



---

## Appeal Decision

Site visit made on 24 September 2019

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

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

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

---

**Appeal Ref: APP/G4620/W/19/3231231**

**Baby Einsteins Nursery, Great Bridge Street, West Bromwich B70 0DE**

- 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 Mr I Riaar against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/19/62886, dated 28 February 2019, was refused by notice dated 16 May 2019.
  - The development proposed is described as change of use of the existing building to total no. of 6 residential flats which comprises of no.5 one bedroom and one two bedroom flat (including the existing one on site) with minor alterations and demolition part single storey rear extension.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council's first reason for refusal refers to Policy EMP3 of Sandwell's Adopted Unitary Development Plan. However, it appears from the evidence that Policy EMP3 forms part of the Council's Core Strategy rather than its Unitary Development Plan. I have determined the appeal accordingly.

### Main Issues

3. The main issues are:
  - whether the principle of residential development is acceptable having regard to the location of the site in a designated employment area;
  - whether future occupiers of the flats would have satisfactory living conditions having regard to noise and disturbance and to the size of the accommodation.

### Reasons

#### *Principle of development*

4. The appeal site comprises a vacant children's day care nursery and ancillary flat. The site is surrounded by commercial development and the area is predominantly characterised by commercial uses, with a small number of residential properties evident to the east of the site on Great Bridge Street. It appears from the evidence that the site is within an area designated as local

quality employment land in the Council's Site Allocations and Delivery Development Plan Document adopted December 2012 (SAD). Policy EMP3 of the Black Country Core Strategy adopted February 2011 (CS) relates to local quality employment areas and states, amongst other things, that such areas will be safeguarded for the listed uses which does not include residential. The policy justification states that such areas are often most vulnerable to pressure for redevelopment to other uses such as housing but that the loss of too much local employment land will compromise the strategy.

5. Although reference has been made by the parties to the area being identified as having the potential for residential development in the longer term (beyond 2021), it appears that it is anticipated that this would involve comprehensive redevelopment of the area as opposed to the development of individual sites as is proposed. In any event, I have seen no evidence to suggest that this future aspiration forms part of any adopted policy document and in the absence of this, CS Policy EMP3 appears to be particularly relevant to the proposal.
6. I note that there is an existing residential use on site. However, this ancillary flat was approved for caretaker's accommodation in association with a previous use as a pool hall and bar. In the absence of any justification for the loss of the existing employment use on site, neither the existing flat or the presence of other dwellings on Great Bridge Street would justify the proposal which would be contrary to CS Policy EMP3 and would undermine the Council's strategy of retaining local quality employment areas for commercial uses appropriate to the area.
7. Taking the above matters into consideration, the principle of residential development is not acceptable having regard to the location of the site in a designated employment area. The proposal is therefore contrary to CS Policy EMP3 which seeks to safeguard local quality employment land.

#### *Living conditions*

8. As stated, the site is located in a predominantly commercial area and is surrounded by commercial development, some of which is industrial in nature. At the time of my visit I observed a fabricating business and an accident repair centre close to the site with various noises being emitted from these sites generated by the banging of metal and from a jet wash being operated.
9. Although occupiers of the existing flat will be subject to any existing noise and disturbance generated by the surrounding businesses, the flat was permitted in association with the business use of the site and in any event the proposal would result in a significant increase in the number of residential occupiers at the site. The nature of the area and the surrounding businesses is such that future occupiers of the proposed flats would be likely to be subject to undue noise and disturbance as a result of the operation of nearby businesses and this would lead to unsatisfactory living conditions.
10. The Council states that the size of the two new first floor flats falls below the Council's minimum internal space standards as set out within its Revised Residential Design Guide January 2014 (RDG). The minimum standard is 50 square metres and the Council states that the size of the new flats are 48.2 and 42.6 square metres. Whilst the appellant states that the standards would be met, no alternative figures or other evidence has been provided to demonstrate that this is the case. Having regard to this and to the particular

layout of the flats, I do not consider that future occupiers of the two new first floor flats would have satisfactory living conditions.

11. Taking the above matters into consideration, I conclude that future occupiers of the flats would not have satisfactory living conditions having regard to noise and disturbance and to the size of the accommodation. The proposal is therefore contrary to Policy ENV3 of the CS, Policy EOS9 of the SAD and to relevant guidance in the RDG. These policies and this guidance seek, amongst other things, the highest possible design standards and residential development to meet minimum internal floor space standards.

### **Other Matters**

12. In reaching my decision I note that the proposal would provide an additional 5 units of residential accommodation in an area with reasonable access to goods and services. It would contribute to the Council's housing supply and would provide a use for the building which is currently largely vacant. However, the modest social and economic benefits of the proposal would not outweigh the harm that I have identified.

### **Conclusion**

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

*Beverley Wilders*

INSPECTOR