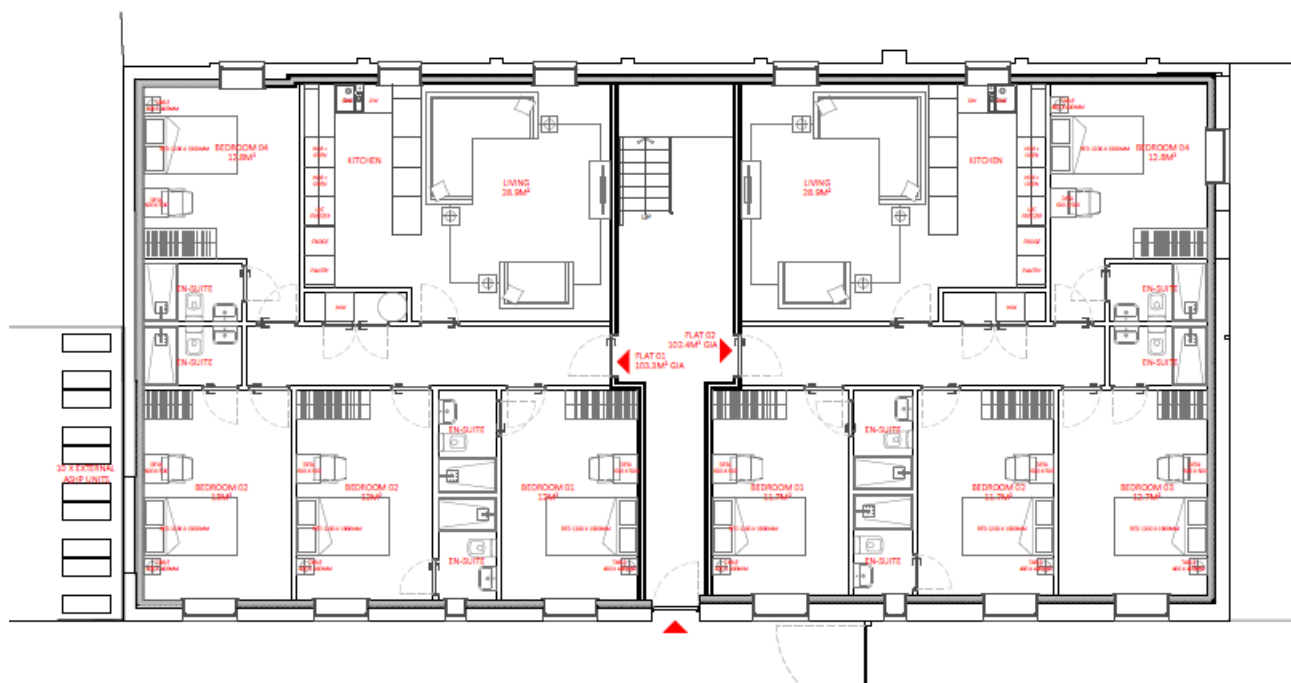
Taking into account the communal space, 16 of the 18 bedrooms would in effect be dual-aspect (with only bedroom 4 for flat 2 having the same aspect as the communal space). The outlook from the northwest-facing windows would be unchanged from the extant scheme. The main change would be the addition of fenestration to the southeast elevation.

In refusing the previous scheme, the Inspector raised concerns with the southeast elevation, noting that, *"I have concerns that the noise and disturbance which could be experienced by future occupants, particularly as the windows would directly adjoin the edge of Merton Road to the south; a vehicular access and commercial service yard to the west and; multiple industrial/commercial uses to the east including a motorcycle recovery facility advertising 24hour service. In the absence of any buffer between the windows and adjoining accesses, the windows would offer poor outlook, particularly at the lower levels where vehicles and pedestrians would pass directly outside the windows. This could occur throughout the day and at unsociable hours."* (§14)

The Inspector went on to state, *"Furthermore, given the proximity to servicing areas it is likely that the ground floor windows, particularly bedrooms, would need to be at least partially obscure glazed to maintain privacy. This would contribute further to the poor living conditions of the ground floor units."* (§18)

To address this reason for refusal, the ground floor has been reconfigured. Previously, two bedrooms, and the communal lounges for both ground floor flats were proposed overlooking the rear access lane. Under the revised scheme, no ground floor bedrooms would face out on to the rear. The communal lounge to flat 1 would have two opaque, mechanically ventilated windows to the access lane, but would also have a large window to the south elevation, looking out on to

Merton Road. As such, it would benefit from good outlook and ventilation, in addition to the outlook and ventilation afforded from individual bedrooms.



Refused ground floor layout (S62A/2025/0090)

Views from the first and second floor windows would oversail the single-storey development to the rear, and therefore raise less issues. It should also be noted that only two of the upper floor bedrooms face out over the lane. It is pertinent once more to consider the approved scheme, which included a bedroom window (to flat C) within 2.7 metres of a blank wall, a high-level window only to the kitchen of maisonette D (looking out on to the private space of flat C), and a bedroom window (to flat B) facing a blank wall within 2.6 metres, and with blank walls immediately to either side.

No private amenity space is proposed, however, as the Council noted in approving the extant scheme, *"Officers consider that due to the constraints of the site and the availability of a high-quality greenspace within walking distance of the development, that it would not be reasonable to refuse this application on the grounds of a lack of private outdoor amenity space."* For the avoidance of doubt, this greenspace comprises Horfield Common (270 metres to the northwest).

In respect of neighbour amenity, there would be no additional impacts over and above those previously assessed and found to be acceptable, and window-to-window distances would remain unchanged. Whilst the proposal would represent an intensification in terms of occupancy, given the town centre location and surrounding uses, this does not in itself raise any concerns.

The extant scheme includes a pre-commencement condition requiring the submission of a detailed acoustic report on the existing noise climate. This has been provided as part of the current submission.

Design

The building is neither nationally nor locally listed, and is not within a conservation area. It is nevertheless an attractive, brick-built commercial building, and the proposal seeks to retain this appearance, whilst providing a complimentary and contemporary upward extension, to make more efficient use of previously developed land in a highly sustainable location. The mansard roof would keep the existing ridge height, whilst providing additional accommodation within the roofspace.

§125e of the recently revised NPPF states that planning decisions should, *“support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions – including mansard roofs – where the development would be consistent with the prevailing form of neighbouring properties and the overall street scene, is well- designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”* §124c states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and emphasises that such proposals should be approved unless substantial harm would be caused.

These recent changes to the NPPF reflect the direction of travel for the new Government, set out in the 30th July 2024 Written Ministerial Statement (WMS), that it will be explicit in policy that the default answer to brownfield development should be yes.

The pre-application advice in respect of the design was that the mansard roof, fenestration and materials were all acceptable. The mansard roof has been designed in response to this explicit support for upward extensions. Whilst the surrounding commercial buildings are generally single-storey (though with steeply-pitched roofs), residential development is generally three-storey, either as-built (the Bryland Court flatted development to the north, and dwellings fronting Ashley Down Road), or extended (dormer roof extensions at 377, and 381-383 Gloucester Road). As such, the proposal would meet the aims of national and local planning policies and relevant design guidance.

Parking, cycle and refuse/recycling storage

The Council's Waste Guidance states that HMOs require 1 set of containers (a refuse bin, two dry recycling boxes (44ltr & 55ltr), kitchen waste bin (29ltr) and cardboard sack (90ltrs)) for every three bedrooms. For the 3-bed HMOs, this equates to 1 set of containers, (2 sets for the six-bed) which would be accommodated to the side of the building, as per the extant scheme, and there is level access through to the Merton Road for collection day.

Secure and covered cycle storage for 22no. bicycles (more than one per bedroom) is proposed within the rear garden, in excess of the requirements of policy DM23 (2 spaces per dwelling for 3-bed HMOs, 3 spaces per dwelling for 6-bed HMOs, which equates to 13 spaces for the scheme). A stacked system is proposed, with 11no. accessible spaces to the bottom tier, and 11no. upper tier spaces.

The site is within a town-centre location and easy walking distance of bus stops (less than 1 minutes' walk away), offering regular services into Bristol City Centre, and multiple other destinations. As such, a car-free development can be supported in this instance,

Sustainable energy

The extant scheme proposed a communal ASHP for heating, air-to-water heat pumps for hot water, and photovoltaics to the southern roof slope. The energy statement has been updated to reflect the revised scheme, and the same approach to the heat hierarchy has been taken, and a 20% reduction in carbon emissions once more achieved. The photovoltaics would be sited on the flat part of the mansard roof.

Biodiversity net gain

The application site is wholly developed and 100% hard surfacing, and as such would be exempt from mandatory 10% BNG. As per the extant scheme, there is no external area where any landscaping or other improvements to biodiversity could be achieved. Condition 15 required the installation of bird and bat boxes, though in respect of the latter, the condition states that these should be installed close to hedges, shrubs or tree-lines. Given the absence of any green infrastructure within 100 metres of the site (the rear gardens of Brynland Avenue), the installation of bat boxes would appear superfluous, however the applicant is happy to erect a suitable number of bird boxes to the rear elevation of the building if required.

Contaminated land

The Public Protection Team raised concern with the extant scheme that the existing unit could have had a contaminating use, and the standard pre-commencement conditions were duly attached to the consent. The same approach is considered appropriate in this instance.

Planning balance and conclusion

In the context of the Council not meeting any of the previous four Housing Delivery Tests, having a 2.2-2.4 year housing supply and paragraph 11d of the NPPF currently being engaged, the provision of additional housing (5no. HMOs providing a total of 18 bedrooms, which would add to the housing mix locally) should be given substantial weight, and the re-use of brownfield land, in part through an upward extension, is clearly in line with the recent WMS and revisions to the NPPF. As such, the default response to the proposal should be to approve.

The proposal would provide a high standard of accommodation and represent a valuable addition to the housing stock in a sustainable location, within easy reach of excellent sustainable transport links.

This letter outlines how the current proposal has addressed the previous reason for refusal, and raises no new issues that would justify refusal, given the extant consent. The outlook from bedroom 4 of flat 1, whilst not ideal, are no worse than for the consented scheme, and any harms ensuing would not significantly outweigh the benefits, in the context of paragraph 11d. For these reasons, the application should be supported.

The fee will be paid on request. If you have any further queries, then please do not hesitate to contact me.

Yours faithfully,

Stokes Morgan Planning Ltd



Decision Notice and Statement of Reasons

Site visit made on 17 July 2025

Decision by C Shearing BA (Hons) MA MRTPI

A person appointed by the Secretary of State

Decision date: 7 August 2025

Application Reference: S62A/2025/0090

Site Address: 2 Merton Road, Bristol BS7 8TL

- 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 25 February 2025 is made by MSJ Developments (Bristol) Ltd and was validated on 12 June 2025.
 - The development proposed is described as 'erection of a second floor extension and change of use to 6no. small houses in multiple occupation (use class C4)'.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) The proposed development would fail to provide an acceptable and healthy standard of accommodation for future occupants, contrary to Policy BCS21 of the Bristol Core Strategy 2011 and policies DM27 and DM30 of the Bristol 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 (the Council) have been designated for non major applications since 6 March 2024.
3. Consultation was undertaken from 18 June 2025 which allowed for responses by 18 July 2025. Responses were received from the parties listed in Appendix 1. The Council's response comprises an officer report, includes other internal consultee responses and sets out the reasons that the Council object to the proposal. I have taken account of all written

representations in reaching my decision. I also carried out a site visit on 17 July 2025, which enabled me to view the site and the surrounding area.

Background and Main Issues

4. The site benefits from planning permission for the conversion of the building to 6no. self contained flats. This was granted by the Council on 5 September 2024 under reference 23/02268/F. This permission appeared not to have been implemented but remains extant.
5. The main issues for this application are: the loss of the employment floorspace; whether the site is suitably located for new HMOs; whether the proposal would provide a suitable standard of accommodation for future occupants; the effects of the proposed extensions and alterations on the character and appearance of the area; the effects on the living conditions of nearby occupants, and; parking.

Reasons

Loss of employment floorspace

6. During my site visit I observed that the building in question provides storage space which I understand to be used in connection with an adjacent unit on Gloucester Road. As above, there is an extant planning permission which would entail the loss of the existing storage space. Therefore, although the loss of the employment floorspace would conflict with Policy BCS8 of the Core Strategy 2011 (the CS) and Policy DM12 of the Site Allocations and Development Management Policies 2014 (the SADMP), I give this conflict limited weight given the use would be lost if that permission were implemented. For the same reason, and as the commercial uses on the main shopping frontage would be retained, the effects on the Gloucester Road Town Centre would be acceptable.

Whether the site is suitably located for the new HMOs

7. Policy DM2 of the SADMP relates to proposals including the construction of new buildings to be used as HMOs and is supported by the 'Managing the development of houses in multiple occupation' Supplementary Planning Document 2020 (the SPD).
8. The SPD acknowledges that HMOs form a significant part of the city's private rented provision, providing homes and contributing to people's housing choice. It states HMOs are generally more affordable and flexible and therefore suitable for younger people and other households that are not living as families, and can provide positive social benefits to their occupiers. The SPD finds that higher numbers of HMOs in recent years reflect changes in the city's housing market, as increasing numbers of individuals are unable to buy a home or rent a flat in the city. However, in acknowledging that they have the potential to create harmful effects, Policy DM2 together with the SPD, seek to ensure that new HMOs would not harm residential amenity and the character of an area and they seek to avoid harmful concentrations of HMOs from occurring.

9. The SPD sets out how harmful concentrations will be considered using two tests. The Council have provided relevant figures based on its data relating to HMOs. This indicates that there are 125 residential properties within 100m of the site of which 14 are HMOs, equating to 11.2% of those properties. This is therefore already in excess of the 10% threshold set out in the SPD and the percentage would be notably increased as a result of the proposed six additional HMOs. The proposal would therefore fail the Threshold Assessment test. Turning to the second test, based on the information before me, and given the site's position relative to other residential uses, 'sandwiching' of other residential properties would not occur as described in the SPD.
10. In considering the effects of a harmful concentration, however, Policy DM2 requires consideration of the effects in exacerbating existing harmful conditions and reducing the choice of homes in the area by changing the housing mix. In terms of the first effect, for the reasons set out below arising largely from the site's location, I have not found that the proposal would give rise to or contribute to existing harmful conditions including noise, disturbance or parking conditions. In terms of the second effect, the proposal would not involve the loss of any existing type of accommodation and as such would not reduce the housing choice in the area, but would add to it. As such, while there would be a concentration of HMOs in the area, I do not consider this would amount to a harmful concentration or conflict with parts i. or ii. of Policy DM2 or the SPD where it refers to this matter.
11. I note the appeal decision evidenced by the Council¹. However the circumstances of that site and proposal would appear to be different, having a much greater percentage of HMOs in the neighbourhood area, and the Inspector found harm to the existing conditions.
12. For the reasons given the site would be suitably located for the proposed HMOs and the proposal would not result in a harmful concentration. It would comply with the relevant part of Policy DM2 of the SADMP, and Policy BCS18 of the CS which requires residential development to contribute to a mix of housing tenures.

Standard of accommodation

13. The bedrooms of the proposed HMOs would adhere to the size requirements set out in the Council's HMO License Standard, as well as those standards for a one person bedroom set out in the nationally described space standards. Each unit would benefit from shared living spaces and appropriate private bathrooms. Although the rooms themselves would be single aspect, each HMO unit would benefit from windows in multiple elevations with the living spaces often offering a different aspect to the bedrooms.

¹ Appeal Decision APP/Z0116/W/23/3321613

14. I have concerns for the noise and disturbance which could be experienced by future occupants, particularly as the windows would directly adjoin the edge of Merton Road to the south; a vehicular access and commercial service yard to the west and; multiple industrial/ commercial uses to the east including a motorcycle recovery facility advertising 24hour service. In the absence of any buffer between the windows and adjoining accesses, the windows would offer poor outlook, particularly at the lower levels where vehicles and pedestrians would pass directly outside the windows. This could occur throughout the day and at unsociable hours.
15. The applicant has provided a Noise Report which includes details of a noise survey. It recognises that noise sources to the east of the building include noise from a motorcycle workshop, engine noise from vehicles using the commercial estate as well as music audible during the day possibly from a gym. The site is also affected by background noise from nearby Gloucester Road. Based on the findings of my site visit this appears to accurately reflect noise sources around the site.
16. The report finds that for all three window elevations of the proposal, internal noise levels with windows open would be over the standard internal BS8233 limits to rely on windows being opened for background ventilation. In some cases, particularly close to the motorcycle workshop, the breaches would be significant. While the windows could be installed to a standard to ensure acceptable conditions when closed, the windows could not be relied upon for standard background ventilation.
17. While this may not be unusual in some settings, taken together with the conditions described above, as all windows would directly adjoin roads or vehicular servicing areas, future occupants would be very likely to experience oppressive conditions as a result of being tightly enclosed by vehicular movements. There would be no quality external spaces to provide any respite or relief from these conditions for the occupants. In combination, the proposal would not provide healthy living conditions for its future occupants.
18. Furthermore, given the proximity to servicing areas it is likely that the ground floor windows, particularly bedrooms, would need to be at least partially obscure glazed to maintain privacy. This would contribute further to the poor living conditions of the ground floor units.
19. I note the extant permission for a residential use in this location, although the internal configuration, window positions and proposed outdoor space would create different conditions to those now proposed. I also acknowledge the Council's Pollution Control Team have raised no objections to the proposal subject to conditions. However based on the evidence this alone does not provide assurances that the standard of accommodation considered as a whole would be acceptable.
20. In conclusion on this main issue, the proposal would not provide an acceptable standard of accommodation for future occupants, contrary to SADMP Policies DM27 and DM30 and CS Policy BCS21 which expect

development to safeguard amenity and create a high-quality and healthy environment for future occupiers.

Character and appearance

21. The proposed extensions and alterations to the building, including extensions to its northern side and mansard roof, would give the building a more domestic appearance, heavily diluting its current utilitarian character. The alterations would also effectively re-orientate the building to have a front elevation facing towards the western service yard rather than the street. Nonetheless, its overall design would remain simple and it would sit reasonably comfortably among the mixed character of the commercial/ industrial estate of which it reads as a part and it would remain visually distinct to the terraces of Gloucester Road. The elevation facing Merton Road would lack any meaningful animation other than two windows to one side. Given the character of the frontages on Merton Road, however, I do not consider this amounts to unacceptable harm to the local character. Conditions could reasonably be used to secure appropriate materials and detailing. The external paraphernalia including bins and cycle store, would be positioned to the northern side of the existing building and would experience little visibility from the surrounding area due to its enclosure by surrounding buildings.
22. Overall the proposal would preserve the character and appearance of the area and would comply with the relevant development plan policies which together require high quality design, including policies BCS21 of the CS, DM26 and DM27 of the SADMP only insofar as they relate to design quality.

Effects on living conditions of nearby occupants

23. I understand there to be several residential properties across the upper floors of the buildings on Gloucester Road, which include rear windows facing towards the application site. However, given the open space which would remain between those windows and the distance of separation from the application site, unacceptable harm to the outlook and natural lighting enjoyed by those occupants would not occur. Neither did I observe any particular outdoor amenity spaces to the back of those properties which would be adversely affected by the proposal, since those closest to the site are already heavily enclosed. Similarly, given the distance of separation between the new windows and those on Gloucester Road, I consider the proposal would preserve the privacy of those occupants and I observed such a distance of separation between habitable rooms is not untypical in this area.
24. Given the site's location and as the building is separate from other residential uses it would not cause excessive noise and disturbance to existing residents and adequate cycle and refuse storage areas would be provided on the site. A condition could be used to secure details of noise levels from the proposed air source heat pumps if the proposal were otherwise acceptable.

25. For these reasons taken together, the proposal would not cause unacceptable harm to the living conditions of nearby occupants. It would comply with the part of DM2 referred to above as well as Policy DM25 of the SADMP and Policy BCS21 of the Bristol Core Strategy 2011 (the CS) relating to amenity and noise disturbance.

Parking

26. I observed during my site visit that opportunities to park a car near the application site are severely limited, and any significant increase in parking pressure could cause harm to the safety of the highway. However the area is well served by public bus services along Gloucester Road and there are services and facilities, including convenience stores, within easy walking distance of the site. Together these attributes would significantly reduce the need for future occupants to travel by private car.
27. The application does not include any parking arrangements for future occupants and I note the Council's concerns in this regard. However, based on the information before me, the absence of parking would comply with parking standards set out in Appendix 2 of the SADMP, which sets a maximum level of provision for car parking. The proposal would be compliant with Policy BCS10 of the CS which requires development proposals to be located where sustainable travel patterns can be achieved and proposals should minimize the need to travel, especially by private car. As above, the absence of parking would also comply with Policy DM23 and associated Appendix 2 of the SADMP, which states it is a maximum provision.

Other Matters

28. The Council have raised concerns that the proposed new windows to the east facing elevation could prejudice the redevelopment of the adjacent sites. While those sites may have development potential I do not have details of what that is likely to entail or how this proposal may prejudice or prohibit such a redevelopment. As such, based on the information before me I do not find conflict with that part of Policy DM27.
29. While detailed information relating to the sustainability credentials of the building have not been provided, I have no strong reason to believe that a policy compliant sustainability rating could not reasonably be achieved, particularly as this was the case for the earlier scheme. Conditions could also ensure that issues of potential land contamination were addressed before commencement of the development.
30. The applicant has set out the reasons they consider the proposal would be exempt from the statutory biodiversity net gain requirement. In summary this is because the proposal would impact less than 25sqm of non-priority habitat. I have no strong reason to reach a different view and I am satisfied the proposal can be considered as exempt, having regard to the de minimis threshold.

31. The Council have identified the proposal as being chargeable development under the Community Infrastructure Levy (CIL) Regulations. I have no strong reason to conclude otherwise and this is capable of being a material consideration as a local finance consideration. The Council advise that the CIL payment would be spent on funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area, and a sum of £23,826.56 has been calculated based on the information provided. I have no reason to disagree with that figure and it is the responsibility of the Council, as the charging authority, to issue a Liability Notice if planning permission were granted.

Planning Balance

32. The applicant asserts that, as the Council do not have a five year land supply for housing, paragraph 11d) of the National Planning Policy Framework (the Framework) should be engaged. In terms of assessment against 11d)i. the application of policies in the Framework that protect areas or assets of particular importance do not provide a strong reason for refusing the proposed development. Accordingly, part ii. applies and I have had regard to the key policies listed in its footnote.
33. The adverse impact of granting planning permission would be the provision of unacceptable living conditions, amounting from the combination of various aspects of the proposal. It would conflict with paragraph 129 of the Framework which states the importance of securing healthy places, and paragraph 135 which, among other things, states developments should create places which promote health and well-being with a high standard of amenity for existing and future users. The effects of this harm would be significant and long lasting, and I give this very substantial weight.
34. In terms of benefits, the proposal would provide additional HMOs which would contribute to the local housing stock as well as the national objective to boost the supply of homes. These would be in an existing built up area with good accessibility to local services and facilities, and where the occupants need not be reliant on private cars, in line with the policies of paragraphs 110 and 115 of the Framework. The proposal would also use brownfield land which is supported by the Framework which also recognises the important contribution which small sites can make towards meeting the housing target. There would also be a contribution to infrastructure from the CIL payment. Given the scale of the proposal however, I ascribe these benefits moderate weight when taken together. Where the proposal has been found to be policy compliant in other respects I consider these to be neutral matters rather than benefits.
35. For the reasons given, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not benefit from the presumption in favour of sustainable development in the Framework.

Conclusion

36. The proposal would conflict with the development plan and there are not material considerations of sufficient weight, including approaches in the Framework, which indicate that a decision should be made other than in accordance with it.

C Shearing

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- Local Planning Authority



Appeal Decision

Site visit made on 28 June 2024

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/Z0116/W/23/3335671

Nailsea Electrical Ltd, 102 Gloucester Road, Bishopston, Bristol BS7 8BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Whitehorse Homes Ltd against Bristol City Council.
 - The application Ref is 23/03348/F.
 - The development proposed is demolition of western part of former chapel and single storey extension and construction of a three-storey extension comprising 9 dwellings (5 small houses in multiple occupation (use class C4) and 4 large houses in multiple occupation (sui generis), retention of 225sqm of Commercial, Business and Service floorspace (use class E), external alterations, associated access and landscaping works.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of western part of former chapel and single storey extension and construction of a three-storey extension comprising 9 dwellings (5 small houses in multiple occupation (use class C4) and 4 large houses in multiple occupation (sui generis)), retention of 225sqm of Commercial, Business and Service floorspace (use class E), external alterations, associated access and landscaping works at Nailsea Electrical Ltd, Bristol BS7 8BN in accordance with the terms of the application, Ref 23/03348/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issues

2. For reasons of brevity, I have referred to the Commercial, Business and Service element of the proposal simply as “commercial” throughout this decision.
3. This appeal relates to an application where the Council did not issue a formal decision. However, it has provided putative reasons for refusal. It is undisputed between the parties that the Council cannot demonstrate a supply of specific and deliverable sites to provide a minimum of five years’ worth of supply against their housing requirement in the strategic policies. Therefore, this appeal must be considered with regard to paragraph 11 d of the National Planning Policy Framework (the Framework).
4. The appeal site is a former chapel located on a corner site, until recently it has been used for commercial (retail) purposes. In recent years the appeal site has been subject to two relevant planning applications. Consent has been granted for the redevelopment of the site including a three-storey extension which would result in the provision of 9 dwellings, a retail unit and office accommodation. The Council’s Development Management Committee has subsequently determined to approve an alternative scheme which also includes a three-storey extension, retail space and 17 flats.

5. Having regard to the Council's putative reasons for refusal, and other matters raised I consider the following to be the main issues in this appeal, with each considered against the backdrop of the schemes the Council has found to be acceptable:
- the effect of the development on the character and appearance of the Gloucester Road Conservation Area;
 - the effect of the development on the living conditions of the occupants of nearby dwellings with regard to privacy, noise disturbance, and the physical effect of the building;
 - the effect of the development on the living conditions of the future occupants of the proposed development with regard to privacy, outlook, daylight and the internal environment of the dwellings;
 - whether the parking provision would be appropriate having regard to the effect on parking pressures in the locality and highway safety; and
 - whether the development would result in an appropriate balance of housing type in the locality.

Reasons

Conservation Area

6. The appeal site is located within the Gloucester Road Conservation Area. The part of the Conservation Area near the appeal site is characterised by a mix of commercial and residential buildings principally either two or three storeys in height. Many of the buildings along Gloucester Road are orientated so that a gable fronts the road with the ridgeline running perpendicular to the road creating a "V" shaped gap between ridgelines at roof level. However, there are also buildings orientated with the ridgeline running parallel to the road and examples of more recent development of significant scale with flat roofs.
7. The previous scheme for 17 flats included a three-storey extension fronting Berkeley Road which contained a slightly recessed link element between the extension and the former chapel. In general terms, this is similar to the proposed scheme with both having a similar overall height and width. The three-storey extension proposed on the previous scheme had a roof form of several front facing gables which would provide 'V' shaped gaps between them at roof level. Although front facing gable elements are proposed in the appeal scheme, these would be part of a wider roof arrangement with a west-east alignment, similar to the existing chapel building. This would result in a greater level of roof visible than with the previous scheme lacking in the gaps provided by the front facing gables.
8. Front facing gables, allowing for these 'V' shaped gaps are common in the immediate area with both two and three storey examples nearby. However visible ridge lines and other roof extensions, such as large flat roof dormer structures, are also common elements of the character of this part of the Conservation Area and immediately adjacent area. The appeal scheme would be seen in the immediate context of the ridge line of the former chapel and the neighbouring side extension roof form. It's height and bulk would appear commensurate with these neighbouring buildings and incorporate a modest step up in line with the incline of Berkeley Road.

9. The proposed link element would contain a door at ground floor level and two windows above at first and second floor level. This is similar to the 17 flat scheme, but the first and second floor windows would be smaller than the previous scheme with greater areas of walling visible. Although this would not have the same, nearly, fully glazed appearance, with the slight recess and lower flat roof, it would still allow for a clear visual break between the historic chapel and the new extension. In this regard, the scheme would have a different but broadly equivalent impact to the previous scheme and the character and appearance of the Conservation Area would be preserved.
10. Although there would be other changes to the appearance of the building from the previous schemes, these would be modest in nature. Overall, the appeal scheme would preserve the character and appearance of the Conservation Area. Therefore, there would be no conflict with Policy BCS22 of the Bristol Development Plan: Core Strategy (the CS) and Policy DM31 of the Bristol Development Plan: Site Allocations and Development Management Policies (SA&DMP). Together these Policies seek to preserve the special character of conservation areas.

Living Conditions – Neighbouring Residents

11. The appeal site sits next to 4 Berkeley Road, a two-storey semidetached property which has been extended to the side adjacent to the shared boundary. This side extension incorporates an under croft allowing access to a driveway for a residential dwelling (number 4a) located to the rear of numbers 4 and 6. In this context the modest increase in the step back of the building compared to the previous scheme would not result in an undue effect on the neighbouring occupiers in terms of the physical effect of the building.
12. Both the previous scheme for 17 flats and this appeal scheme would contain windows with an outlook to the rear from the proposed three-storey extension. Regardless of whether the overall level of occupation of the building would rise, overlooking from the rearward facing windows between the schemes would be similar. Indeed, the appeal scheme would lack first floor balconies which can give rise to a greater sense of intrusion of privacy by neighbouring residents compared to a window. Side windows are proposed on the three-storey extension, but these would have an outlook to a largely blank side gable of 4 Berkeley Road and would not result in significant overlooking.
13. This appeal scheme would provide a mix of large and small houses in multiple occupation (HMOs), whereas the previous schemes would result in dwellings or flats. In terms of overall level of occupation, it is likely that the appeal scheme would accommodate a greater number of residents. However, all schemes would result in residential uses of a fairly high density. This would be in an area of mixed use with a range of commercial uses sitting close to residential properties and in proximity to busy roads. In this context, noise levels from residents of the appeal scheme would not result in harm to the living conditions of the occupants of neighbouring dwellings.
14. Overall, the scheme would result in acceptable living conditions for the occupiers of neighbouring dwellings in terms of privacy, noise disturbance, and the physical effect of the building. It would accord with Policy BCS21 of the CS and Policies DM27, DM29 and DM30 of the SA&DMP. Together these Policies seek to ensure that development would safeguard the amenity of existing development and occupiers including in terms of privacy, outlook and daylight.

Living Conditions – Future Occupiers

15. The Council's Supplementary Planning Document (SPD): Managing the development of houses in multiple occupation sets out guidelines for minimum room sizes in HMOs. The Council suggests that 5 of the 9 flats would not meet the threshold for the communal space in the proposed HMOs.
16. The guidance provides room sizes for a room to be used solely as a bedroom, where it is combined with a living room, and where it is combined with both a living room and kitchen. In addition, minimum sizes are given for kitchens and the total communal living space where the room is proposed to be shared by occupiers. In this appeal scheme each HMO flat provides private rooms, with some sitting space indicated within the bedroom. Each flat would also have a communal kitchen area with dining space indicated.
17. All the proposed bedrooms would exceed the guidance of 9sqm for a 1-person room with a small number of rooms at or exceeding the guidance for a 2-person room where a combined bedroom and living room is proposed. The SPD is not clear if, and by how much, any discount to the kitchen and/or the overall communal living space should be given where living accommodation can be provided in the private bedrooms. The Council's evidence also does not clarify this matter. However, logically it seems that where a bedroom is of a size deemed suitable to provide living space, some effect on the overall communal space should be considered. All of the proposed kitchens, in themselves, would be above the size threshold; fairly significantly so in some cases.
18. I note that the SPD and the associated room sizes are guidance and not prescribed by policy. Where the Council indicates that the total communal space is below the guidance it is typically by 1 bedroom (and 2 in a single case). All kitchens could provide for some dining space where social interaction could take place and, taking account of the allowance for living space in each bedroom, I consider that the internal space of each HMO flat would not be unduly cramped. Therefore, in this regard the development would comply with Policy BCS18 of the CS which seeks to ensure that development provides sufficient space for everyday activities.
19. Not all the flats would be dual aspect, and a small number of bedrooms would only be provided with a roof light in terms of a window to allow for outlook. In addition, outlook from the kitchen/communal areas of some of the flats would be provided by windows with an outlook to the flank of 4 Berkley Road, restricting the view provided. Policy DM29 of the SA&DMP indicates that residential development should provide dual aspect where possible, particularly where one aspect is north facing. This Policy does introduce a degree of pragmatism such that dual aspect accommodation should be provided where possible. In addition, I note that the previous 17 flat scheme, while not identical, did have similar characteristics.
20. Some views from the street into the proposed bedrooms in Flat 1 (ground floor) would be possible. However, these windows would be setback some distance from the pavement on Berkeley Road and views into the flats that would front Berkeley Road would also be possible in the 17 flat scheme.
21. The appeal scheme proposes communal gardens to the front and rear. The previous scheme for 17 flats proposed a mixture of private gardens for the ground floor flats, a small number of private balconies for upper floor flats and

a communal garden. The manner in which outdoor space is provided is different between these two schemes, however even with the 17 flat scheme a number of dwellings would not have private space. Both the Council and appellant agree that St Andrew's Park is located about 350m away.

22. In both schemes there would be reliance on the communal space but with the opportunity to seek outdoor recreation in the nearby park. This is not uncommon for flatted development and shared accommodation in urban areas. Even if the appeal scheme could result in a higher degree of occupants than the 17 flat scheme, this would be by a modest degree and not such that it would be under undue additional pressure.
23. Given the urban, built up, nature of the area, and the type of accommodation proposed, the living conditions proposed, in terms of outlook and access to outdoor space would be acceptable and not contradict the overarching policy aims.
24. The Council has raised a concern that there is a risk of overheating within the development and that insufficient information has been provided to demonstrate that this could be mitigated. This is relevant to climate change and sustainability policy goals; however, its direct impact would be on the living conditions of the future occupants.
25. The evidence before me indicates that there was a similar concern with the previous scheme for 17 flats but that ultimately it was concluded that this matter could be addressed by a condition. Although there are differences between the schemes, I have no evidence that this appeal scheme is so different that the necessary mitigation is unlikely to be achievable. However, while heating is mentioned in the Policy, I have no reason to conclude that matters relating to this would not be adequately controlled by building regulations, therefore duplicating such controls through a condition is not necessary. In this regard I conclude that the living conditions of the future residents could be safeguarded and that the related sustainability goals be achieved.
26. Overall, the proposal would comply with Policies BCS13, BCS14, BCS18, and BCS21 of the CS and Policies DM27, DM29 and DM30 of the SA&DMP. These Policies require that development respond to climate change and that heating and cooling is in accordance with the heat hierarchy and provide a high-quality environment for future occupiers including in terms of indoor and outdoor space, outlook and overlooking.

Parking

27. The appeal scheme would provide for 3 parking spaces for the proposed commercial area and 1 disabled parking space relating to the HMO flats. There would be 57 secure and covered cycle parking spaces for the HMO flats and additional cycle stands for the commercial element of the scheme. The relevant Policies have maximum levels of car parking and there are no minimum levels (other than relating to disabled parking). A signed/completed planning obligation under section 106 of the Town and Country Planning Act 1990 which would secure contributions for the Council to make a traffic regulation order and implement travel plan measures has also been provided.

28. The Council acknowledges that the site is located within a very sustainable location and where a development is designed to be car free lower levels of car ownership can be expected. The appellant has provided evidence to indicate that in the environs of the appeal site lower car ownership levels are likely for private rented accommodation (which by their nature HMOs would almost always be). In addition, the appellant has provided evidence that car ownership for HMOs in a neighbouring authority area was at around 1 car per HMO on average.
29. The appeal site is in an urban area, very close to a wide range of services and facilities and public transport links. Like many urban areas, it is evident that there are on-street parking pressures. Although the number of bedrooms would rise in this appeal scheme compared to the previous 17 flat scheme, it is not clear that the number of bedspaces and therefore overall occupants would rise as significantly.
30. The evidence suggests that car ownership for rented accommodation is likely to be at a lower level than other forms of accommodation. I give limited weight to the evidence that relates to the neighbouring local authority area; however, it does provide a limited indication of likely car ownership levels for the appeal scheme. There would be an appropriate level of cycle parking provision for the likely maximum occupation of the development. The submitted planning obligation would allow for contributions to aid with maximising sustainable travel and manage associated traffic matters.
31. Taking matters in the round, there is not strong evidence to indicate that the appeal proposal would result in significantly greater levels of car ownership than the 17 flat scheme and in this respect no harm would arise. Therefore, I conclude that the appeal scheme would accord with Policy BSC10 of the CS and Policy DM23 of the SA&DMP, which seek to ensure development is located where sustainable transport patterns can be achieved and appropriate levels of parking would be available.

Housing Type

32. The proposed development would result in the creation of 9 dwellings to be used as HMOs. Amongst other matters Policy DM2 of the SA&DMP deals with shared housing which includes HMOs. The Policy sets out that such development should not be permitted where it would create or contribute to a harmful concentration of such uses within a locality. Relevant to this appeal, this includes where a development would harm residential amenity or character which includes matters relating to noise and disturbance to residents, impact on on-street parking, and the effect of physical alterations to a building. These matters have been considered under the relevant subheadings above.
33. In addition, HMO development should not reduce the choice of homes in an area by changing the housing mix. The Council's Supplementary Planning Document (SPD): Managing the development of houses in multiple occupation sets out criteria for assessing HMO proposals. This includes whether there would be a sandwiching effect and the percentage of HMOs in the dwelling stock that would result within a 100m radius.
34. The Council has concluded that the development would not result in a sandwiching effect as set out in the SPD and I have no substantive reason to disagree with this assessment. The SPD sets out that where the introduction of

new HMOs would result in more than 10% of the dwellings, in a 100m radius, being HMOs, this is unlikely to be consistent with Local Plan policy. The Council's evidence indicates that currently the HMOs within a 100m radius of the site equates to 5.17% of the housing stock and that this would rise to 13% with the proposed development.

35. I note the appellant has set out an argument as to why it could be considered that the scheme would fall below the 10% threshold. However, even if I accepted the Council's position on this matter, a breach of the 10% threshold does not automatically lead to harm such that the Local Plan policies would be breached, it is only an indication that such a breach is likely.
36. In this case, I note that the threshold would only be exceeded by 3%. In the context of this particular site, which is located on a corner plot, by a busy road in an area of a significant mix of uses, 3% above the nominal percentage threshold outlined in the SPD would be minor. In addition, having regard to the findings above, the development would not result in any of the harms, set out in the relevant Policy, in terms of noise and disturbance to residents, impact on on-street parking, and the effect of physical alterations to the building.
37. Compared to the two previous schemes at the site, there would be a different mix of housing. The Council notes that the previous proposal for 17 flats was acceptable as it would increase the availability of smaller properties in an area where houses, with a greater number of bedrooms was predominant. This proposal would introduce a number of HMOs rather than small flats. However, it would still introduce more housing choice for those seeking smaller types of accommodation. Therefore, both the 17 flats scheme and this appeal scheme would increase choice, and I have no evidence that one would be significantly more beneficial than the other.
38. Taking these matters together I conclude that the concentration of HMOs in the area would not result in harm that would breach the Policy objectives. In this regard I therefore conclude that the development would accord with Policy DM2 of the SA&DMP.

Other matters

39. Concern has been raised in respect of land ownership around parts of the site boundary. I have no significant evidence that the relevant ownership certificates submitted with the application are incorrect. Therefore, this is not a matter that is relevant to the determination of this appeal.

Planning Balance and Conclusion

40. As the Council cannot demonstrate a supply of specific and deliverable sites to provide a minimum of five years' worth of supply against their housing requirement in the strategic policies, paragraph 11 d of the Framework applies. This means that planning permission should be granted unless policies in the Framework that protect assets of particular importance provide a strong reason for refusing the development or any adverse effects if doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. Relevant to this appeal particular regard should be had to key policies for directing development to sustainable locations and making effective use of the land.

41. There would be no harm to assets of particular importance (the Conservation Area in this case). The scheme would result in housing provision in a sustainable location, and it would make effective use of the land. Taken in the round, there would be no conflict with other relevant policies both in the Framework and the Council's development plan. For the reasons given above the appeal is allowed.

Planning Obligations and Conditions

42. The submitted planning obligation would secure matters relating to the implementation of a travel plan and regulating traffic matters. I am satisfied that these are necessary to make the development acceptable, that the measures the contributions would secure are directly related to the development, and that the scale of the contributions are fairly and reasonably related to the scale and kind of the proposed development.
43. The Council has provided a list of suggested conditions. A number of these would be pre-commencement conditions. The appellant has had an opportunity to comment on these conditions. A number of matters have been raised, including relating to the wording of the conditions to ensure some are worded more robustly to be a pre-commencement condition. However, no direct objection was made to such conditions being pre-commencement conditions. I have also simplified and amalgamated some of the suggested conditions to provide clarity.
44. Conditions to ensure the development is commenced within 3 years and that it is in accordance with the submitted plans are necessary for the avoidance of doubt and in the interest of clarity. In view of the close proximity to neighbouring dwellings and trees, conditions are necessary to secure a construction environmental management plan and tree protection. Given the nature of the matters to be controlled, it is necessary that these are pre-commencement conditions. However, given the relatively modest scale of the development, they do not need to be as detailed as the wording suggested by the Council and the two conditions that would deal with protection of trees can be secured via a single simple condition.
45. In the interests of the visual appearance of the development a condition is required to ensure that suitable methods for the installation of the green roof over the cycle store and its ongoing maintenance. It is necessary that this matter is approved before works to construct the cycle store. A condition to secure materials, including the works to the chapel building to be retained is necessary in the interest of the character and appearance of the Conservation Area. The wording of the condition can be simplified from those suggested by the Council.
46. A condition is required to secure appropriate waste management for the commercial element of the scheme to ensure that the living conditions of nearby residents is not unduly impacted. The details of this does not need to be secured before any works start on site so it does not need to be a pre-commencement condition.
47. To ensure the development contributes to adapting to climate change the installation of photovoltaic panels is necessary. A two-stage condition to secure the details and then ensure that it has been installed to an adequate specification is necessary. However, it is not necessary that no works be

- started before the initial details are submitted and the demolition elements could commence on site first. For similar reasons securing the provision of an air source heat pump(s) and other energy efficiency measures is necessary.
48. To avoid the risk of surface water flooding, details and maintenance of a drainage scheme is required. Controlling external lighting is necessary in the interests of the living conditions of neighbouring and future residents. The addition of bird, bat and bee boxes and adhering to bat mitigation is necessary to secure appropriate levels of biodiversity. Given the historic uses of the site, a condition to control reporting and mitigation of any unexpected contamination is necessary.
49. To ensure adequate access to alternative means of transport is provided the provision of suitable cycle storage is necessary. Suitable means of access and the provision of the car parking area is necessary in the interests of traffic and parking management and securing visibility is necessary for safety reasons. In the interests of the visual appearance of the development a landscaping scheme, including its maintenance, is necessary. Similarly preventing the erection of new boundary treatments to the front of the building (beyond those approved as part of the development) is necessary.
50. In the interests of the living conditions of the future occupiers, conditions to secure appropriate noise insulation between the flats and between the flats and the commercial use is necessary. In the interests of the living conditions of existing and future residents it is necessary to control the noise generated by the commercial unit. Similarly controlling the operating hours of the commercial unit is necessary. However, given the mixed-use nature of the area and proximity to a busy road, this need not include a prohibition on the operation and use by customers on Sundays and Bank Holidays. Greater limitation of noisier activities such as deliveries and managing refuse and recyclables should be more limited to provide the nearby residents reprieve from noisier activities in the evenings and on Sundays and Bank Holidays.
51. A condition to secure details relating to offsite highway works, such as those affecting the footway, is not necessary because the Council, as Highway Authority has other means to secure appropriate provision of these works. The important elements of the historic chapel are shown as being retained with the elements of demolition relating to parts of the building which are of no historic merit. In these circumstances a contract for redevelopment is not necessary. The existing building, when historically used as a retail/commercial use did not appear to have clear glazed windows facing the highway. While this could be an improvement to the appearance of the historic chapel, it is not necessary given the previous and current appearance of the building.
52. The Council has requested a condition to secure a scheme for local employment opportunities during construction. I note the reference to a decision made by the Secretary of State where such a condition was imposed with reference to Chapter 6 of the Framework. However, it appears that the scheme referred to was greatly more significant than this appeal scheme in terms of scale. As such I do not consider that such a condition is necessary to the extent that planning permission should otherwise be withheld for this appeal scheme.

K Taylor
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the approved plans:
 - 3516/104- Proposed floor plans & roof plan
 - 3516/105- Proposed elevations & sections
 - 3516/106- Proposed site plan
 - 3516/107- Proposed bike store plans & elevations
 - 3516/108- Proposed site location plan
3. No works shall be undertaken on site, including demolition, until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.
4. No works shall be undertaken on site, including demolition, until a scheme for the protection of trees on/adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
5. No works shall be undertaken on site, including demolition, until an update of the Bat & Protected Species Survey (EcoLogic, 3rd April 2023 update Rev 03), including any updates to the ecological mitigation and enhancement strategy, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
6. No works shall be undertaken on site (other than demolition) until details of all proposed external materials, fenestration, external joinery and external repair, replacement and remedial works to the chapel building to be retained have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
7. No works shall be undertaken on site (other than demolition) until details of a drainage strategy, including ongoing management and maintenance have been submitted to and approved in writing by the Local Planning Authority. The drainage works and ongoing management and maintenance shall thereafter be carried out in accordance with the approved details.
8. No works shall be undertaken on site (other than demolition) until details of the noise insulation between the residential elements of the development and commercial elements of the development have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details prior to the residential occupation and commercial use of the building and thereafter retained.
9. No works shall be undertaken on site in respect of the construction of the cycle store until details of the green roof, including the method of installation

and ongoing maintenance and management has been submitted to and approved in writing by the Local Planning Authority. The works and ongoing management and maintenance shall thereafter be carried out in accordance with the approved details.

10. The building shall not be occupied by residents or the commercial use commenced until details of a scheme for the storage of the commercial waste and recycling and associated ventilation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the residential occupation and commercial use of the building and thereafter retained for the purposes of storing waste and recycling associated with the commercial area.
11. No works shall be undertaken on site (other than demolition) until details of the proposed photovoltaic system, including a technical specification and calculation of annual energy generation and the associated reduction in residual CO2 emissions, has been submitted to and approved in writing by the Local Planning Authority. Prior to the residential occupation and commercial use of the building, evidence that the system has been installed and is sufficient to meet the approved calculation of annual energy generation and the associated reduction in residual CO2 emissions shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be retained for the lifetime of the development.
12. The building shall not be occupied by residents or the commercial use commenced until details of a scheme for the external lighting of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the residential occupation and commercial use of the building and thereafter retained.
13. The building shall not be occupied by residents or the commercial use commenced until details of a scheme for the installation of bird and bat boxes and a bee brick(s) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the residential occupation and commercial use of the building and thereafter retained.
14. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared and submitted for the approval of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. The approved remediation scheme shall be carried out in accordance with its terms and a remediation/validation report shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development.
15. The building shall not be occupied by residential occupants until the waste and recycling provision for the residential uses has been implemented in accordance with the approved plans. Such provision shall thereafter be

retained for the purposes of storing waste and recycling associated with the residential use.

16. The building shall not be occupied by residents until details for the securing and lighting of the cycle store has been submitted to and approved in writing by the Local Planning Authority. The cycle store shall be provided in accordance with the approved plans and the approved details relating to security and lighting prior to the occupation of the residential accommodation. The cycle storage, including the security and lighting systems shall thereafter be retained for the lifetime of the development and kept available for the storage of cycles associated with the approved residential use.
17. The building shall not be occupied by residents or the commercial use commenced until the means of access for pedestrians, cyclists and vehicles (including the provision of associated dropped kerbs on the highway) have been provided in accordance with the approved plans and thereafter retained.
18. The building shall not be occupied by residents or the commercial use commenced until the car/vehicle parking area and cycle stands for the commercial use shown on the approved plans has been completed and thereafter the areas shall be kept free of obstruction and available for the parking of vehicles and cycles associated with the development. The disabled parking bay shown on the approved plans shall be kept free of obstruction and available for the parking of residents registered disabled and allocated this space only.
19. The building shall not be occupied by residents or the commercial use commenced until pedestrian visibility splays of 2 metres x 2 metres to the rear of the footway, has been provided at the vehicular access serving 4A Berkeley Road adjacent to the west of the site. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 1 metre to the rear of the footway which would obstruct the visibility splay. The visibility splays shall be maintained free of obstruction at all times thereafter for the lifetime of the development.
20. The building shall not be occupied by residents or the commercial use commenced until a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection, in the course of development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the building or the completion of the development whichever is the sooner. All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of a similar size and species to those originally required to be planted.
21. All recommendations detailed in the Noise Assessments submitted with the application with regards to sound insulation and ventilation of residential properties shall be implemented in full prior to the occupation of the building

and the commencement of the use permitted and be permanently maintained for the lifetime of the development.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the ground floor commercial unit hereby approved shall only be used for the following uses within Class E: retail, financial and professional services (other than medical or health services) or office use and for no other use within The Town and Country Planning (Use Classes) Order 1987 as amended 1st September 2020, or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).
23. The development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures into the design and construction of the development in full accordance with the energy and sustainability statement (Sustainable Energy Statement Revision E- 20 April 2022) prior to first occupation. A total of at least 20% reduction in carbon dioxide emissions below residual emissions through renewable technologies shall be achieved.
24. The rating level of any noise generated by plant & equipment as part of the development shall be at least 5 dB below the background level as determined by BS4142: 2014 Methods for rating and assessing industrial and commercial sound.
25. No customers shall remain on the commercial premises (Use Class E) outside the hours of 08:00 to 23:00 on Monday to Sunday.
26. Activities relating to deliveries and the collection of refuse and recyclables and the tipping of empty bottles into external receptacles, for the commercial premises, shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.
27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no fences, gates or walls, other than those approved as part of the approved plans and/or the landscaping scheme shall be erected within the site forward of any wall of the building which fronts onto a road.