



Appeal Decision

Site visit made on 15 January 2019

by Beverley Wilders BA (Hons) PgDurb MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2019

Appeal Ref: APP/G4620/W/18/3206616

618-620 Bearwood Road, Smethwick B66 4BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Green Room Properties Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/18/61477, dated 31 January 2018, was refused by notice dated 30 April 2018.
 - The development proposed is change of use and refurbishment of part-ground floor and upper floors and single storey rear extension to accommodate eleven-bedroom house in multiple occupation (Sui Generis), together with bicycle parking facilities and refuse and recycling storage.
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Decision

1. The appeal is allowed and planning permission is granted for change of use and refurbishment of part-ground floor and upper floors and single storey rear extension to accommodate eleven-bedroom house in multiple occupation (Sui Generis), together with bicycle parking facilities and refuse and recycling storage at 618-620 Bearwood Road, Smethwick B66 4BW in accordance with the terms of the application, Ref DC/18/61477, dated 31 January 2018, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Green Room Properties Limited against Sandwell Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. An updated revised National Planning Policy Framework (the Framework) was published on 19 February 2019. As this pre-dates the determination of the appeal, in reaching my decision I have had regard to the revised Framework. However, as the amendments to it have not had a significant bearing on my decision, I have not re-consulted the main parties on the revised Framework.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether adequate provision has been made for parking;

- the effect of the proposal on the living conditions of the occupiers of neighbouring residential property having regard to privacy;
- whether future occupiers of the proposal would have satisfactory living conditions having regard to external amenity space and pedestrian access.

Reasons

Character and appearance

5. The appeal site comprises a mid-terraced building located within a row of similar buildings on Bearwood Road. The host building and other buildings within the terrace have two storey outriggers to the rear and a number also have large single storey rear extensions of varying scale and design. There are rear yard areas to the rear of the buildings and these back onto a private rear access way and the rear elevations and rear gardens of properties on Herbert Road.
6. The proposal includes the demolition of an existing detached outbuilding within the rear yard and the construction of a single storey pitched roofed extension. The extension would be the same width as the existing outrigger and it would have the same roof pitch. It would be constructed from brickwork to match the host building. Whilst the length of the extension would be similar to that of the outrigger, its overall size and height nevertheless means that it would appear subservient to the host building and would not be out of character with it or with existing properties in the immediate vicinity of the site. The extension would be set away from the side boundaries of the site and an area of rear yard would remain. Consequently, I do not consider that it would be over-development of the site or that it would be a cramped or intrusive form of development.
7. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the character and appearance of the area.

Parking

8. No on-site parking is proposed as part of the proposal. However covered cycle storage for 12 bikes would be provided within the rear yard. The appellant argues that the accessible location of the site together with the nature of the accommodation and likely tenants means that future occupiers are unlikely to be car owners.
9. It appears from the evidence that the Highway Authority gave verbal advice that no on-site parking was required for the proposal due to the nature of the accommodation and the site's town centre location.
10. Whilst there is no guarantee that future occupiers of the proposed accommodation would not be car owners, at my site visit I noted that the site has good access to a range of services and facilities and is very close to the bus station. In addition, I noted that unrestricted on-street parking is available on nearby streets, although I acknowledge that demand for this parking appeared to be reasonably high and that significant additional parking on these streets would therefore have the potential to cause parking problems for existing and future residents. Nevertheless, in the absence of any substantive evidence regarding parking and having regard to the nature and location of the

accommodation proposed, I consider that a lack of on-site parking would be unlikely to lead to any adverse impact on highway safety.

11. Taking the above matters into consideration, I conclude that there is no requirement for on-site parking to be provided for use by future occupiers of the proposed accommodation.

Living conditions (existing)

12. The host building has existing residential accommodation at first floor and this is accessed via an existing rear stairwell. The existing rear stairwell would be removed as part of the proposal to be replaced by another stairwell on the opposite side of the rear outrigger. The proposed rear stairwell would be no nearer to neighbouring residential properties to the rear of the site on Herbert Road and in any event would be located some distance away from these properties. The use of the neighbouring property at No 616 is the subject of another appeal that I am dealing with and is also proposed to be changed to a house in multiple occupation (HMO) with a rear stairwell adjacent to the one proposed at the appeal site (Ref APP/G4620/W/18/3212761). I am therefore satisfied that there would be no significant loss of privacy to the future occupiers of No 616.
13. Taking the above matters into consideration, I conclude that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring residential property having regard to privacy.

Living conditions (future)

14. A reasonable sized rear yard would be retained for use by future occupiers of the accommodation and I am not aware of any minimum standards for garden areas for HMOs. In the apparent absence of such standards, noting that some outside space would be provided and the proximity of the appeal site to open space at Lightwoods Park and Warley Woods, I consider that future occupiers of the proposal would have a satisfactory amount of external amenity space.
15. As stated, pedestrian access to the accommodation would be via a re-located rear stairwell accessed via the rear yard and private rear access way. With the exception of the stairwell, the route would be the same as the existing route for pedestrians. It is not clear from the evidence why the Council considers that the proposal would result in an unsatisfactory and hazardous form of access for pedestrians and in the absence of any specific evidence in relation to this issue, I am satisfied that the proposed access for pedestrians is acceptable. I note that concerns have been raised by interested parties regarding the fact that the access way is unlit and that there are no pavements. However, I do not consider that the lack of a pavement along the access way would be detrimental to pedestrian safety given the nature of it and the likely level of vehicular traffic which would be using it.
16. With regard to lighting, though I note that the appellant states that he intends to provide lighting along the rear access way, such measures could not be required by condition as the access way falls outside of the application site boundary. However, a condition could be imposed requiring lighting along the pedestrian routes within the site and I note that the appeal site is relatively close to the end of the access way junction with Adkins Lane.

17. Taking the above matters into consideration, I conclude that future occupiers of the proposal would have satisfactory living conditions having regard to external amenity space and pedestrian access.

Other Matters

18. In reaching my decision I have had regard to a number of other matters raised by interested parties.
19. The character of the area is mixed commercial and residential and I do not consider that the proposal together with other proposed HMOs nearby would adversely affect the character of the area, particularly given that there have been previous residential uses above the ground floor commercial units in this part of Bearwood Road. Whilst there is no guarantee as to who future tenants would be, similarly there is no substantive evidence that the proposal would result in any anti-social behaviour or security issues.
20. I note the concerns regarding the cramped level of accommodation proposed but the Council has raised no specific objections to the proposal on this basis and I have seen no evidence to suggest that it does not meet the Council's standards for this type of accommodation.
21. The only extension proposed is at ground floor and its scale and position means that it would not adversely affect the outlook from any nearby properties. Whilst the proposal would likely increase the number of residents at the site, I do not consider that this would result in any significant increase in noise and disturbance or that it would materially affect the living conditions of occupiers of nearby properties on Herbert Road. It seems from the evidence that any concerns raised regarding access to the proposed accommodation by the emergency services and in particular the fire service are not determinative and could be overcome by liaison with the fire service to ensure that sprinkler systems are put in place where considered necessary.
22. Interested parties allege a lack of collaboration from the appellant on the proposal. However, whilst this is unfortunate if it is the case, it is not a reason to withhold planning permission for the proposal. Finally, I am satisfied that approval of the proposal would not set an undesirable precedent for similar proposals, all of which would need to be assessed on their own merits and based on the submitted evidence.

Conditions

23. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed a condition requiring the submission and approval of a noise impact assessment (NIA). Whilst I note that the property has previously been in residential use, the intensity of the residential use would increase, and such a condition has been recommended by the Council's Environmental Health department. The condition is required to ensure that future occupiers of the HMO have satisfactory living conditions. However, I have amended the suggested wording slightly to require the submission to and approval of the NIA by the Council. I have also imposed conditions requiring the proposed bin storage and cycle storage areas to be provided prior to occupation of the HMO. This is to ensure adequate bin storage and cycle storage having regard to the site location and the nature of the proposed use.

24. In addition, I have imposed a condition requiring a lighting scheme to be submitted and implemented for the rear access. This is to ensure enhanced safety and security for future occupiers and to ensure adequate pedestrian access. The appellant has been consulted on the imposition of this condition and has raised no objection to it.

Conclusion

25. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following submitted plans: 17098 – 153, 17098 – 103 and 17098 – 203E.
- 3) Before the development is brought into use a comprehensive noise impact assessment shall be carried out by a suitably qualified noise consultant and shall be submitted to and approved in writing by the Council, to quantify the impact of noise from existing commercial operations and traffic and shall include mitigation measures. The report shall consider whether sound levels meet the indoor ambient noise levels for dwelling set out in table 4 of BSC 8233:2014 and also the $I_{a_{max}}$ inside threshold value of 42dB given in the WHO Night Noise Guidelines for Europe. If a glazing/ventilation scheme is to form part of any proposed mitigation, then the report should also include a full and marked up set of plans showing the glazing/ventilation specifications for each façade. The approved mitigation measures shall be carried out before the development is brought into use and thereafter retained as such.
- 4) Before the development is brought into use the approved cycle storage shall be implemented and thereafter retained as such.
- 5) Before the development is brought into use the approved bin storage shall be implemented and thereafter retained as such.
- 6) Before the development is brought into use, a lighting scheme within the site for the proposed rear access shall be implemented and thereafter retained as such having first been submitted to and approved in writing by the local planning authority.