

WARD: Windmill Hill

SITE ADDRESS: The Windmill 14 Windmill Hill & 3 Eldon Terrace Bristol BS3 4LU

APPLICATION NO: 20/02864/F Full Planning

DETERMINATION DEADLINE: 7 August 2021

**DETERMINATION DEADLINE:**

**First-floor and raised single storey rear extensions. Change of use of The Windmill Public House and conversion into 5 flats (Use Class C3). Reinstatement of the basement beneath 3 Eldon Terrace to residential use (retrospective). Minor external alterations and sub-division of the rear garden area.**

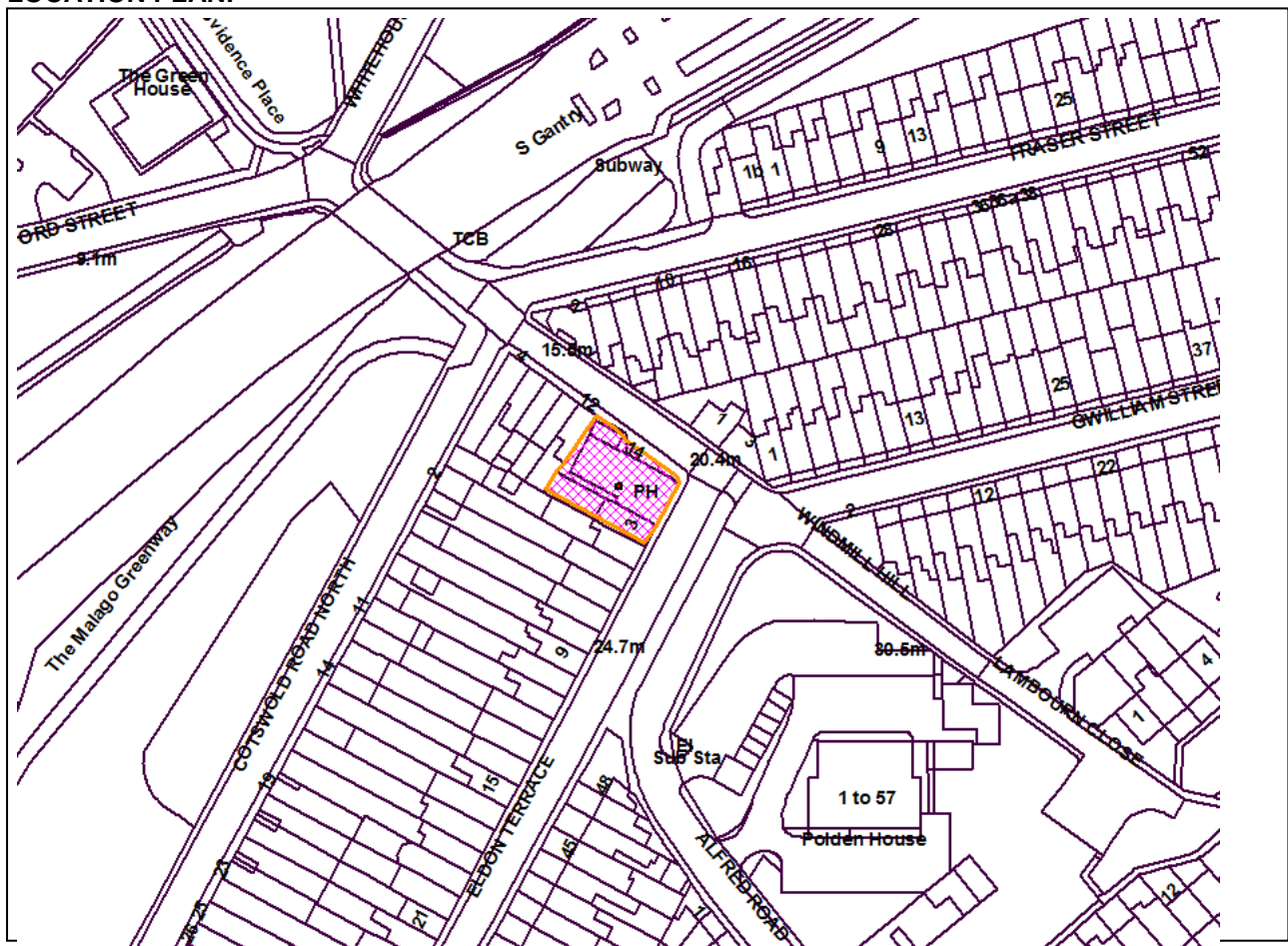
RECOMMENDATION: Grant subject to Condition(s)

AGENT: Grass Roots Planning Ltd  
Unit 106  
86-88 Colston Street  
Bristol  
BS1 5BB

APPLICANT: Bar Wars Ltd  
The Windmill Public House  
C/o Agent

*The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.*

**LOCATION PLAN:**



**Development Control Committee B – 24<sup>th</sup> November 2021**  
**Application No. 20/02864/F- Windmill Pub, Windmill Hill BS3 4LU**

## **SUMMARY**

Permission for the change of use of the public house to residential was granted by Committee B on the 11th November 2020. However, the application has returned to the Committee following a legal challenge on the basis that the Council had failed to consider the Public Sector Equality Duty as it is required to do under the Equalities Act 2010. There was also a challenge that the Council had failed to properly consider the pub as an Asset of Community Value and that policies DM5 and DM6 had not been correctly applied to this proposal. As evidenced by Key Issues B and C these matters have now been addressed in full.

The application site is the Windmill Public House which is located on the north western corner of Windmill Hill and Eldon Terrace. The application comprises:

- Change of Use of ground floor of public house into 5 flats (2 x 1-bed and 3 x 2-bed units) (C3)
- Reinstatement of the basement beneath 3 Eldon Terrace to residential use (retrospective).
- First floor side extension over the existing lean-to/single storey extension facing onto Windmill Hill
- Sub division of rear garden
- Waste & recycling and cycle storage

The application was originally called in for consideration by the Planning Committee by Councillor 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 and myself would like to present to committee”.

Jon Wellington has since been replaced as the Local Ward Member for Windmill Hill by Councillors Lisa Stone and Ed Plowden. Councillor Stone has also objected to the proposed development

Following a further consultation period the application has been re-advertised with a full notification process being undertaken via neighbour notification letter, site and press notices. 166 objections have been received in relation to the following matters:

- The pub should be retained as a community facility
- Community group interest and offer from pub chain demonstrates that pub remains viable
- Proposed flats will create additional congestion and impact on parking
- Alternative provision of public houses in the area does not provide safe walking route for lone females walking at night
- Profit and loss information submitted by the applicant is misleading

The applicant decided to close the public house back in April 2020 as they considered it no longer viable to keep it open. This decision was taken prior to the first closure of all public houses due to the ongoing COVID 19 situation. The applicant has provided financial information in order to justify their decision to close the public house, with profit and loss accounts showing a loss of £13,736.81 for the y/e 30.11.19 and £7,093.36 for 30.11.20. This information has been provided by Richardson Swift chartered accountants.

The applicant has also provided evidence of that the public house has been marketed by Fleurets since January 2019 (the sale price was also reduced within this period). It is understood offers were received but were rejected due to either unfavourable sales conditions or because offers were below the asking price.

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It is of particular importance to note that this financial and marketing information, as specified in criterion i) of DM6, is not considered to be the sole consideration or policy requirement when criterion ii) is satisfied.

As detailed in Key Issues B and C, it is considered that there are a diverse range of public houses and other community facilities in the locality, meaning the financial information provided by the applicant is therefore not considered to be the determining policy requirement with regard to the two either/or criterion of policy DM6.

Objectors to the closure of the public house have highlighted the fact that a local community group had shown interest in purchasing the premises. The applicant entered into extensive discussions with the group and demonstrated that they were willing to sell the public house to them. This took place over a prolonged period (since October 2019) but did not result in the necessary finances being raised.

The public house is an Asset of Community Value and was added to the Community Right to Buy list on the 8th September 2020. The owner notified the Council of their intention to sell the pub and this was accepted on the 12th January 2021. The interim moratorium period was commenced and expired on the 23rd February, with an intention to bid being received by an interested community group. This meant that a full 6 month moratorium period was needed to be undertaken before the public house could be sold on the open market. This moratorium period expired on the 12<sup>th</sup> July 2021 with no formal offer from any community group being received meaning the public house can now be sold on the open market.

The principle of converting public house into residential use is therefore considered to be acceptable in accordance with the requirements of DM5 and DM6 as discussed in Key Issues B and C

Accordingly, it is the officer recommendation that the application be approved, subject to conditions.

## **SITE DESCRIPTION**

The application site comprises the Windmill Public House and the adjoining dwelling 3 Eldon Terrace which are located on the north western corner of Windmill Hill and Eldon Terrace. The ground floor of The Windmill is in use as the public house and the first floor is in use as a 4-bed apartment and the premises has a small garden area to the rear. The pub's beer cellar was previously located beneath 3 Eldon Terrace but this property has now been sold and the basement converted back into residential use. This did not require planning permission as no consent for the use of the basement as a beer cellar was ever granted.

## **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 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

19/06116/F First-floor extension and change of use of The Windmill Public House from Use Class A4

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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.  
Date Closed 21 April 2020 REF

## **APPLICATION**

First-floor and raised single storey rear extensions. Change of use of The Windmill Public House and conversion into 5 flats (2 x 1-bed and 3 x 2-bed units) (Use Class C3). Reinstatement of the basement beneath 3 Eldon Terrace to residential use (retrospective). Minor external alterations and sub-division of the rear garden area.

## **RESPONSE TO PUBLICITY AND CONSULATION**

### **NEIGHBOUR CONSULTATION**

The application was advertised by neighbour notification letter, site and press notices. 166 objections have been received in relation to the following matters:

- The pub should be retained as a community facility
- Community group and buyer interest demonstrates that pub remains viable
- Proposed flats will create additional congestion and impact on parking
- Alternative provision of public houses in the area does not consider safe walking route for lone females walking at night
- Profit and loss information submitted by the applicant is misleading

### **OTHER COMMENTS:**

Councillor Lisa Stone: "I have been informed that the Windmill Pub, has had its application refused, after it was erroneously granted. I would like to make an objection regarding the Windmill Pub being converted into 5 residential properties. Firstly, with the planning proposals on Bedminster Green, do we really need a further 5 flats to add to the influx of students and transient residents, if this is developed. I would also like to point out that the Windmill Hill ward lacks in community venues, which this Pub has provided over the years. It has been a place for activities such as a film club, a music venue, a place to hold celebratory occasions and also a place where one can feel genuinely part of the neighbourhood. It seems to me that the lack of compassion for upholding the community spirit is somewhat thriving, and as we take away community buildings and gathering spaces, we remove the community. When this happens, we see a lack of willingness to help in the community, whether getting shopping in for the neighbour, or volunteering to litter pick. Please stop the rot and refuse this application".

Bristol Civic Society objected to the previous proposal for this site ref.19/06116/F as follows:

"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.

The Society was pleased to see that the Council refused that application. Although one less flat is proposed in the new application, we see little substantive change in the harmful impact it would

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have. We, therefore maintain our objection on the same grounds”.

(Case Officer note: The number of proposed units has not altered between applications with 5 being proposed)

Bristol & District Branch of CAMRA: OBJECTION:

“We do not accept the Case Officer’s appraisal of the tests relating to viability or alternative provision.

Bristol City Council’s planning policies include policy DM6 ‘Public Houses’. This policy recognises the importance of pubs as community facilities and sets clear tests – for either viability or alternative provision - that must be met before any change of use will be permitted.

#### Viability

It must be clearly shown that the business is not – or could be – viable. Past difficulties are not conclusive evidence of future non-viability, and it must be shown that there is no realistic possibility that the pub could become viable.

DM6 also states the potential viability should be assessed in line with the CAMRA viability tool, which contains a list of aspects to be considered and analysed – so far as we can see, the applicants have not provided this.

The document ‘Financial Information’ purports to describe the trading position for the years 2019 and 2020.

It states ‘The Windmill has to cover it’s [sic] share of the company loan payments’ and these repayments, as apportioned to the Windmill, are substantial but there is no explanation of what these are, and so they may well not be relevant were the Windmill to operate as a stand-alone pub.

The period to November 2020 includes around 8 months when pubs were not allowed to operate, and so the comparison is meaningless.

The document also lists very substantial Directors’ dividends which, on a community ownership model, would not be applicable. Community-owned pubs have, by definition, far lower overheads in this respect.

Our understanding is the Windmill was marketed at a price roughly £150,000 above what is claimed to be an objective market evaluation for pubs in this area. Offers were made and the community still wish to proceed with a buy-out. Their previous attempt stalled due to the pandemic, not due to a lack of support or commitment.

#### Alternative Provision

The second test of policy DM6 is to show there is suitable alternative provision within reasonable walking distance – 800m – of a diverse range of pubs that will, collectively, meet the needs of the local community.

Several objectors have drawn attention to difficulties posed by the routes to these pubs, and that they are, especially after dark, unsuitable for lone women: this is also true for other people such as the elderly, disabled or mentally vulnerable, and some men.

It has also been pointed out that virtually all the other pubs claimed to be suitable alternative uses are not actually in the Windmill Hill neighbourhood at all, and so one would not be likely to meet one’s neighbours in any of these: one of the key benefits of a local community pub. The fact that a claimed alternative is outside the neighbourhood in question makes it unsuitable as such and this was accepted by the Planning Inspector in the appeal over the Giant Goram.

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The only other pub that does exist within the Windmill Hill neighbourhood is the Rising Sun, but it has been pointed out that it lacks the capacity to cater for the whole community

The Case Officer has included other facilities in his report that local residents point out are not suitable, e.g., 'Boys Brigade' centre was converted to flats years ago; and The Green House is not a community centre, it is just the offices of the 'Federation of City Farms' headquarters. The officer appears not to have checked out his recommendations before putting them in his report to the committee.

The volume of objections from residents – particularly since the previous consent was withdrawn - would indicate that there remains a strong demand for a local pub, with many pointing out the very significant housing development scheduled to take place in the vicinity, which The Windmill would also serve.

We submit that this application is incompatible with Bristol City Council's planning policies, is against the interests of the local community and should be refused".

### **INTERNAL CONSULTTEES**

**City Design Group (CDG):** No objection. The Urban Design Officer was consulted through the surgery process during the determination of this application and raised no objection to the proposed extension and external alterations of the building.

**Transport Development Management (TDM):** No objection, comments as follows:

The proposed application site is situated on the north western corner of Windmill Hill and Eldon Terrace. East Street is within walking distance of the site offering an immense mix of local amenities and access to public transport. There has been one collision within the vicinity of the site within the past five years.

#### **Trip Generation**

Having assessed the proposal we do not believe the proposed change of use from a pub to five flats will have an adverse impact on the highway network, and due to the reduction of trip generation to the development, there will not be a significant increase on trips to the highway network.

#### **Car Parking**

It is accepted that the development is car free and that there may be additional pressure on the on- street parking. However, there are waiting restrictions protecting areas where there may be obstructive and unsafe parking, so any additional parking is not considered to create a severe impact on road safety. Residents would be exempt from any future resident parking permits (RPZ) as this is a car free/low car development.

#### **Cycle Parking**

TDM are satisfied with the cycle parking location, In respect of cycle storage it is fully enclosed, secure, we recommend it is well illuminated due to the where it is located, however the applicant has complied with the standards as set out in 'The Bristol Local Plan: Site Allocations and Development Management Policies (adopted July 2014)' and met the following principles:

- be fully enclosed, weather proofed and secure
- be well illuminated and overlooked

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- be located either within the curtilage of the application site, as close to the main entrance of the building, or within the curtilage itself
- afford level access and not involve the need to climb any steps/stairs or the need to carry cycles through the building
- Not provide vertical or semi vertical cycle parking

#### Waste

The applicant has demonstrated that the bins will be contained within a dedicated, suitably screened, suitably ventilated and secure area, which will prevent interference by any scavenging pests or any third party. TDM are satisfied with the plans submitted.

#### Construction Management

Due to the impact this proposal would have on the highway network during the demolition/construction period, the applicant would be required to produce and submit a highway network construction management plan.

#### Recommendation

Transport Development Management are satisfied with the documentation submitted and are recommending approval subject to the following conditions stated below:

B3A Construction management plan

C5A Implementation/Installation of Refuse Storage and Recycling Facilities – Shown on Approved Plans

C8 Completion of Pedestrians/Cyclists Access – Shown

C13 Completion and Maintenance of Cycle Provision – Shown

I043A) Impact on the highway network during construction

I045A) Restriction of Parking Permits – Future Controlled Parking Zone/Residents Parking Scheme

**Pollution Control:** No objection. The premises operated as a pub for a number of years with the last noise complaint from the pub being back in 2012. The proposed residential use is not considered to result in any additional noise nuisance.

**Arboricultural Officer:** NO OBJECTION

**Crime Prevention Officer:** NO OBJECTION: “This application sits within a relatively low crime area”

#### RELEVANT POLICIES

National Planning Policy Framework – 2021

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocations 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 2016 and Lawrence Weston Neighbourhood Development Plan 2017 and the Hengrove and Whitchurch Neighbourhood Development Plan 2019.

In determining this application, the Local Planning Authority has had regard to all relevant policies of the Bristol Local Plan and relevant guidance including SPD2 A Guide for Designing House Alterations and Extensions (October 2005)

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**KEY ISSUES**

**(A) IS THE PRINCIPLE ACCEPTABLE IN LAND USE TERMS?**

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

On 19th January 2021, the government published the results of its 2020 Housing Delivery Test, which aims to measure how effectively each local authority is delivering housing against NPPF requirement to demonstrate a five-year supply of deliverable housing sites plus five per cent land supply buffer. Bristol was found to be delivering only 72% of the housing requirement. The penalties for this will be that Bristol will be required to provide a "buffer" of sites for 20% more homes than are needed to meet its five-year target, to produce a Housing Action Plan, and that the presumption in favour of development in the NPPF will apply.

In view of the fact that the LPA is not able to demonstrate a five year housing land supply, paragraph 11(d) of the NPPF is engaged, and the tilted balance applies. At present the Council is unable to demonstrate a Framework compliant supply of housing land and delivery. In these circumstances, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

In terms of the benefits of the development, the proposal would make a small contribution to the area's housing stock and mix of housing. As the proposed development is considered to accord with the relevant local and national plan policies as detailed in the Key Issues below, the presumption in favour of sustainable development as set out in the NPPF applies as there are no adverse impacts that would significantly and demonstrably outweigh the benefits of increasing local housing supply

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?**

Policy DM6 in the Site Allocations and Development Management Policies (2014) 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.



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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 a profit and loss analysis for the public house. It is understood that on this basis the applicant decided to close the public house as they considered it no longer viable to keep it open. This decision was taken prior to the closure of all public houses during the first lockdown as a result of the ongoing COVID situation.

The profit and loss information has been provided by the independent chartered accountancy firm Richardson Swift, with accounts showing a loss of £13,736.81 for the y/e 30.11.19 and £7,093.36 for 30.11.20. Objectors have queried these figures but this information has been provided by a chartered firm of independent accountants. The financial information supplied is accepted in good faith as it has been supplied by professional accountants who have a responsibility to provide fair and accurate accounts in relation to their clients business. Any independent validation of these figures by an external consultant is not a policy requirement where the second criterion of policy DM6 is satisfied as is detailed below.

In addition to this financial information, the applicant has provided evidence that the public house has been adequately marketed by Fleurets since January 2019 (the sale price was also reduced within this period). It is understood that offers from a leading pub chain and individual party were received, but these either included sale conditions that were not favourable or were considerably below the asking price and so both were refused by the applicant.

Objectors to the closure of the public house highlighted the fact that a local community group had shown interest in purchasing the premises. The applicant entered into extensive discussions with the group and demonstrated that they were willing to sell the public house to them. However, despite a lengthy period of interest, there was no formal offer from the community group.

It is of particular importance to note that this financial and marketing information as specified in criterion i) of DM6 is not considered to be the sole consideration or policy requirement when criterion ii) is satisfied.

In relation to the requirements of DM6 criterion ii), 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 within the Committee presentation, with the closest being The Rising Sun which is approximately 146m from the proposal site.

Policy DM6 does not specifically state what distance can be considered as local, but the Department for Transport Manual for Streets states that "Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800 m) walking distance". Objectors have commented that this 800m distance should not be considered "as the crow flies" when seen on a map but needs to be along direct, accessible and safe walking routes.

Table 3.2 of the IHT document 'Guidelines for Provision for Journeys on Foot' confirms the suggested acceptable walking distances in town centres, for those without mobility impairment as being:

- Desirable 200m
- Acceptable 400m
- Preferred Maximum 800m

Within an approximate walking radius of 800m (approx.10 minute walk) from the proposal site are the following 14 public houses:

1. The Rising Sun 146m (3 minutes)

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2. The Victoria Park 482m (7 minutes)
3. Brunel 482m (8 minutes)
4. Bristol Distilling Tap Room 643m (7 minutes)
5. Assembly 482m (6 minutes)
6. The Old Globe 482m (5 minutes)
7. London Inn 643m (8 minutes)
8. The Black Cat 643m (8 minutes)
9. Robert Fitzharding 643m (8 minutes)
10. Steam Crane 643m (9minutes)
11. Tap & Barrel 643m (8minutes)
12. The Barley Mow 482m (6 minutes)
13. The Apple Tree 482m (6 minutes)
14. The White Hart 643m (9 minutes)

It is to be noted that walking distances are based on Google Maps and have been converted to metres from miles (for example 0.3 miles = 482m)

When seen collectively these 14 public houses are considered to provide a diverse range of establishments providing food, drink, quiz nights, live music, sporting events and other activities as detailed in the supporting text of policy DM6.

Given that there are 14 pubs within the surrounding 800m radius of the proposal site (the closest being just 146m away and accessed via a residential street), it is not considered that there is a genuine lack of alternative public house provision due to residents having to walk excessive distances along undesirable or unsafe pedestrian access routes. It is also noted that the Avon & Somerset Crime Prevention Officer has been consulted and has not raised any objection to the proposed development commenting that the proposal site is within a low crime area.

It is therefore not considered that there is a shortfall of public house provision in the locality. There are numerous other alternative local pubs which are available to act as a community facility offering a diverse range of services and community and leisure activities in order to meet the needs and expectations of the whole community as required by BCS12, DM5 and DM6.

As numerous other public houses are available in the locality it is not a policy requirement of DM6 to have regard to the Campaign for Real Ale's public house viability test or for the financial information provided by the applicant to be independently validated.

**(C) WOULD THE LOSS OF THE PUBLIC HOUSE AS A COMMUNITY FACILITY BE ACCEPTABLE?**  
Section 8 of the National Planning Policy Framework (2021) addresses the issue of 'Promoting Healthy Communities'. It is stated, at paragraph 93, that 'to provide 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 DM5 specifies that proposals involving the loss of community facilities (including pubs) land or

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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.

In relation to criteria i), it is noted that the Windmill Hill Community Association and Social Club (which provides a members bar that anyone can join) is located only approximately 200m away from the proposal site. Further to this, an examination of the Pinpoint Mapping System demonstrates that there are 3 other community centres (The Green House, St Michael's Church Hall and Windmill City Farm) also within a 300m radius meaning there are other community facilities in the local area.

The supporting text of DM5 also stipulates that the term community facilities is wide-ranging and can include community centres and childcare facilities, cultural centres and venues, places of worship, education establishments and training centres, health and social care facilities, sport and recreation facilities and civic and administrative facilities. It may also include other uses whose primary function is commercial but perform a social or community role i.e. sport, recreational and leisure facilities.

Sport and recreation facilities in relatively close proximity to the proposal site and the associated walking times are as follows:

Victoria Park Tennis Club 6 minutes  
 Broad Plain RFC 9 minutes  
 Skemers Boxing Club 13 minutes  
 Bristol South Swimming Pool 7 minutes  
 Dean Lane Skate Park 9 minutes

Taking these other community facilities into account, it is not considered that the loss of public house in its capacity as a community facility would not create or add to a shortfall in the provision or quality of such uses within the locality as there are appropriate replacement community facilities provided in suitable alternative locations. It is noted that these premises also provide community facilities that could accommodate those members of the community that do not drink alcohol either for personal or religious reasons. The proposal is therefore compliant with DM5 and BCS12

**(D) WOULD THE LOSS OF THE PUBLIC HOUSE AS AN ASSET OF COMMUNITY VALUE BE ACCEPTABLE?**

Community Right to Bid was introduced under the Localism Act 2011 and requires local authorities to maintain and publish the lists of assets of community value which have been nominated by the local community. The list is for both successful and unsuccessful nominations and each asset will stay on the list for a period of 5 years.

When successfully nominated assets come up for sale, the Act gives community interest groups the time to submit a request to the local authority to be considered as a bidder, and time to develop a business case and secure funding to support the bid to put the asset on the open market. This requires an interim moratorium period of six weeks from the date the Council accepted receipt of the owner's notice of intent to dispose of the asset on the open market. During this period eligible community interest groups can express an interest in being considered as a potential bidder by sending in a written request to the Council.

After the moratorium period – either the six weeks if there has been no community interest, or the full

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6 months if a community group sends in a written request to express an interest to be considered as a potential bidder – the owner is free to dispose of the property to whomever they choose and at whatever price, and no further moratorium will apply for an 18 month protected period.

However at the end of the 6 month moratorium period the owner does not have any obligation to sell the pub to the community group. In addition, the requirements of the Localism Act do not prevent planning permission for a change of use being granted within this process but it is a material consideration. This is evidenced by Section 2.20 of “Community Right to Bid: Non-statutory advice note for local authorities Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Regulations 2012” which states:

*“The provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case”.*

The Windmill was added to the list of Assets of Community Value on the 8th September 2020. The owner of the Windmill notified the Council of their intention to sell and this was accepted on the 12<sup>th</sup> January 2021. The interim moratorium period expired on the 23<sup>rd</sup> February and an intention to bid was received by an interested community group meaning a full 6 month moratorium period was needed to be undertaken before the public house could be sold on the open market.

An examination of the Community Right to Buy webpage reveals that the 6 month moratorium period in relation to the Windmill Public House (page 6 Ref 20-01) expired on the 12<sup>th</sup> July 2021. The applicant has confirmed that no bid was put forward from any community group within this required time frame. As such, the ACV requirements of Part 5 Chapter 3 Localism Act 2011 have been satisfied and the public house can be sold on the open market

As detailed above, the change of use of the Windmill is considered to accord with the relevant policies that look to protect community facilities such as local pubs. Given the extensive number and diverse 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. There are numerous other public houses in the local area that can meet the needs of the community.

The ACV status of The Windmill is a material consideration, however as the 6 month moratorium period has expired meaning the ACV status does not prohibit the sale of the public house on the open market or the change of use to residential units. The application is found to comply with Policies BCS12, DM5, DM6, guidance contained within the NPPF (2021) and the requirements of Part 5 Chapter 3 of the Localism Act 2011

(E) DOES THE PROPOSAL COMPLY WITH THE REQUIREMENTS OF THE EQUALITIES ACT 2010?

s149 of the Equalities Act 2010 sets out the Public Sector Equalities Duty (“PSED”):

*149 Public sector equality duty*

*(1) A public authority must, in the exercise of its functions, have due regard to the need to—*

*(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*

*(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*

*(c) foster good relations between persons who share a relevant protected characteristic and persons*

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*who do not share it...*

*(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

*(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*

*(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*

*(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*

*(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.*

Case law has established that this duty is engaged when planning applications are determined and consequently this duty has to be taken into account in the determination of this application.

During the consideration of this application due regard has been given to the impact of this scheme in relation to the Public Sector Equalities Duty in terms of its impact upon the groups with protected characteristics as set out in the Equalities Act 2010. These characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Before its closure in April 2020, the Windmill public house was open to all members of society and was not considered to cater specifically for any groups or individuals that would be classified as falling within any of the protected characteristics mentioned above. It is noted that the building as existing does not have any physical design features such as specialised disabled access and/or facilities that are particular to this public house or that are not found in any other similar premises in the locality.

Paragraph 2.6.2 of Policy DM6 specifies that:

“Pubs provide opportunities for social interaction and in many cases provide or facilitate particular community activities. This might include space for sports or social clubs, children’s play areas, evening classes or community meetings. It might also include social activities, such as skittles, quiz nights, live music and entertainment or other events”.

Further to this paragraph 2.6.4 states:

“The applicant will need to provide evidence of a range of pubs in the locality that can collectively continue to meet the needs and expectations of the whole community. This will include a good choice of pub environments offering a diverse range of services and community and leisure activities. As a guide the locality should include all other surrounding public houses within a reasonable walking distance.

As detailed in Key Issue B, within an approximate 800m walking distance of the proposal site there are 14 other public houses and venues which offer a range of establishments providing food, drink, quiz nights, live music, televised sporting events and other activities as detailed in the supporting text of policy DM6.

Considering the amount and variety of other public houses and pub environments within a reasonable walkable distance of the proposal site, it is considered that there is adequate provision that meets the needs and expectations of the whole community. Most notably, it is considered that there is genuine alternative provision for those persons with any protected characteristics that may have previously frequented The Windmill public house which was not known to specifically cater or provide any specialist facilities such as disabled toilets or access arrangements

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Objectors have commented that the loss of the public house would discriminate against women as it would result in lone females having to walk late at night along undesirable and potentially unsafe walking routes in order to access other public house provision.

The safety of citizens on the streets of Bristol is primarily a policing matter. Avon & Somerset Police were formally consulted as part of the application and the Crime Prevention Officer has raised no objection to the proposal and has commented that the proposal site is within a relatively low crime area.

It is noted that the 3 closest pubs to the proposal site (The Rising Sun, The Victoria Park and Brunel) are all situated within a built up residential area and are accessed via walking routes broadly similar to that of the Windmill Pub in terms of pavements, surveillance, street lighting, gradient, footfall etc. Therefore it is not considered that the change of use of the proposal site will result in any additional risk to the safety of females over and above its existing use as a public house and the associated pedestrian movements to and from the site

As detailed in Key Issue C, In addition to the extensive amount of public houses, it is of particular relevance that the Windmill Hill Community Association and Social Club (which provides a members bar that anyone can join) is located only approximately 200m away from the proposal site. Further to this, an examination of the Pinpoint Mapping System demonstrates that there are 3 other designated community centres (The Green House, St Michael's Church Hall, Windmill City Farm) also within a 300m radius meaning there are other community facilities in the local area.

In addition to the diverse range of public houses, these alternative venues (including those that do not serve alcohol so as to encourage non drinking communities) are considered to provide genuine alternative provision for those with protected characteristics that may have frequented The Windmill. Therefore it is not considered that the proposed development would result in any shortfall in the provision or quality of community facilities as per the requirements of DM5 and BCS12

On balance, it is considered that the approval of this application would not have any adverse impact upon any protected group as a variety of other facilities are easily accessible and within walkable distance of the proposal site. Therefore the requirements of s149 of the Equalities Act 2010 have been fully considered.

**(F) IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF MIXED AND BALANCED COMMUNITY ISSUE?**

Section 6 of the NPPF 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

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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.

**(G) WOULD THE PROPOSED DEVELOPMENT BE ACCEPTABLE IN DESIGN TERMS**

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, 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 including a small rear extension.

It is understood that the public house was originally a dwelling before its conversion, hence why the beer cellar was located under the adjacent residential property. As such, the appearance of the existing building shares similar residential characteristics to the other dwellings in the immediate area, many of which have seen minor alterations over the years.

Paragraph 2.6.5 of the supporting text of Policy DM6 clarifies:

“Pubs can also be important local landmarks, often with distinctive identities and significant architectural qualities. Development affecting pubs should not undermine the building's identity as a pub or harm its architectural character. In particular, features that distinguish the building as a pub

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should be retained”.

The proposed elevation plan drawings demonstrate that the external features of the building that could be said to have any identity or architectural character as a public house are retained. The City Design Group support the proposed works as shown in the submitted plan drawings which are not considered to harm the identity or architectural character of the public house as they are in keeping with the visual amenity, character and appearance of the existing public house building meaning there is no harm to its architectural identity and character. Further to this, the proposed works and external alterations are not considered to appear as visually prominent or discordant within the street scene.

**(H) 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). All of the proposed units have Ground Floor Internal Areas (GIAs) that broadly accord with the requirements of the National Space Standards and are dual fronted meaning an acceptable amount of natural light will enter the proposed properties.

The potential for overlooking from the first floor bedroom of unit 6 across the rear gardens of the properties along Eldon terrace has been mitigated by the erection of a vertical timber slatted screen which allows unidirectional views whilst allowing adequate outlook.

The bulk, scale, massing and siting of the proposed extension is not considered to result in any unacceptable loss of daylight or overbearing impact on the neighbouring dwellings.

The proposal is therefore considered to provide adequate living conditions for future occupants and not to have any significantly detrimental to the current level of amenity awarded to the surrounding properties.

**(I) IS THE PROPOSED DEVELOPMENT ACCEPTABLE WITH REGARD TO TRANSPORT AND HIGHWAY SAFETY?**

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.

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. It is noted that the existing use of the building as a public house will have generated on street parking within the locality and the proposed conversion into 5 flats is not considered to significantly increase this requirement



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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.

Further to this, the proposed refuse and cycle storage provision are both considered acceptable meaning the proposal accords with the requirements of policies DM23, DM32.

**(J) DOES THE PROPOSED DEVELOPMENT ADEQUATELY MEET OBJECTIVES OF 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.

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

**(K) 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.

The applicant has provided an Arboricultural report that confirms that there are no trees within the site boundary or in the immediate locality that would be affected by the proposed development

**CONCLUSION**

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. Further to this the development does not pose any conflict with the requirements of the Localism Act Part 5 Chapter 3 – Community Right to Bid as the Asset of Community Value.

The creation of 5 dwellings makes a small but valuable contribution to local housing supply, especially when considering the Council cannot currently demonstrate a 5 year supply of housing

The proposed development is considered to provide adequate living conditions for future occupants. In addition, the bulk, scale, massing and siting of the proposed extension is not considered to result in any unacceptable loss of daylight or overbearing impact on the neighbouring dwellings in accordance with policies BCS21, DM27 and DM29.

The proposed works and external alterations are not considered to result in any harm to the identity or architectural character of the public house or the visual amenity of the area in accordance with policies BCS21, DM6 and DM26-29

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The Council's TDM Officer is satisfied that the proposed development will not significantly increase demand for on street parking in the locality over and above the existing public house use. The proposed waste and cycle storage provision complies with satisfies policies DM23 and DM32.

It has been demonstrated that the proposed development will not have any detrimental impact on any existing trees which accords with policies BCS9, BCS21 and DM17.

The Community Infrastructure Levy for this development is £23,260.71

**RECOMMENDED GRANT subject to condition(s)**

**Time limit for commencement of development**

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.

**Pre commencement condition(s)**

2. Construction Management Plan

No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:

- o 24 hour emergency contact number;
- o Hours of operation;
- o Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- o Routes for construction traffic;
- o Locations for loading/unloading and storage of plant, waste and construction materials;
- o Method of preventing mud being carried onto the highway;
- o Measures to protect vulnerable road users (cyclists and pedestrians)
- o Any necessary temporary traffic management measures;
- o Arrangements for turning vehicles;
- o Arrangements to receive abnormal loads or unusually large vehicles;
- o Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

**Pre occupation condition(s)**

3. 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

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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.

**4. 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.

**5. 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.

**Post occupation management**

6. The development permitted by this planning permission shall be carried out in complete accordance with the Energy & Sustainability Statement dated December 2019 prepared by JS Lewis LTD unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development makes sufficient contribution towards mitigating and adapting to climate change

7. The vertical timber slatted screen on the first floor south west elevation as shown on the Proposed Sections & Elevations T(20)E00 Rev B shall be erected prior to the first occupation of the building and retained in perpetuity

Reason: In the interest of residential amenity and privacy of surrounding properties

**List of approved plans**

**8. 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.

Site location plan, received 2 July 2020

T(20)E00\_REV(B) Proposed elevations and sections, received 2 July 2020

T(20)P00\_REV(E) Proposed floor plans, received 2 July 2020

Reason: For the avoidance of doubt

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**Advices**

9 Due to the proximity of existing noise sensitive development and the potential for disturbance arising from contractors' operations, the developers' attention is drawn to Section 60 and 61 of the Control of Pollution Act 1974, to BS 5528: Parts 1 and 2: 2009 Code of practice for noise and vibration control on construction and open sites and the code of practice adopted by Bristol City Council with regard to "Construction Noise Control". The hours that are usually allowed for construction or demolition works that are audible at any residential property to be carried out are 8.00 to 18.00 Monday to Friday and 8.00 to 13.00 Saturdays. Further information can be obtained from Pollution Control, Bristol City Council [pollution@bristol.gov.uk](mailto:pollution@bristol.gov.uk)

10 Impact on the highway network during construction

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [traffic@bristol.gov.uk](mailto:traffic@bristol.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

11 Restriction of Parking Permits - Future Controlled Parking Zone/Residents Parking Scheme

You are advised that the Local Planning Authority has recommended to the Highways Authority that on the creation of any Controlled Parking Zone/Residents Parking Scheme area which includes the development, that the development shall be treated as car free /low-car and the occupiers are ineligible for resident parking permits as well as visitors parking permits if in a Residents Parking Scheme.