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# Appeal Decision

Site visit made on 28 November 2023

**by T Gethin BA (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 December 2023**

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## **Appeal Ref: APP/Z0116/W/23/3323574**

### **Flat 1, 8 Argyle Road, St Pauls, Bristol City, Bristol BS2 8UU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Anne White, Edgehill Developments Limited, against the decision of Bristol City Council.
  - The application Ref 22/03552/F, dated 14 July 2022, was refused by notice dated 9 May 2023.
  - The development proposed is described as Retention of use as a small house in multiple occupation (C4) for 3-6 people.
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### **Decision**

1. The appeal is allowed and planning permission is granted for use as a small house in multiple occupation (C4) for 3-6 people at Flat 1, 8 Argyle Road, St Pauls, Bristol City, Bristol BS2 8UU in accordance with the terms of the application, Ref 22/03552/F, dated 14 July 2022.

### **Preliminary Matters**

2. The flat is already being used as a small house in multiple occupation (HMO). I have dealt with the appeal on this basis, albeit omitting 'retention of' from the description of development in my decision because such words do not describe acts of development.

### **Main Issue**

3. The main issue is the effect of the proposed use on the living conditions of adjoining occupiers, with particular regard to the flat above.

### **Reasons**

4. The appeal site is part of a relatively modern block of flats within a residential terrace. The subject of the appeal, Flat 1, is a maisonette split over the two lower floors of No 8 Argyle Road. There is another similar maisonette on the other side of No 8 and there are four one-bedroom flats on the building's upper floors, including Flat 3 which is directly above Flat 1. There is an HMO in the adjoining property, No 6 Argyle Road.
5. Policy DM2 of the Bristol Local Plan – Site Allocations and Development Management Policies (LP) sets out various circumstances where proposals for HMOs will not be permitted. Of relevance to the appeal proposal, this includes where development would: harm the residential amenity of the locality due to, amongst other things, levels of activity that cause excessive noise and disturbance to residents; or create/contribute to a harmful concentration of such uses within the locality by exacerbating existing harmful conditions or reducing the choice of homes in the area by changing the housing mix.

6. In this instance, indicating the proposed use would not result in more than 10% of the total dwelling stock in the locality being occupied as HMOs, the Council do not allege that it would reduce the choice of homes in the area. However, concern is raised that the appeal proposal could harm the living conditions of existing residents due to its alleged sandwiching effect.
7. The supporting text to LP Policy DM2 sets out that shared housing can have an impact on residential amenity through, amongst other things, noise and disturbance associated with intensification of the residential use and/or the occupants' lifestyles. It identifies that generally quieter surroundings usually contribute to a residential area being a satisfactory place to live and that harmful concentrations of HMOs are likely to arise when issues commonly associated with shared housing, such as noise and disturbance, cumulatively result in detrimental effects on the residential area's particular qualities and characteristics. Expanding on this, the Supplementary Planning Document (SPD), 'Managing the development of houses in multiple occupation', sets out that a harmful concentration can arise at a localised level when an existing dwelling is sandwiched between two HMOs and identifies that such sandwiching is unlikely to be consistent with LP policy.
8. It has been put to me that the appeal proposal would result in Flat 3 being sandwiched because that flat would be next to the HMO in No 6 and directly above the proposed HMO. Be that as it may, there is little substantive evidence before me that the proposed use of Flat 1 would harm (or has already harmed) the living conditions of adjoining occupiers through, for example, noise and disturbance, or exacerbate existing harmful conditions, which is what LP Policy DM2 seeks to avoid. Indeed, despite Flat 1 having been used as an HMO for some time, no noise complaints or objections identifying noise disturbance have been submitted. The Council has also not evidenced its concerns about the living conditions of existing residents with any actual or alleged harm specific to the use proposed in this case.
9. Consequently, the available evidence neither indicates the proposed use would create (or has created) levels of activity that cause excessive noise and disturbance nor would exacerbate existing harmful conditions. Irrespective of whether it would result in a sandwiching effect on Flat 3, and even if it would lead to a concentration of HMOs at a localised level, it has also not been demonstrated that the proposed HMO would create or contribute to a harmful concentration of such uses.
10. For the above reasons, I conclude that the proposed use would not harm the living conditions of adjoining occupiers, with particular regard to Flat 3. I therefore find that it accords with LP Policy DM2. It would also be consistent with the provisions in the National Planning Policy Framework in relation to providing a high standard of amenity for existing users.

### **Conclusion and Conditions**

11. For the above reasons, and having had regard to all other matters raised, I conclude that the development proposed would accord with the development plan as a whole. The appeal is therefore allowed.
12. No planning conditions have been suggested. With the HMO use having already commenced and the available evidence not indicating that conditions are necessary, I have therefore not imposed any in this instance.

*T Gethin BA (Hons), MSc, MRTPI*

INSPECTOR