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## Appeal Decisions

Site visit made on 1 April 2025

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

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### **Appeal A Ref: APP/Z0116/W/24/3346984**

#### **8 Unity Street, Bristol, BS1 5HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr A Wenman of Prosum Property Ltd against the decision of Bristol City Council.
  - The application Ref is 23/02356/F.
  - The development proposed is conversion of Use Class E offices into a Sui Generis HMO with associated alterations.
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### **Appeal B Ref: APP/Z0116/Y/24/3346988**

#### **8 Unity Street, Bristol, BS1 5HH**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Mr A Wenman of Prosum Property Ltd against the decision of Bristol City Council.
  - The application Ref is 23/02357/LA.
  - The works proposed are conversion of Use Class E offices into a Sui Generis HMO with associated alterations.
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## **Decisions**

1. The appeals are dismissed.

## **Preliminary Matters**

2. The appeals relate to the same scheme under different legislation. I have considered each on its own merits. However, to avoid duplication, I have dealt with both appeals together.
3. On 12 December 2024 the Government published its revised National Planning Policy Framework (the Framework). The main parties have been given opportunity to provide additional comments in respect of this, and they have been taken into account in my decision.
4. The Council is updating its local plan. It is currently at the examination stage, and its Policies therefore attract limited weight.
5. At the appeal stage the appellant sought to amend the proposal in several ways, and supplement it with additional information. I need to consider whether to accept these plans as part of the appeal. Caselaw establishes that I should consider the substantive test and a procedural test.
6. The changes include the reduction in the number of bedrooms to 6 with the rear bedroom at ground floor changed to a communal lounge, and a restriction so that

the originally intended use for student accommodation would not be proposed. This change means that the proposal would no longer be for a large House in Multiple Occupation (HMO), which is a sui generis use, and is how the proposal is described on the application form and in the Council's decision. Instead, it would be for a small HMO, which is a C4 use. With regard to the substantive test, this would constitute a fundamental change to the proposal.

7. With regard to the second test, this change would cause procedural unfairness to those who occupy a neighbouring building, as the room that they understood to be put to use as a bedroom would become a communal living room, and without re-consultation they would be deprived of the opportunity to provide further representations.
8. A noise report was submitted with the appeal. This suggested various revisions to the proposal to address noise impacts. Given that this is a matter of concern to the Council and the users of a neighbouring building, I am also of the view that it would not be appropriate to accept this additional information, as by doing so I would deprive those with an interest in this matter from providing further comments.
9. More minor modifications to the proposal are included in the revised plans. Whilst these do not seek to significantly vary the scheme and would not necessarily require re-consultation with interested parties, they are tied to the broader changes referred to above and it would be difficult and confusing to separate them. Therefore, for the reasons given, I shall determine the appeal with reference to those plans that were before the Council when it made its decision, and I shall disregard those that have been submitted with the appeal.

### **Main Issues**

10. The main issue for both appeals is the effect of the proposal upon the special interest of the grade II listed building, known as numbers 8 and 9 and attached front area railings, Unity Street<sup>1</sup>.
11. Additional main issues for Appeal A only are:
  - a) whether the proposal would secure adequate living conditions for future occupiers and its effect on the use of the neighbouring buildings,
  - b) whether the proposed access arrangements for refuse, recycling and cycle storage would be adequate, and
  - c) whether the proposed use would be appropriate taking into account the number of existing student bedspaces in the area.

### **Reasons Appeal A and B**

12. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
13. A single listed building designation covers the appeal building and its attached neighbour to the northeast. The pair appear to match and were originally built as

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<sup>1</sup> List Entry Number: 1282080

substantial townhouses. They date from the mid 18<sup>th</sup> century and have a plain stucco façade. Each building is defined by rusticated pilasters that are topped with coping that ramps up to account for the change in level of each building, which follows the slope of the street. The fine formal appearance of its front façade, its overall form, and surviving historic fabric are primary characteristics of the building's special interest.

14. Internally the appeal building features a generous panelled hallway and dog-leg stair. These features, as well as the overall cellular plan form of the building with a basic division of front and rear rooms to each floor that is still evident across all floors, are also elements that contribute to the building's special interest.
15. It is suggested that the appeal building currently has capacity for a total of 32 people, with the ability for up to 8 to work on each floor. There is no information before me however to confirm that it was used in this way previously. A HMO use has a different intensity and character to that of an office. These differences include the 24/7 occupation of the building, the frequency by which people might come and go given that the property would comprise people from different households, and the acceptance that HMO occupants are often transitory<sup>2</sup>.
16. The latter means that they are likely to have limited interest in the fabric or significance of the building. This point is particularly relevant for the appeal proposal, given that the staircase and hallway retain original decorative historic fabric appropriate to the status of the building as a large town house. This is likely to suffer from the intensive use of the building as a HMO, especially when the movement of furniture and belongings in and out of the building is taken into account, as well as the bikes, rubbish and recycling receptacles, which will need to pass through this significant part of the building's interior on a regular basis. The proposed use would cause a considerable degree of harm to the building's special interest.
17. The Council raises concerns about the potential to damage historic fabric that would arise from the introduction of new services to facilitate the proposal. On the basis that I have not accepted the amended plans this remains outstanding, although at the site visit I was able to see various voids that have been uncovered that demonstrate the potential for non-invasive solutions to service the new shower rooms. On this basis it could be possible to secure these additional details through an appropriate condition if I were to allow the appeal.
18. In other respects, at second and third floor level partitions would be introduced to provide en-suite facilities. These floors have a basic character that has been altered, but still retain a simple front and rear room arrangement that is readily appreciated and modestly contributes to the building's special interest. Chimney breasts are a key spatial feature to this layout on both upper levels. These would become offset and secondary features as a result of the proposed changes and the basic front and rear room arrangement would be eroded. As such, a modest level of additional harm would arise from these interventions.
19. In summary, the proposal would fail to meet the requirements of the LBCA as it would not preserve the special interest of the listed building. It would be contrary to Policy BCS22 of the Bristol Development Framework Core Strategy 2011 (CS) and Policies DM30 and DM31 of the Site Allocations and Development Management

<sup>2</sup> Managing the Development of Houses in Multiple Occupation Supplementary Planning Document 2020 Bristol City Council

Policies Local Plan 2014 (DMP), which together seek to ensure that historic assets are safeguarded and that there would be no adverse impact on elements that contribute to significance.

### **Reasons Appeal A only**

*Living conditions for future occupants and the effect on the use of neighbouring buildings.*

20. The communal area at first floor would adjoin neighbours to each side. It is generously sized and likely to be well used by future occupants of the dwelling. The noise generated at this level has the potential to be significantly greater than that for an office use, and would include noise generated all the time rather than limited to the working day. Observations have been raised by one of the existing neighbours relating to this. For the reasons already given I am unable to accept the submitted noise report, so it is not possible for me to be sure that the proposal would not adversely impact the occupants of either neighbouring building. Furthermore, if mitigation is required, I am unable to assess whether it would be appropriate in light of the building's special interest.
21. Secondary glazing is proposed. The Council suggests this is necessary to limit noise transmission given that the building is within a busy city centre location. Principle rooms include original lining and shutters to front windows. Secondary glazing has the potential to compromise this historic fabric. Details of the secondary glazing have been provided but are limited to standard manufacturers drawings. Instead, bespoke drawings are needed to show how the units would be accommodated adjacent to historic fabric to achieve the necessary performance whilst not compromising the building's special interest. Without this it is not possible to ensure that a satisfactory living environment for future occupants of the building can be secured.
22. The outlook from bedroom 2 would be through a huge rearward window that occupies most of the rear wall of the room. The view out is towards the back of the neighbouring building and would present an uninteresting and restricted outlook. Additionally, owing to the scale of the building and its orientation, this window would receive no direct sunlight. However, the large window would provide a good level of daylight to the room and the room itself is large, so even though it would not receive direct sunlight it would not feel oppressive. It would be sufficient to provide a comfortable living environment for future occupants.
23. In summary, I am unable to conclude that the proposal would secure adequate living conditions for future occupiers and that it would not have an adverse effect on the use of the neighbouring buildings. It would thus be contrary to Policies BCS21 and BCS23 of the CS, and Policies DM2, DM30 and DM35 of the DMP, which together seek to ensure that development proposals safeguard the amenity and viability of existing development and create a high quality environment for future occupiers.

*Refuse, recycling and cycle storage*

24. Storage for refuse, recycling and bicycles would be provided in the rear courtyard. This is a landlocked space that is only accessible by passing through the building. Users would need to navigate steps at the rear and front of the building, two external and two internal doors.

25. Moving a bicycle through the building would be difficult, particularly at the rear where the hallway and doors are narrower than at the front. Holding doors open and lifting bikes up and down steps would be hard for most future occupants. Additionally, such manoeuvres would be likely to damage the building, noting that the historic panelling and surrounds are retained in the hallway and are important parts of the building's interior that contribute to its special interest. They are particularly vulnerable to being bashed by bicycle handlebars, as occupants struggle to manoeuvre them through this constrained space; and such damage is an important matter as historic assets are an irreplaceable resource.
26. The appellant advises that this was where bicycles were previously stored. However, the proposal is to introduce a new use to the building, and the way that the building would be occupied would be noticeably different. Office staff would have had various transport options, and cycling may well have been less attractive given the difficulty with storing a bicycle at the building during the day. Alternative short term storage exists at the front of the building and in other nearby locations, which would have been viable for those only using the building during the day.
27. The expectations of a future occupant would be quite different. Whilst alternative transport options exist in this highly accessible location, it would be a reasonable expectation for permanent and secure cycle storage to be provided that would be accessible and allow future occupants to utilise a bicycle easily for day to day needs. Indeed, this is also a Policy requirement. In this respect the proposed arrangement would be wholly inadequate.
28. Regarding waste and recycling, the proposal suggests the use of wheelie bins. Bringing these through the building would be difficult on a regular basis. As a result, it is likely that future occupants would be inclined to leave receptacles on the pavement at the front on a permanent basis. Wheelie bins stored permanently on the street would create a hazard to users of the footway, and would have an adverse impact on the building's appearance and the street.
29. A refuse management plan is suggested to address this, which could secure the collection of waste and recycling by a commercial contractor from an off street location. This is how this issue was previously addressed; and this matter could be addressed on this basis, if the appeal is allowed, and this would accord with Policy BCS15 of the CS and Policy DM32 of the DMP. However, the potential to damage historic fabric would remain.
30. In summary, whilst I have found that a solution for waste and recycling might be found, the proposed cycle storage arrangement would not be adequate. It would fail to accord with Policies DM2 and DM23 of the DMP insofar as they seek to secure appropriate storage for bicycles.

#### *Proposed use*

31. The Council is of the view that the proposal would result in a harmful concentration of student bedspaces in the area, which would be contrary to Policy DM2 of the DMP. The Council's guidance<sup>3</sup> (SPD) advises that harmful conditions can arise when there is an over concentration of student accommodation in the area, which is what the proposal is for.

<sup>3</sup> Managing the Development of Houses in Multiple Occupation Supplementary Planning Document 2020 Bristol City Council



32. Evidence suggests that there is a high concentration of student accommodation in the area. The proposal would increase this modestly and add to the imbalance to the type and tenure of housing in the area.
33. In summary, the proposed use would not be acceptable taking into account the number of student bedspaces in the area already. It would be contrary to Policy BCS18 of the CS and Policy DM2 of the DMP, which seek to ensure that development proposals do not result in a harmful concentration of uses that reduces the choice of homes in the area by changing the housing mix.

### **Planning and Heritage Balance**

34. I have found that the proposal would fail to preserve the special interest of the listed building, and I am unable to be sure that it would secure adequate living conditions for future occupiers or that it would not have an adverse effect on the use of the neighbouring buildings. Additionally, the proposals for cycle storage are inadequate and the proposed use would not be acceptable.
35. Although considerable, the harm to the listed building would be less than substantial in terms of the Framework. Paragraph 215 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
36. The proposal would deliver new residential accommodation in a highly accessible location with easy access via a range of transport options to city centre services and facilities. This is in the context of Government priorities to significantly increase the delivery of new homes in response to the UK's housing crisis. The weight I give to this is however limited by the modest level of accommodation that would be provided and my inability to conclude that it would secure adequate living conditions for its future occupants.
37. It would secure a new use for the building, which is currently vacant, and this is a conservation related public benefit as a building that is put to a useful use is more likely to be well maintained. The weight I give to this is also limited because the building appeared to be in a good state of repair at the time of my visit.
38. With further reference to paragraph 215 of the Framework it is also necessary to consider whether the proposal represents the optimum viable use (OVU) of the building. Evidence has been submitted to explain why alternatives such as reinstating the building to a single dwelling or dividing it into flats would be more problematic. However, the case for the proposal is significantly weakened by the appellant's attempt to vary the scheme at appeal to a less intensive HMO by reducing the number of bedrooms. Although I have not accepted this revision as part of the appeal, I cannot ignore the fact that this is put forward by the appellant. This calls into question whether the proposal before me is the building's OVU; and whether a less intensive, and potentially less harmful solution exists.
39. Furthermore, Policy DM31 of the DMP states that where a proposal would affect the significance of a heritage asset, the applicant will be expected to mitigate the extent of harm to the significance of the asset and demonstrate that the works proposed are the minimum required to secure its long term use. Given that an alternative lesser scheme has been tabled I can be sure of neither.

40. I give the harm identified considerable importance and weight in the public benefit balance of these appeals. Indeed, paragraph 212 of the Framework establishes that great weight should be given to the conservation of a heritage asset, regardless of the level of harm identified. The public benefits that I have referred to carry reasonable weight, however they are not sufficient to outweigh the harm identified.
41. With regard to the other main issues, the proposal would deliver new residential accommodation that would be inadequate in terms of cycle storage provision and would result in an over concentration of student accommodation, thus contrary to a key objective of the DMP to secure a good housing mix and choice of homes. Additionally, I am unable to be sure that it would secure adequate living conditions for future occupiers or that it would not have an adverse effect on the use of the neighbouring buildings. As a result, the benefit of the modest level of residential accommodation that would be provided would not be sufficient to outweigh these matters.

### **Other Matters**

42. The building stands in the College Green Conservation Area (CGCA). Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In its decision the Council refers to a negative impact on the sensitive character of the CGCA. There is however nothing in the Council's submissions, including within its officer report, to explain this further. The proposal would not alter the exterior of the building. I have found that a solution could exist for recycling and waste collection that would ensure that receptacles are not left outside at the front of the building on a permanent basis. I am not satisfied that there are any further matters that could cause me to conclude that the character and appearance of the CGCA would not be preserved, or even that this should be a main issue of the appeal.

### **Conclusion**

43. In conclusion, the proposal would conflict with the development plan and there are no other material considerations, including the Framework, that outweigh this conflict. Therefore, the appeals should be dismissed.

*A Tucker*

INSPECTOR