

## **Bristol City Council – LPA S62A Statement Note**

*The Assembly, 110-112 East Street, BS3 4EY*

LPA application reference: 25/15167/PINS

PINS application reference: S62A/2025/0140

Applicant: TMT Capital Ltd



### **1. Introduction**

This statement of case relates to a full planning application (LPA reference: 25/15167/PINS) made under Section 62A of the Town and Country Planning Act 1990 for the demolition of the existing rear extensions and the construction of a large HMO. The application also seeks to change the use of the existing unit from a public house to a commercial unit under Use Class E.

The LPA is of the opinion that this application can be determined by written representations. This is the written submission of the LPA.

### **2. Relevant Planning History**

94/00281/F Alterations to front and rear elevations. Date Closed: 20 April 1994, Granted, subject to conditions

04/00026/F Conversion of upper floors to provide 4 no. self-contained flats (Use Class C3). Date Closed: 17 March 2004, Granted, subject to conditions

04/04874/F Alterations to front elevation. Date Closed: 20 January 2005, Refusal

05/00182/F Construction of a two-storey rear extension comprising 4 no. self-contained flats. Withdrawn

05/02277/F Single storey rear extension to existing public house including external garden area. Date Closed: 20 October 2005, Granted, subject to conditions

06/00045/F Demolition of buildings adjacent to the car park at the rear and construction of a single-storey extension. Date Closed: 13 March 2006, Granted, subject to conditions

06/00107/F Construction of new shopfront to existing public house. Date Closed: 9 March 2006, Refused

06/01730/F Construction of new shopfront to existing public house. Date Closed: 3 July 2006, Granted, subject to conditions

23/00686/F Creation of 2no. small houses in multiple occupation for 3-6 people (C4) at first and second floor level. Date Closed: 14 June 2024 Granted, subject to conditions

24/03431/COND Application for approval of details reserved by condition 3 of permission 23/00686/F Creation of 2no. small houses in multiple occupation for 3-6 people (C4) at first and second floor level. Date Closed: 23 October 2024

24/03395/PREAPP Change of use of a vacant public house to commercial use and the demolition of the existing rear extensions to deliver an 18-bedroom HMO with communal living space. Date Closed: 17 December 2024

25/10985/F Demolition of rear extensions and construction of a large HMO (Sui Generis). Change of use of remaining ground floor unit from public house to a commercial unit (Use Class E). Date Closed: 24 July 2025, Withdrawn

25/13462/PINS - Application for Planning permission for Demolition of the rear extensions and construction of a large HMO (Sui Generis). Change of use of remaining ground floor unit from public house to a commercial unit (Use Class E). Date Closed: 17 October 2025, Refused

### **3. Main Planning Considerations**

#### **Principle of Development**

##### *Loss of Public House*

Paragraph 93 of the NPPF (2023) specifies that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should:

- plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; and
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs

Policy BCS12 (Community Facilities) of the Core Strategy states that existing community facilities should be retained, unless it can be demonstrated that there is no longer a need to retain the use or where alternative provision is made. In cases where community facilities are proposed for redevelopment the council will need to assess the loss in terms of the social, economic and physical impact on the local community and the harm caused to the level of community facilities provision in the area.

Policy DM5 (Protection of Community Facilities) of the SADMP outlines that the loss of community facilities will not be permitted unless it is demonstrated that:

- i. The loss would not create, or add to, a shortfall in the provision or quality of such uses within the locality or, where the use has ceased, that there is no need or demand for any other suitable community facility that is willing or able to make use of the building(s) or

- ii. The building or land is no longer suitable to accommodate the current community use and cannot be retained or sensitively adapted to accommodate other community facilities; or
- iii. The community facility can be fully retained, enhanced or reinstated as part of any redevelopment of the building or land; or
- iv. Appropriate replacement community facilities are provided in a suitable alternative location.

Policy DM6 (Public Houses) states that Proposals involving the loss of established public houses will not be permitted unless it is demonstrated that:

- i. The public house is no longer economically viable; or
- ii. A diverse range of public house provision exists within the locality.

The application has submitted a Marketing Statement and Planning Statement (within the appendix of the Cover Letter) that is identical to the last submission. As per the decision for 25/13642/PINS, the statement has shown that there are 15 other public houses within 800m of the application site. As such, the second part of Policy DM6 has been met and the local planning authority has no objection to the loss of the public house.

#### *Introduction of HMO use*

Notwithstanding the consideration regarding the loss of the Public House, the LPA considers that the introduction of an HMO in this location is acceptable in principle.

Policy DM2 (Residential subdivisions, shared and specialist housing) states that the construction of new buildings to be used as HMOs, specialist student housing and other forms of share housing will not be permitted where proposals would exacerbate existing harmful conditions. This policy does not permit new HMOs or the intensification of existing HMOs where development would create or contribute to a harmful concentration within a locality.

Managing the development of houses in multiple occupation, SPD (Adopted) November 2020 recognises that HMOs form part of the city's private rented housing stock and can contribute positively to people's housing choice. It is however recognised that HMOs are a more intensive form of accommodation than traditional flats or dwellings. Typically, this increases dependent on the level of occupancy. General issues associated with HMOs include: Noise and disturbance; Detriment to visual amenity (through external alterations and poor waste management); Reduced community facilities; Highway safety concerns (from increased parking); Reduced housing choice; Reduced community engagement; Reduced social cohesion.

The SPD expands on DM2 to provide a definition of what represents a 'harmful concentration' in the wording of the policy. This relates to two principles; local level and area level. At local level, a harmful concentration is found to exist where 'sandwiching' occurs. This is where a single-family dwelling (use class C3) becomes sandwiched with HMOs at sites adjacent, opposite or to the rear. This can happen within a flatted building with HMOs above and below also. With regards to the wider area, a harmful concentration is found to exist where a threshold proportion of 10% HMOs within a 100m radius of the site occurs. This is generally identified as a tipping

point, beyond which negative impacts to residential amenity and character are likely to be experienced and housing choice and community cohesion start to weaken.

As per the pre-application response, the LPA calculates that the percentage of HMOs within 100 metres of the site is 7.73%. Similarly, data shows that no sandwiching would occur from the application scheme.

## **Design and Heritage**

Paragraph 41 of the National Design Guide states that well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. It enhances positive qualities and improves negative ones. Paragraphs 52 and 53 outline that local identity is made up of typical characteristics such as the pattern of housing, and special features that are distinct from their surroundings. Well-designed new development is influenced by an understanding of local character including built form and includes the composition of street scenes, individual buildings and their elements; the height, scale, massing and relationship between buildings; roofscapes; and façade design, such as the degree of symmetry, variety, the pattern and proportions of windows and doors and their details.

Policy BCS21 (Quality Urban Design) of the Core Strategy advocates that new development should deliver high quality urban design that contributes positively to an area's character and identity, whilst safeguarding the amenity of existing development.

Similarly, Policies DM26 (Local Character & Distinctiveness) and DM27 (Layout & Form) of the Site Allocations & Development Management Policies (SADMP) Local Plan, outline that all development is expected to contribute positively to an area's character and identity. This should be achieved by responding to the existing built environment. In particular, development should respect the local pattern and grain of existing buildings and respond to the local scale and character created by height, massing, shape and form, proportion, building lines, set-backs from the street, skylines and roofscapes. The higher the quality of the building group and the more unified the character of the townscape, the greater the need to reproduce the existing pattern, form and design of existing development.

The application site is also located within the Bedminster Conservation Area.

Policies BCS22 (Conservation and the Historic Environment) of the Core Strategy DM31 (Heritage Assets) of the Site Allocations and Development Management Policies Local Plan, outlines that all development proposals related to heritage and conservation are expected to safeguard or enhance heritage assets and the character and setting of areas of acknowledged importance.

The LPA has no objection in relation to the design of the proposal.

## **Impact on Amenity**

Policy DM2 states that houses in multiple occupation will not be permitted where:

- i. The development would harm the residential amenity or character of the locality as a result of any of the following:
  - Levels of activity that cause excessive noise and disturbance to residents; or

- Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or
  - Cumulative detrimental impact of physical alterations to buildings and structures; or
  - Inadequate storage for recycling/refuse and cycles.
- ii. The development would create or contribute to a harmful concentration of such uses within a locality as a result of any of the following:
- Exacerbating existing harmful conditions including those listed at (i) above; or
  - Reducing the choice of homes in the area by changing the housing mix.

Adopted Bristol Core Strategy Policy (2011) BCS18 makes specific reference to residential developments providing sufficient space for everyday activities and space which should be flexible and adaptable. In addition, Policy BCS21 sets out criteria for the assessment of design quality in new development and states that development will be expected to create a high-quality environment for future occupiers. Policy DM29 in the Site Allocations and Development Management Policies (2014) also states that new development should be dual aspect where possible, particularly where one of the aspects is north-facing. This policy, as well as DM27, further states that new buildings will be expected to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.

Policies BCS21 (Quality Urban Design) of the Bristol Core Strategy advocates that new development should give consideration to matters of neighbouring privacy, outlook and natural lighting. It also states that new development should safeguard the amenity of existing development.

Policy DM29 (Design of New Buildings) of the SADMP outlines proposals for new buildings will be expected to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.

#### *Neighbouring Occupiers*

The LPA does not object to the development in terms of overlooking neighbouring properties.

As per the previous application, Bristol City Council's Pollution Control officer had no objection in regard to noise pollution but requested conditions if a condition were forthcoming.

The previous S62a application on site was refused for the impact of the development on a neighbouring window of No.2 Warden Street. The scale of the middle section of the development has been reduced from the previous application, and a new Daylight and Sunlight Impact Assessment has been submitted. Whereas the previous assessment had one window on the neighbouring property that failed, the newly submitted assessment has all neighbouring windows passing the VSC (Vertical Sky Component). As such, the LPA does not object to impact to neighbouring occupiers.

#### *Amenity of Future Occupiers*

The LPA objects to the newly proposed development in terms of offering an acceptable living environment for future occupiers.

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

There are still a good proportion of proposed bedrooms (5 out of the 15 proposed) that would be single aspect. Of the five, Bedrooms 7, 8 and 9 would contain angled rooflights that have been included to improve outlook. Conversely, whilst Bedrooms 2 and 3 contain rooflights, these are not angled. Additionally, the windows serving these bedrooms are now proposed to be obscure glazed at the lower level. As such, the LPA does not consider that the living environment for the future occupiers of Bedrooms 2 and 3 overcomes the concern from the previous refusal, which has been partially compromised by the use of obscure glazing. The amount of outlook remains limited for Bedrooms 2 and 3 due to the orientation north-east looking toward the heavy enclosed and blank elevation of No.102-106 East Street. Levels of direct sunlight would also remain restricted due to their orientation and enclosure.

The plans feature a rearranged internal layout where the kitchen/living area would be located near the middle of the proposed development, whereas 9 bedrooms are now proposed to be located adjacent to Herbert Street across three floors of the development. Each window serving the nine bedrooms would be facing and in close proximity to Herbert Street. Whilst not directly relevant to the proposal, it should be noted that the Urban Living SPD advises that 'locating habitable rooms at the front of the building to provide natural overlooking and sense of activity to the street and more sensitive uses such as bedrooms to the rear of the building relating to private space.'. Given the amount of occupiers which would be in close proximity to the public street, the LPA has concern in regard to the amount of privacy that can be realistically afforded to Bedrooms 4, 5, 6 (located on the ground floor) as well as concerns regarding noise and disturbance from the street compromising the quality of living for these future occupiers.

## **Other Matters**

### *Transport and Highways considerations*

Policy BCS15 in the Bristol Core Strategy states that all new development will be required to provide satisfactory arrangements for the storage of refuse and recyclable materials as an integral part of its design. Policy DM32 in the Site Allocations and Development Management Policies states all new developments will be expected to provide recycling facilities and refuse bins of sufficient capacity to serve the proposed development. This policy further states that the location and design of recycling and refuse provision should be integral to the design of the proposed development. In assessing recycling and refuse provision, regard will be had to the level and type of provision, having regard to the above requirements and relevant space standards; and the location of the provision, having regard to the need to provide and maintain safe and convenient access for occupants, while also providing satisfactory access for collection vehicles and operatives. Policy DM23 also states that the provision in new development of safe, secure, well-located cycle parking can be very important in encouraging people to cycle regularly. It is important that development proposals incorporate these facilities and parking at the outset of the design process.

Policy DM2 in the Site Allocations and Development Management Policies states that the sub-division of dwellings into houses in multiple occupation will not be permitted where the development would harm the residential amenity or character of the locality as a result of levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; as well as inadequate storage for recycling/refuse and cycles.

No objection as per previous S62a application.

#### *Flood Risk*

Bristol City Council's Flood Risk Team commented on application 25/10985/F that not enough information has been provided to assess this application properly. It is a local validation requirement for planning applications to provide Sustainable Drainage, all Major applications must be supported by a full Sustainable Drainage Strategy. The online documentation does not seem to include a Drainage Strategy and therefore we cannot provide comments at this time. To enable us to comment on the suitability of the proposals we require the submission of a Sustainable Drainage Strategy, formed in accordance with Section 4.3 of the Bristol SFRA.

As the site lies within an area at risk of flooding and includes vulnerable uses a proportionate Flood Evacuation Plan is required, this should be approved by the Lead Local Flood Authority and the Emergency Preparedness, Resilience and Response Team.

Nonetheless, if an approval were forthcoming, these details could be conditioned prior to the commencement of the development.

#### *Ecology*

The LPA accepts the BNG Exemption Statement and considers that the development meets the 'de minimis' criteria for mandatory BNG.

### **4. Conclusion**

The proposed development is not considered to represent an acceptable scheme due to the application not adequately overcoming concerns in regard to the living environment for future occupiers.

On this basis, the LPA respectfully requests that the application is considered for refusal.

### **5. Suggested Conditions List**

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

#### **1. Full Planning Permission**

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## 2. Sustainable Drainage System (SuDS)

No development shall take place until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal.

## 3. Remediation Strategy and Verification Plan

No development hereby permitted (except demolition and site clearance) within any approved phase shall take place until the works relating to land contamination detailed below are fully completed: In accordance with the findings of site characterisation and risk assessment, documents from the following shall be submitted to the LPA for approval:

I. Remedial Options Appraisal.

II. Remediation Strategy

III. Verification Plan.

The actions required above shall be completed in full accordance with the following guidance: Land Contamination Risk Management (Environment Agency, 2023).

Reason: To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims of 125 (c), 187 (e & f), 196 & 197 of the National Planning Policy Framework (2024).

## 4. Remediation and Verification

The development hereby permitted within any approved phase shall not be brought into use until the works relating to land contamination detailed below are fully completed:

Remediation (if required), it shall be carried out in full accordance with the approved Remediation Strategy.

A Verification Report must be submitted to the LPA for approval upon completion of remediation works. The Verification Report must include information validating all remediation works carried out; details of imported materials (source/quantity/suitability); details of exported materials; and details of any unexpected contamination.



The actions required above shall be completed in accordance with the following guidance: Land Contamination Risk Management (Environment Agency, 2023).

Reason: To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims of 125 (c), 187 (e & f), 196 & 197 of the National Planning Policy Framework (2024).

## 5. Construction & Demolition Management Plan

No demolition shall take place until a site specific Construction & Demolition Management Plan has been submitted to and approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to remove asbestos and reduce the effects of noise, vibration and dust.

The Construction Demolition Management Plan should also include but is not limited to reference to the following:

- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and at no time on Sundays and Bank Holidays.
- Mitigation measures shall be used to minimise noise disturbance from construction works
- Procedures for any deviation of the agreed working hours.
- Control measures for dust and other air-borne pollutants
- Asbestos removal
- Procedures for maintaining good public relations including complaint management, public consultation and liaison

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development

## 6. Unexpected Contamination

The development hereby approved within any approved phase shall not be brought into use until written confirmation is provided to the LPA that unexpected or previously unidentified contamination was not encountered during the course of development works. If, during development, unexpected contamination is found to be present on the site, no further works shall be carried out at the affected location until the following are submitted to the LPA for approval:

I. Risk Assessment (GQRA or DQRA);

II. Remediation Strategy & Verification Plan; If remediation is required, it shall be carried out in accordance with the approved Remediation Strategy.

Upon completion of remediation works, a Verification Report shall be submitted for approval. The actions required above shall be completed in full accordance with the following guidance: Land Contamination Risk Management (Environment Agency, 2023).

Reason: To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims of 125 (c), 187 (e & f), 196 & 197 of the National Planning Policy Framework (2024).

#### 7. Noise from plant & equipment

No commencement of use of any external plant or equipment shall take place until an assessment to show the rating level of that plant or equipment at nearby residential properties has been submitted to and approved in writing by the Council. The predicted rating level for any plant serving commercial premises shall be at least 5 dB below the background noise level. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound, BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Microgeneration Certification Scheme planning standards (MCS 020).

Reason: To safeguard the amenity of nearby premises and the area generally

#### 8. Details of Kitchen Extraction/Ventilation System (Class E use only)

No equipment for the extraction and dispersal of cooking smells/fumes shall be installed until an odour risk assessment in accordance with EMAQ+ Control of Odour and Noise from Commercial Kitchen Exhaust Systems Guidance document - Issue 2: 2022 to show that odour from the proposed extract system will not cause harm to neighbouring properties. If the risk assessment identifies that odour mitigation is required then details including method of construction, odour control measures, noise levels, appearance and ongoing maintenance have been submitted to and been approved in writing by the Local Planning Authority. The approved scheme shall be installed before the installation of any such equipment and thereafter shall be permanently retained.

Reason: To safeguard the amenity of nearby premises and the area generally

#### 9. Completion of Pedestrians/Cyclists Access - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the means of access for pedestrians and/or cyclists have been constructed in accordance with the approved plans and shall thereafter be retained for access purposes only.

Reason: In the interests of highway safety.

#### 10. Implementation/Installation of Refuse Storage and Recycling Facilities – Shown on Approved Plans

No building or use hereby permitted shall be occupied or use commenced until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans.

Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

Reason: To safeguard the amenity of the occupiers of adjoining premises; protect the general environment; prevent any obstruction to pedestrian movement and to ensure that there are adequate facilities for the storage and recycling of recoverable materials.

#### 11. Completion and Maintenance of Cycle Provision - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.

Reason: To ensure the provision and availability of adequate cycle parking.

#### 12. Noise from plant & equipment serving commercial properties

The rating level of any noise generated by plant & equipment as part of the development shall be not exceed the background noise level at any noise sensitive property granted planning permission at or before the date of this consent. Any assessment shall be made in accordance with BS4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound.

Reason: To safeguard the amenity of nearby premises and the area generally.

#### 13. Use of Refuse and Recycling facilities (Class E use only)

Activities relating to the collection of refuse and recyclables and the tipping of empty bottles into external receptacles shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers

#### 14. Deliveries (Class E use only)

Activities relating to deliveries shall only take place between 08.00 and 20.00.

Reason: To safeguard the amenities of nearby occupiers

#### 15. Sustainability

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 & Sustainability Statement (Complete Energy Consultancy, received 02.01.2024, 88 East Street) prior to first

occupation. A total of 46% reduction in carbon dioxide emissions below residual emissions through renewable technologies shall be achieved.

Reason: To ensure the development incorporates measures to minimise the effects of, and can adapt to a changing climate in accordance with policies BCS13 (Climate Change), BCS14 (Sustainable Energy), BCS15 (Sustainable design and construction), DM29 (Design of New Buildings).

#### 16. Non opening and obscured glazed window

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 proposed bottom windows of Bedrooms 1, 2 and 3 (as shown on drawing no.:218) shall be non-opening and glazed with obscure glass to a specification to be agreed with the Local Planning Authority and shall be permanently maintained thereafter as non opening and obscure glazed.

Reason: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.

#### 17. List of approved plans and drawings

The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.