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## Appeal Decision

Site visit made on 15 January 2019

**by Beverley Wilders BA (Hons) PgDurt MRTPI**

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

**Decision date: 8<sup>th</sup> March 2019**

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### **Appeal Ref: APP/G4620/W/18/3212750**

### **598-600 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/18/61850, dated 16 May 2018, was refused by notice dated 28 August 2018.
  - The development proposed is change of use and refurbishment of upper floors to accommodate a house in multiple occupation (Class C4) with five single occupancy bedrooms, together with 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 upper floors to accommodate a house in multiple occupation (Class C4) with five single occupancy bedrooms, together with refuse and recycling storage at 598-600 Bearwood Road, Smethwick B66 4BW in accordance with the terms of the application, Ref DC/18/61850, dated 16 May 2018, subject to the following 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 – 157, 17098 – 111 and 17098 – 211A.
  - 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  $L_{\text{amax}}$  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 bin storage shall be implemented and thereafter retained as such.

### **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:
  - highway safety having particular regard to car parking;
  - the fear of crime.

### **Reasons**

#### *Highway safety and car parking*

5. The appeal site comprises a mid-terraced building located within a row of similar buildings on Bearwood Road. The building is in commercial use at ground floor and this is the case with other buildings within the row, all of which are located within the retail core of Bearwood Town Centre. There are residential streets to the rear of the site including Herbert Road.
6. No off street parking is proposed to serve the proposed 5 bedroom house in multiple occupation (HMO). 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.
7. It does not appear from the evidence that the Highway Authority (HA) was consulted regarding the proposal. However the Council's officer reports states that there is no requirement for off street parking due to the town centre location of the appeal site and the appellant states that the HA did not object to another proposal for a larger HMO with no parking at No 618 – 620 (Ref DC/18/61477).
8. Whilst there is no guarantee that future occupiers of the proposed HMO 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.

9. Taking the above matters into consideration, I conclude that the proposal would be unlikely to have a significant adverse effect on highway safety having particular regard to parking. It therefore accords with paragraph 109 of the Framework which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

*Fear of crime*

10. West Midlands Police were consulted on the application and objected to the proposal due to concerns regarding the nature of the proposed accommodation and future occupiers and the likely impact on local residents. The Council's concerns make specific reference to insufficient infrastructure in respect of car parking and rear access.
11. As stated above, there is no substantive evidence to suggest that the proposal would lead to a significant increase in on-street parking in the vicinity of the site. Even if parking were to significantly increase, despite the concerns raised by the police, there is no evidence that such an increase in parking would result in an actual or perceived increase in car crime.
12. Access to the HMO would be from Bearwood Road to the front of the appeal site and therefore there would be no rear access associated with the proposal, unlike other proposals within the row submitted by the appellant.
13. Whilst I note the appellant's comments in relation to the nature of future tenants and the management of the HMO, having regard to the nature of the application, it is not possible to control these matters by the use of conditions or legal agreements. However notwithstanding this and despite comments made by the police, there is no substantive evidence that the proposed HMO would attract or be likely to be occupied by persons more likely to commit crimes or to carry out anti-social behaviour.
14. Taking the above matters into consideration, I conclude that the proposal would not be likely to significantly increase the fear of crime in the area. The Council's reason for refusal relating to crime referred to paragraphs 91 & 97 of the Framework, however paragraph 97 is not relevant to this issue. The proposal would accord with paragraph 91 which states, amongst other things, that planning decisions should aim to achieve safe places which are safe and accessible so that crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion.

**Other Matters**

15. In reaching my decision I have had regard to a number of other matters raised by interested parties.
16. 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.

17. 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.
18. No extensions are proposed and access to the accommodation would be from the front. Therefore 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, overlooking or loss of outlook or that it would materially affect the living conditions of occupiers of nearby properties on Herbert Road.
19. It seems from the evidence that any concerns raised with regard to 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.
20. 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**

21. 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 in order to ensure that future occupiers of the HMO have satisfactory living conditions. However I have amended the suggested wording slightly in order to require the submission to and approval of the NIA by the Council. I have also imposed a condition requiring the proposed bin storage area to be provided prior to occupation of the HMO. This is to ensure adequate bin storage having regard to the site location and the nature of the proposed use. I have not imposed a condition regarding cycle storage as none is proposed as part of the proposal and having regard to the site limitations.

### **Conclusion**

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

*Beverley Wilders*

INSPECTOR