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## Decision Notice and Statement of Reasons

Site visit made on 9 December 2025

**Decision by Katie McDonald MSc MRTPI**

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

**Decision date: 21 January 2026**

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**Application Reference: S62A/2025/0140**

**Site address: The Assembly, 110-112 East Street, Bedminster, Bristol BS3 4EY**

- 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 18 November 2025 is made by TMT Capital Ltd and was validated on 8 December 2025.
  - The development proposed is the demolition of the rear extensions and construction of a large HMO (Sui Generis). Change of use of the remaining ground floor unit from Public House to a commercial unit (Use Class E).
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### Decision

1. Planning permission is refused for the following reason:
  - 1) The site is in Flood Zone 2 and is at medium risk of surface water flooding. Therefore, a sequential test would be necessary. This has not been carried out. The failure to satisfy the sequential test means the proposal cannot demonstrate if there are other sites that would be sequentially preferable at a lower risk of flooding. Therefore, the proposal is contrary to Policy BCS16 of the Bristol City Local Plan Core Strategy (2011) (CS), the National Planning Policy Framework (the Framework) and the Planning Practice Guidance: Flood Risk and Coastal Change (PPG).

### Statement of Reasons

#### Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990 (S62A), which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council (BCC) have been designated for major and non-major applications since 6 March 2024.
3. Consultation was undertaken on 12 December 2025 which allowed for responses by 14 January 2026. BCC submitted a statement. The Coal Authority raised no objections. I have taken account of all written representations in reaching my decision.

## **Main Issues**

4. A previous S62A decision (S62A/2025/0115) was issued by the Planning Inspectorate in October 2025 for a very similar proposal. This considered various elements of the scheme, but permission was only refused due to the effect upon existing and future living conditions. Most other elements of the scheme were found to be acceptable and compliant with BCC's development plan, apart from the effect on flooding, where the Inspector did not make a finding on whether a sequential test was necessary.
5. Having regard to this, it is necessary to examine the previous reasons for refusal and the changes proposed in this scheme, along with the application of flood risk policies. Accordingly, the main issues for this application are:
  - Whether the proposed development would be in a suitable location with regard to local and national policies relating to flood risk, and;
  - Whether the proposal would provide satisfactory living conditions for the future occupiers and existing nearby residents.

## **Reasons**

### *Proposal*

6. The site is in Bedminster, in south Bristol. It fronts directly onto East Street at the front and Herbert Street to the rear. East Street is a pedestrian and cycle zone, and key bus route linking south Bristol to the City Centre. The road accommodates several shops and businesses, providing local amenities in proximity. Herbert Street is a quieter residential road, characterised by a residential high rise block, Northfield House, and recently developed apartment blocks.
7. 110-112 East Street is comprised of the main building fronting East Street, which is a three storey early Victorian property, and several single storey rear extensions. The main building is a vacant Public House to the ground floor, and the upper floors have recently been converted into 2 no. 5 bed HMO's (23/00686/F). The rear single storey extensions also form part of the Public House. The proposal includes:
  - The change of use of the Public House to a Commercial Unit.
  - The reduction in size of the Commercial Unit to 54m<sup>2</sup>, so that it is contained within the main building fronting East Street only.
  - The creation of a 15 bed HMO within a new rear extension. The HMO will measure 590m<sup>2</sup>.
8. The site would be suitably located for the proposed HMO and the proposal would not result in a harmful concentration. It would comply with the relevant part of policy DM2 of the Site Allocations and Development Management Policies (2014) (SADMP), and policy BCS18 of the CS which requires residential development to contribute to a mix of housing tenures.
9. The loss of the public house would be acceptable, compliant with policies DM6 of the SADMP or BCS12 of the CS. The proposed commercial use at the front of the site would contribute to the vitality of the designated Primary Shopping Area and provide an active frontage to this pedestrianised part of East Street. This would comply with Policies BCS7 of the CS and DM8 of the SADMP.

### *Flood Risk*

10. The Framework sets out that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with

a lower risk of flooding. This is referred to as the sequential test. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The strategic flood risk assessment will provide the basis for applying this test.

11. PPG details<sup>1</sup> that the aim of the sequential approach includes application of the sequential test, which is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features.
12. Application of the sequential approach in the decision-making process will help to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so, and developers do not waste resources promoting proposals which would fail to satisfy the test. Other forms of flooding need to be treated consistently with river and tidal flooding in mapping probability and assessing vulnerability, so that the sequential approach can be applied across all areas of flood risk.
13. Most of the site falls within Flood Zone 2 and is at medium risk of flooding from tidal and fluvial sources. It is also at medium risk from surface water flooding on the January 2025 iteration of the Risk of Flooding from Surface Water. Whilst the applicant's Flood Risk Assessment finds that the site is at low risk of flooding through their assertions of "overestimations of risk" or applying the Strategic Flood Risk Assessment (2120) (SFRA2120), ultimately, the site is still designated as medium flood risk for fluvial and tidal at and medium risk surface water flooding. Indeed, the SFRA2120 only indicates Flood Zone 3 on the evidence before me, and there are no details provided relating to Flood Zone 2.
14. Built development within the site boundary would be located on land at risk of flooding from 2 sources. Therefore, there is no exception to be applied under paragraph 175 of the Framework. Furthermore, whilst the proposal may involve a change of use, it would also include a substantial extension to the existing building and increase the number of people present in an area at risk of flooding, and therefore cannot fall under the exception in paragraph 176 of the Framework.
15. Therefore, a sequential test would be necessary. This has not been carried out. Any mitigation proposed would form part of the exception test and cannot be considered until the sequential test has been satisfied.
16. The failure to satisfy the sequential test means the proposal cannot demonstrate if there are other sites that would be sequentially preferable at a lower risk of flooding. The proposal is contrary to Policy BCS16 of the CS, which seeks to ensure development in Bristol will follow a sequential approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding proposals. There would also be conflict with the Framework and the PPG.

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<sup>1</sup> Paragraph: 023 Reference ID: 7-023-20220825 Revision date: 17 09 2025

### *Living conditions*

17. In the case of HMOs there is a high likelihood that future occupants would spend an increased amount of time in their bedrooms rather than in communal areas. As such the conditions of HMO bedrooms are an important factor in providing good quality and healthy living conditions for future occupants. Policy DM2 of SADMP requires that HMOs must provide a good standard of accommodation, and this is supplemented by the HMO Supplementary Planning Document (November 2020), which sets out guideline minimum room size standards.
18. The bedrooms proposed would exceed these guidelines. The smallest proposed bedroom would be 15m<sup>2</sup> (single occupancy) and 16m<sup>2</sup> (double occupancy). The living/kitchen/dining area would be around 68m<sup>2</sup> along with 5 kitchenettes dotted around the bedrooms. Store rooms, a laundry and cycle storage is also provided, along with a private garden area, of around 58m<sup>2</sup>, that would be accessed from the living/kitchen/dining area. The room sizes would provide a good standard of accommodation for future occupiers.
19. This application has relocated bedroom Nos 4-6 to overlook Herbert Street, significantly improving outlook from those windows. The Council raise concerns that these would face directly onto Herbert Street, and occupants could be at risk from overlooking from passers by, along with increased noise and disturbance. However, there is a wide and sufficient area of soft landscaping between the pavement and the building that would provide alleviation from direct overlooking. Furthermore, the lower pane of the windows could be obscure glazed to mitigate completely against any loss of privacy and enabling outlook at the upper section of window. Additionally, there are numerous other habitable windows at street level on modern developments to the east on Herbert Street, in closer proximity to the street than this proposal, such that the location of these windows would be appropriate in this street context.
20. Noise and disturbance would also not be harmful, given the predominant land use on Herbert Street is residential. Moreover, the applicant confirms that the service yard behind no. 108 East Street is used solely for the parking of personal motor vehicles by the staff of the commercial unit and the residential unit above. The commercial unit does not take goods deliveries via this road. Additionally, the applicant's site has a one metre wide right of access for fire escape along this service road towards Herbert Street, which limits future usage of that space. Thus, the effect on future living conditions would be acceptable.
21. Whilst the living/kitchen/dining area would now face directly towards the tall and unrelieved flank wall of Nos 102-106, and outlook would be somewhat compromised, given the proposal's nature as a HMO, occupants are unlikely to use this space as their main living area, akin to how a normal household would operate. It is more likely to be a communal space, such that the compromised outlook, in this instance, would be acceptable. There would also be roof lights providing light to the other side of the room, such that it would not be a dark or oppressive space.
22. Bedrooms nos 7-9 on the upper floor facing nos 102-106 would have velux balcony rooflights, which would maximise the amount of daylight and sunlight, and provide a greater degree of outlook, from the window running up into the roof. It would also provide an aspect of amenity space, given the design of the velux balcony details. Whilst this would not completely alleviate the proximity of nos 102-106, it would provide an improved solution that would be acceptable overall.

23. The garden would be overlooked by rooms nos 1-3 and vice versa. However, there would be a change in levels between the garden and the bedrooms, and obscure glazing is proposed to the lower panes of glass in the windows. This would ensure the occupants in the garden would not be able to look directly in the bedrooms, but the occupiers of those rooms would still benefit from an outlook, having the obscure glazing to below 1.4m internally. Outlook for bedrooms 2 and 3 would be similar to bedrooms nos 7-9, albeit the facing wall is only single storey and given the intervening garden, this would be acceptable in this instance. Moreover, bedrooms nos 1 – 3 would also contain roof lights, that would provide natural daylight and sunlight to these spaces. Thus, the relationship between the garden and these rooms would provide a good standard of accommodation.
24. Additionally, planters are proposed in front of the bedroom windows that would create defensible space, but would also provide biodiversity benefits. The garden design, whilst heavily enclosed and unlikely to receive much sunlight, would provide an area of outdoor space for the residents that would be landscaped and of a high quality. Given the constraints of existing surrounding development, this space is to be welcomed as a small area where occupants can seek outdoor amenity without leaving the site.
25. In this application, the massing of the proposal has been reduced to ensure the window to 2 Warden Street does not experience a harmful reduction in daylight according to the BRE Guidance. This is evidenced in the Daylight and Sunlight Impact Assessment Report by Mach.
26. Consequently, the proposal would have an acceptable effect on the living conditions of future occupiers and existing nearby residents, compliant with Policies DM2, DM27 and DM30 of the SADMP and BCS21 of the CS, which expect development to safeguard amenity and create a high-quality and healthy environment for future occupiers and provide a good standard of accommodation.

## **Other Matters**

### *Biodiversity Net Gain*

27. The application form states the biodiversity net gain condition as set out in paragraph 13 of Schedule 7A of the Act would not apply as the proposed development would be subject to the de minimis exemption. I have no reason to disagree. However, considering Article 24 of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013, I have included a note in this decision that refers to the relevant regulatory provisions on the biodiversity gain condition.

### *Heritage*

28. The site is in the Bedminster Conservation Area (BCA), the significance of which is derived from its surviving historic route structure, complemented by a rich architectural backdrop, which tells the story of the area's evolution from a quiet rural settlement into a seething industrial suburb. Within an overall landscape of Georgian and Victorian terraces are some fine examples of industrial, commercial, civic and institutional buildings. The main shopping thoroughfares have retained their strong urban townscape and the back land areas still give the sense of a gritty industrial suburb. The overall effect gives a distinctive sense of place and which is a largely intact, somewhat underrated, urban landscape. A mix of shops, churches, cafes, schools, community spaces and Dame Emily Park combine to create a lively, bustling environment with strong sense of community spirit. The area around Cannon Street

and East Street has suffered from post-war decline and Dalby Avenue has destroyed much of the character to the south of East Street.

29. The Bedford Conservation Area Character Appraisal 2013 (BCACA) identifies East Street as a major retail and commercial hub with positive features including the quality of its pre-1950s townscape, strong building line and rhythm contributed to by a broadly consistent height and roofscape. The BCACA identifies the frontage building of the application site as an unlisted building of merit. Herbert Street has been subject to change in recent years, in particular from development to the rear of buildings on East Street.
30. The design of the proposal would preserve the character and appearance of the Bedminster Conservation 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. The proposal would comply with policy DM31 of the SADMP relating to heritage assets.

### *Energy*

31. The submitted Energy and Sustainability Statement demonstrates the proposal can comply with the Council's policies in respect of energy through the use of measures including heat pumps and PV panels as shown on the drawings. The proposal would therefore be acceptable in this respect.

### **Conclusion**

32. The proposal would conflict with the development plan as a whole. BCC cannot demonstrate a 5 year supply of housing land, and thus the provisions of Framework paragraph 11d fall to be considered, unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed.
33. There is a failure to satisfy the sequential test. This would be a strong reason for refusing the development proposed, and therefore, the tilted balance is disapplied. This matter is of overriding substantial weight, given that there could be other sites that are sequentially preferable to develop that would avoid flood risk. The Framework is clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
34. Therefore, whilst there would be no other material planning objections relating to the proposal<sup>2</sup>, the benefits of the scheme would not outweigh the conflict with the development plan.
35. For these reasons, planning permission is refused.

*Katie McDonald*

Inspector and Appointed Person

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<sup>2</sup> That could not be managed by planning conditions.

**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>