

<b>Extension: Revised expiry date</b>	24 April 2020
<b>'Hold Date'</b>	

## Bristol City Council Development Management

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### Delegated Report and Decision

**Application No:** 19/06116/F **Registered:** 18 December 2019

**Type of Application:** Full Planning **Expiry Date:** 12 February 2020  
**Case Officer:** Richard Sewell

**Site Address:**

The Windmill Public House  
14 Windmill Hill & 3  
Eldon Terrace  
Bristol  
BS3 4LU

**Description of Development:**

First-floor extension and change of use of The Windmill Public House from Use Class A4 and conversion into 5 flats (Use Class C3). Reinstatement of the basement beneath 3 Eldon Terrace to residential use. Proposed external alterations and sub-division of the rear garden area.

**Ward:** Windmill Hill

**Site Visit Date:** 30 January 2020 **Date Photos Taken:** 30 January 2020

**Consultation Expiry Dates:**

**Advert and/or Site Notice:** 5 Feb 2020  
5 Feb 2020 **Neighbour:** 30 Jan 2020

#### SITE DESCRIPTION

The application site is the Windmill Public House which is located on the north western corner of Windmill Hill and Eldon Terrace. The ground floor is in use as the public house and the first floor is in use as a 4-bed apartment. It has a small garden area to the rear containing a number of trees. The pub's cellar is located beneath the adjoining residential property 3 Eldon Terrace which is used in connection with the pub.

#### RELEVANT HISTORY

80/04283/P\_S Alterations to form improvements to Public House. Change of use of dwelling house to storage in connection with adjoining public house. Date Closed 9 February 1981 REF

81/01060/U\_U Change of use of cellar only of dwelling house to storage area in relation to Public House and internal improvements to Public House. Date Closed 21 May 1981 PG

08/01875/F Change of use from a residential garden to a pub garden and associated landscape works and boundary treatment. Date Closed 23 June 2008 REF

19/00940/CE Application for a Lawful Development Certificate for an Existing use or operation or

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activity - Use of the cellar contained within the basement of 3 Eldon Terrace as part of the adjacent public house "The Windmill" (Use Class A4) in excess of ten years. Date Closed 28 March 2019  
CLUG

**APPLICATION**

The development proposes the following:

- o Change of use of ground floor from public house (Use Class A4) into residential (Use Class C3);
- o First-floor extension to The Windmill over the existing lean-to/single storey extension facing onto Windmill Hill
- o Conversion of the Windmill Pub into 5 units (2 x 1-bed and 3 x 2-bed units)
- o Minor external alterations
- o Reinstatement of the basement of 3 Eldon Terrace to residential use, in effect converting the property back into a 3-bed single family dwellinghouse.
- o Subdivision of garden/amenity area

**RESPONSE TO PUBLICITY AND CONSULTATION**

Neighbours representations: 120 neighbour representations have been received, all objecting to the proposed change of use of the public house. Reasons include:

- o The pub should be retained as a community facility
- o Community group interest demonstrates that pub remains viable
- o Proposed flats will create additional congestion and impact on parking

The application has been referred to the Planning Committee by Cllr Jon Wellington for the following reasons: "The local community have concerns about this plan as it changes the use from a well-used community pub to residential. There are also concerns about density and parking with a residential development which residents would like to present to committee"

Bristol Civic Society: "Objects to the loss of the public house use of these premises which would diminish the social infrastructure of this neighbourhood. At the very least, any change of use should include an element of community use. The Society also objects to the residential proposal. The present building fits in well with the grain of this area. The increased massing that would result from the development would be out of place and harmful to the character of the neighbourhood. We also consider the proposal to be an overdevelopment of the site leaving virtually no amenity space. The introduction of six flats would almost certainly exacerbate on-street parking pressure notwithstanding the provision of cycle parking facilities.

**INTERNAL CONSULTEES**

Transport Development Management: **OBJECTION**. It is not acceptable to access the rear bike and bin storage areas via steps through a narrow side alley which is less than 1m wide in some parts.

**City Design Group** has commented as follows:-

surgery item

**RELEVANT POLICIES**

Policy Framework – February 2019

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocation and Development Management Policies (Adopted July 2014) and (as appropriate) the Bristol Central Area Plan (Adopted March 2015) and (as appropriate) the Old Market Quarter Neighbourhood Development Plan 2015 and the Hengrove and Whitchurch Park Neighbourhood Development Plan 2019.

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In determining this application, the Local Planning Authority has had regard to all relevant policies of the Bristol Local Plan and relevant guidance.

**KEY ISSUES**

**(A) IS THE DEVELOPMENT ACCEPTABLE IN PRINCIPLE?**

The proposal site is unallocated on the Local Plan Policies Map, which in general relates to areas that are primarily residential and where the primary uses are likely to remain undisturbed.

Policy BCS5 sets out that the Core Strategy aims to deliver new homes within Bristol's existing built up areas to contribute towards accommodating a growing number of people and households in the city. Between 2006 and 2026, 30,600 new homes will be provided in Bristol. The policy further states that the development of new homes will primarily be on previously developed sites across the city. This is supported by BCS20 which states that new development will maximise opportunities to re-use previously developed land.

The need to make the most effective use of this piece of urban land in accordance with Policy BCS20 is acknowledged and acceptable in this location in a built up residential area in what is considered to be a sustainable location.

The creation of six flats would make a small scale but valuable contribution towards housing supply which is compatible with the objectives of Policy BCS5.

To conclude, in land use terms, the creation of 5 flats at the site would represent sustainable development in full accordance with national and local planning policy. The principle of development in land use terms is therefore acceptable subject to the loss of the public house use being acceptable in policy terms (see Key Issue B).

**(B) WOULD THE LOSS OF THE PUBLIC HOUSE BE ACCEPTABLE?**

The proposal would result in the loss of The Windmill Public House.

**Relevant policy:**

Section 8 of the National Planning Policy Framework (2019) addresses the issue of 'Promoting Healthy Communities'. At paragraph 91 it is specified that 'the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.' It is stated, at paragraph 92, that 'to deliver the social, recreational and cultural facilities and services the community needs, planning policies and 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;

- 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 of the Core Strategy (2011) 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 such cases 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 provision in the area. Policy BCS2 in the same document seeks the retention of small-scale uses, such as pubs, where they contribute to the diversity and vitality of the city centre.

Policy DM5 specifies that proposals involving the loss of community facilities (including pubs) land

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or buildings will not be permitted unless it is demonstrated that:

- i. The loss of the existing community use 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 land; 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 in the Site Allocations and Development Management Policies (2014) further 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.

Where development is permitted any extensions or alterations should not harm the identity or architectural character of the public house.

With regards to criterion i) of Policy DM6, the applicant has provided detailed profit and loss analysis for the public house which demonstrates a significant loss over the last few years. It is also understood that on this basis the applicant has been forced to close the public house as it is no longer viable to keep it open. This decision was taken prior to the current closure of all public houses due to the ongoing Coronavirus outbreak.

In addition to this financial information, the applicant has provided evidence of that the public house has been unsuccessfully marketed by Fleurets since May 2019 (the sale price was also reduced within this period).

Objectors to the closure of the public house have highlighted the fact that a local community group has shown interest in purchasing the premises. The applicant has entered into extensive discussions with the group and has demonstrated that they are willing to sell the public house to them. However, despite a lengthy period of interest and a significant extension to the determination date of the planning application, there has been no formal offer or indication that one will be forthcoming from the community group. Therefore it is considered that the proposal satisfies the requirements of criterion i) of Policy DM6 in respect of the business being no longer economically viable

With regards to criterion ii) of DM6 the applicant has demonstrated that there are numerous other public houses within the local area, many of which serve food and host various events. The locations of these establishments are demonstrated in Appendix A of the submitted planning statement.

In relation to the loss of the public house, given the extensive number and range of pubs within the local area it is not considered that the loss of this currently closed public house would adversely affect the social well-being of the local community neither would it deprive the local community of a facility that could help strengthen and support their social well-being. The application is therefore found to comply with Policies DM5 and DM6 in the Site Allocations and Development Management Policies (2014); Policy BCS12 of the Core Strategy (2011) as well as guidance contained within the NPPF (2019).

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**(C) MIXED AND BALANCED COMMUNITY ISSUE**

The NPPF (2019) reflects the need to significantly boost the supply of housing and to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Policy BSC18 of the adopted Core Strategy reflects this guidance and states that "all new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities", with reference to the evidence provided by the Strategic Housing Market Assessment, also notes that 'developments should contribute to a mix of housing types and avoid excessive concentrations of one particular type'. The policy wording states that development 'should aim to' contribute to the diversity of housing in the local area and help to redress any housing imbalance that exists.

Bristol comprises a diverse range of residential neighbourhoods with significant variations in housing type, tenure, size, character and quality. A wide range of factors influence the housing needs and demands of neighbourhoods. Such factors include demographic trends, housing supply, economic conditions and market operation. The inter-relationship between these and other factors is often complex and dynamic. In the circumstances, housing requirements will differ greatly across the city and will be subject to change over time. With this in mind an overly prescriptive approach to housing mix would not be appropriate. However, it has been possible to identify broad housing issues that are applicable to many neighbourhoods. Analysis of the city's general housing needs and demands has identified a number of indicative requirements for each of 6 city zones. The zones reflect sub-market areas used in the Strategic Housing Market Assessment (SHMA). The intention is to provide a strategic steer for all sizes of residential scheme within each zone. A local area-based assessment is required to assess the development's contribution to housing mix as a smaller scale will not provide a proper understanding of the mix of that area; a larger scale may conceal localised housing imbalances. As a guide the neighbourhood is defined as an area equivalent to the size of a Census Lower Level Super Output Area (average of 1,500 residents).

The site is located in within the Windmill Hill West Lower Super Output Area (LSOA). An up-to-date picture of the proportion of different residential accommodation types in the LSOA can be obtained by assessing the 2011 Census data suggests that the Windmill Hill West LSOA comprises approximately 72.5%houses/ 27.5% flats with 12.7% of properties being 1 bedroom and 37.4% 2 bedroom. On this basis, no objections are raised to the type and size of the units proposed as the scheme would not create or contribute to local imbalance of housing type or size.

**(D) IS THE PROPOSAL ACCEPTABLE IN TERMS OF DESIGN AND THE IMPACT ON THE CHARACTER, APPEARANCE AND VISUAL AMENITY OF THE AREA?**

Policy BCS21 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.

Policies DM26-29 of the Site Allocations & Development Management Policies require development to contribute to the character and distinctiveness of an area through its layout, form, public realm and building design.

DM26 expects developments to contribute towards local character and distinctiveness by restoring the local pattern and grain of development, responding appropriately to the height, scale, massing, shape, form, and proportion of existing buildings, building lines and setbacks from the street, as well as reflecting locally characteristic architectural styles, patterns and features.

DM27 expresses that the layout, form, pattern and arrangement of streets, buildings and landscapes should contribute towards to creation of quality urban space and that the height, scale and massing of development should be appropriate to the immediate context, site constraints,

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character of adjoining streets and spaces and setting. Development should provide a coherent, interconnected and integrated built form that relates to its immediate context.

DM6 states that any extensions or alterations should not harm the identity or architectural character of the public house.

The proposed development includes a first-floor extension over the existing lean-to/single storey extension facing onto Windmill Hill and other minor external alterations. The proposed works are not considered to be significantly detrimental to the visual amenity of the locality or the character and appearance of the public house.

**(E) WOULD THE PROPOSAL PROVIDE ACCEPTABLE LIVING CONDITIONS FOR OCCUPANTS OR HAVE ANY ADVERSE IMPACT ON THE AMENITY OF THE SURROUNDING PROPERTIES?**

BCS21 provides a set of criteria for the assessment of design in new development. Proposals are expected to safeguard the amenity of existing development and deliver a high-quality environment for future occupiers. Policies DM27 and DM29 state that new buildings should be designed to a high quality, ensuring that existing and proposed development achieves appropriate levels of outlook, daylight and privacy.

The proposed plans indicate that the public house is to be converted into 5 flats (2 x 1-bed and 3 x 2-bed units). Unit 2 as proposed is located on the ground floor with the main living area being situated adjacent to Eldon Terrace. As detailed in the proposed floor plans elevation drawings, this living space is only served by a single narrow window adjacent to the front door of the property. This lack of windows is not considered to allow in an adequate amount of natural light or provide sufficient outlook from this main living space.

As existing the adjacent property 3 Eldon terrace, which is included within the red line, has a modest rear garden. The proposal shows this being lost and the addition of the first floor extension and windows serving the bedroom of Unit 6 which will look directly into the habitable windows of 3 Eldon Terrace which is to become Unit 1 as proposed. Additionally, these first floor windows serving Unit 6 are shown to be directly overlooking the rear gardens of the other properties along Eldon Terrace. This is not an acceptable arrangement as it will result in significant overlooking and loss of privacy to neighbouring residents.

The applicant was made aware of these issues and was offered the opportunity to provide amended plans in order to potentially overcome the concerns of the Case Officer but none have been forthcoming.

Therefore the proposal is not considered to provide adequate living conditions for future occupants and will also result in overlooking and loss of privacy to Unit 1 as proposed and also the other properties along Eldon Terrace. As such the proposal is considered contrary to policies BCS21, DM27 and DM29.

**(F) WOULD THE PROPOSED DEVELOPMENT SATISFACTORILY ADDRESS HIGHWAY SAFETY, TRANSPORT AND MOVEMENT ISSUES?**

Policy DM23 specifies development proposals will be expected should provide an appropriate level of safe, secure, accessible and usable parking provision having regard to the level of accessibility by cycling and must also provide appropriate servicing and loading facilities. Proposals for parking, servicing and loading should make effective and efficient use of land and be integral to the design of the development.

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Policy DM32 states that residential development will be expected to provide as a minimum communal recycling facilities and refuse bins of sufficient capacity to serve the proposed development as a whole. Further to this, policy DM32 requires that the location of waste and recycling storage provision must provide safe and convenient access for occupants while also providing satisfactory access for collection vehicles and operatives

Concerns have been raised that the proposed development will have an adverse impact on local parking. The Council's TDM Officer has commented that the sustainable location of the proposal site means that it is acceptable for it to be a car free development and so has raised no objection in terms of impact of additional congestion and parking in the local area.

However TDM have raised objections to the proposed cycle storage provision as the proposed access to the cycles is less than a meter in width (the obligatory measurement is required to be at least 1.2m in width) and plans also show the storage area being accessed via steps which is not compliant with the cycle parking criteria.

In terms of bin storage, TDM have commented that the current access to the waste storage area to the rear is less than a meter in width (the obligatory measurement is required to be at least 1.5m in width) and is also accessed via steps. Again this is not considered to be an acceptable arrangement.

The applicant was made aware of these issues and offered the opportunity to provide amended plans in order to potentially overcome the concerns of the TDM Case Officer but none have been forthcoming.

The proposal is therefore not considered to provide adequate provision for waste and cycle storage which is contrary to policies DM23 and DM32.

**(G) WOULD THE PROPOSED DEVELOPMENT RAISE ANY ARBORICULTURE ISSUES?**

Policy BCS9 states that the integrity and connectivity of the strategic green infrastructure network should be maintained, protected and enhanced. Individual green assets should be retained wherever possible and integrated into new development. BCS21 in the same document also states that new development will be expected to deliver a safe, healthy, attractive, usable, durable and well-managed built environment comprising high quality inclusive buildings and spaces that integrate green infrastructure. Policy DM17 requires that new tree planting is carried out to compensate for any trees that are lost as part of new development.

It was noted during the Case Officer's site visit that there are a number of trees and shrubs within the rear garden of 3 Eldon Terrace which are not shown on any site plan drawings. The submitted documents do not include any Arboricultural Survey or Tree Protection Plan, despite these documents having been requested the Case Officer.

Therefore it has not been demonstrated that there will not be any detrimental impact to the existing trees on site or that any protection or mitigation is required as per the requirements of the Bristol Tree Replacement Standard meaning the proposal is contrary to policies BCS9, BCS21 and DM17.

**(H) SUSTAINABILITY AND CLIMATE CHANGE**

Policies BCS13-15 within the adopted Bristol Development Framework Core Strategy (2011) require new development to be designed to mitigate and adapt to climate change and meet targets to reduce carbon dioxide emissions. This should be achieved, amongst other measures, through efficient building design, the provision of on-site renewable energy generation to reduce carbon dioxide emissions by at least 20% based on the projected residual energy demand of new buildings.

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The applicant has provided this level of information on the form of a Summary Table which demonstrates that the proposal meets the required 20% reduction in carbon emissions. The application is therefore considered acceptable in principle on these grounds

**CONCLUSION**

Whilst the conversion of the Windmill Public House into residential apartments is considered in principle to be acceptable in relation to the requirements of policies BCS2, BCS12, DM5 and DM6, the proposed development is not considered to provide adequate living conditions for future occupants of Unit 2 due to a lack of natural light and outlook.

In addition, the proposal will have an adverse impact on the current level of residential amenity awarded to neighbouring properties by way of overlooking and loss of privacy from the proposed first floor windows of Unit 6. The application is therefore contrary to policies BCS21, DM27 and DM29.

Due to the presence of stairs and the narrow width of the proposed access route to the rear of the property, the proposal is not considered to provide adequate provision for waste and cycle storage which is contrary to policies DM23 and DM32.

It has also not been demonstrated that the proposed development will not have any detrimental impact on existing trees within the proposal site contrary to policies BCS9, BCS21 and DM17.

The applicant has been offered the opportunity to provide amended plan drawings and arboricultural survey work in order to potentially overcome these issue but no revisions or additional information have been forthcoming.

The issues detailed above individually and cumulatively act to significantly and demonstrably outweigh the potential benefits associated with the development such as the contribution to the housing supply. The proposal therefore has not been found to represent sustainable development and is recommended for refusal

The CIL liability for this development is £23,260.71

**RECOMMENDED    REFUSED**

The following reason(s) for refusal are associated with this decision:

**Reason(s)**

1. The proposed development is not considered to provide acceptable living conditions or a sufficient level of residential amenity for future occupants due to the lack of natural light and outlook serving Unit 2 as proposed. In addition, the proposal is considered to result in overlooking and loss of privacy to neighbouring properties by way of first floor windows serving Unit 6. The proposal is therefore contrary to policies BCS21 of the Core Strategy 2011, DM27, DM29 of the Site Allocations and Development Management Policies 2014 and the NPPF
2. It has not been demonstrated within the submission documents that the proposed

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development will accommodate and provide suitable access for the proposed refuse and cycle storage provision which is not in accordance with policies DM23 and DM32 of the Site Allocations and Development Management Policies 2014 and the NPPF

3. Due to the lack of any Tree Protection Plan or Arboricultural Assessment of the proposal site, the submission documents fail to demonstrate that the proposed development will not result in any adverse impact on existing trees contrary to policies to policies BCS9, BCS21 and DM17 and the NPPF

**Advice(s)**

1. Refused Applications Deposited Plans/Documents

The plans that were formally considered as part of the above application are as follows:-

Site location plan, received 18 December 2019

T(20)E00 Proposed elevations and sections, received 18 December 2019

T(20)P00\_REV(B) Proposed floor plans, received 18 December 2019

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Case Officer: Richard Sewell

Authorisation: Katy Dryden

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