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## Appeal Decisions

Hearing Held on 17 September 2019

Site visit made on 17 September 2019

**by M Seaton DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 March 2020**

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### **Appeal A: Ref: APP/U4610/W/19/3223784**

#### **3 Mickleton Road/47a Mayfield Road, Earlsdon, Coventry, CV5 6PP**

- 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 Choongh Properties Limited against the decision of Coventry City Council.
  - The application Ref FUL/2018/3300, dated 28 November 2018, was refused by notice dated 29 January 2019.
  - The development proposed is the change of use of existing ground floor shop and existing living accommodation into 2 houses in multiple occupation (Use Class C4).
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### **Appeal B: Ref: APP/U4610/W/19/3223787**

#### **3 Mickleton Road/47a Mayfield Road, Earlsdon, Coventry, CV5 6PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Choongh Properties Limited against the decision of Coventry City Council.
- The application Ref S73/2018/3299, dated 28 November 2018, was refused by notice dated 29 January 2019.
- The application sought planning permission for a change of use of existing ground floor shop (Use Class A1) and existing living accommodation into 2 flats (Use Class C3) with existing garage converted into ancillary living accommodation and erection of new brick wall, railings and gates without complying with conditions attached to planning permission Ref FUL/2016/2928, dated 7 February 2018.
- The conditions in dispute are Nos 2, 3, 5, 8, 9 & 10 which state that:

Condition 2.

*The residential accommodation to be provided within the converted garage hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Ground Floor Flat No. 3 Mickleton Road and shall only be occupied by members of the family occupying Ground Floor Flat No. 3 Mickleton Road and shall not be used as a separate dwelling without the prior written approval of the Local Planning Authority.*

Condition 3.

*The development shall be carried out only in full accordance with sample details and a written schedule of the external facing and roof materials which shall first have been submitted to and approved in writing by the Local Planning Authority.*

Condition 5.

*Within one month of the erection of the railings and gates hereby approved, they shall be colour coated black in full accordance with the details shown on the approved*

*documentation. Any replacement or modification shall be colour coated to match within one month of being carried out.*

Condition 8.

*The dwelling(s) hereby permitted shall not be occupied unless and until all party walls and floors have been insulated to minimise the transmission of noise and vibration in full accordance with Approved Document E of the Building Regulations and thereafter such insulation shall not be removed or altered in any way without the prior written approval of the Local Planning Authority.*

Condition 9.

*The development hereby permitted shall only be undertaken in strict accordance with a scheme of site investigation of the nature and extent of contamination within the application site (focusing on the existing outbuilding and land immediately surrounding it) that has been undertaken in accordance with a methodology which shall first have been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The converted outbuilding shall not be occupied for living accommodation until remediation measures have been carried out in full accordance with such approved details and a soil validation report has been submitted to and approved in writing by the Local Planning Authority.*

Condition 10.

*The development hereby permitted shall be carried out in accordance with the following approved documents:*

*4/08/10-01 Rev A*

*4/08/10-02 Rev F*

*Bat Survey Report for Garage, Ref: 2598-CWS-01, prepared by Cotswold Wildlife Surveys, 3<sup>rd</sup> February 2017.*

- The reasons given for the conditions are:

Condition 2.

*The site is incapable of providing satisfactory off-street parking facilities and a satisfactory level of amenity space for three separate dwellings and consequently it is considered necessary to strictly control the nature of the occupancy of the converted garage to ensure its use remains ancillary to the ground floor flat to be provided in accordance with Policies AM22 and BE2 of the Coventry Development Plan 2001.*

Condition 3.

*To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area in accordance with Policy BE2 of the Coventry Development Plan 2001.*

Condition 5.

*To protect the visual amenities of the locality in accordance with Policy BE2 of the Coventry Development Plan 2001.*

Condition 8.

*To safeguard the living conditions of the occupiers of adjacent properties and the future occupiers of the residential accommodation hereby permitted in accordance with Policies H4, OS6 and EM5 of the Coventry Development Plan 2001.*

Condition 9.

*To safeguard health, safety and the environment in accordance with Policy EM6 of the Coventry Development Plan 2001.*

Condition 10.

*For the avoidance of doubt and in the interests of proper planning.*

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## Decisions

1. **Appeal A** is allowed and planning permission is granted for a change of use of existing ground floor shop and existing living accommodation into 2 houses in

multiple occupation (Use Class C4) at 3 Mickleton Road/47a Mayfield Road, Earlsdon, Coventry, CV5 6PP, in accordance with the terms of the application, Ref. FUL/2018/3300, dated 28 November 2018, and subject to the conditions as set out in the Annex.

2. **Appeal B** is allowed and planning permission is granted for a change of use of existing ground floor shop (Use Class A1) and existing living accommodation into 2 flats (Use Class C3) with existing garage converted into ancillary living accommodation and erection of new brick wall, railings and gates at 3 Mickleton Road/47a Mayfield Road, Earlsdon, Coventry, CV5 6PP in accordance with the application Ref. S73/2018/3299, dated 28 November 2018 without complying with condition Nos. 2, 3, 5, 8, 9 & 10 set out in planning permission Ref. FUL/2016/2928 granted on 7 February 2018 by Coventry City Council, but otherwise subject to the conditions as set out in the Annex.

### **Applications for costs**

3. At the Hearing, applications for costs were made by Choongh Properties Limited against Coventry City Council. These applications will be the subject of separate Decisions.

### **Background and Main Issues**

#### *Background*

4. The appeal site is occupied by an end of terrace property which occupies a corner location at the junction between Mayfield Road and Mickleton Road. The property is indicated to have been previously occupied on the ground floor as a shop with residential accommodation above and possesses a separate two-storey outbuilding to the rear within the garden/yard area. Vehicular access to the site was observed as being available from the Mickleton Road frontage. The property had already been converted to residential accommodation but was empty at the time of the site visit.
5. The appeal property benefits from planning permission for the sub-division of the shop and residential accommodation into two separate residential units, as approved by a pair of planning permissions, in 2017 (*LPA ref: FUL/2016/2928*) and with variations to the Coach House in 2018 (*LPA ref: S73/2018/2626*). The property is currently laid out in a manner which differs from the 2017 & 2018 permissions, with each unit within the main house having been most recently occupied as a House in Multiple Occupation (HMO) under Use Class C4, albeit that this use has now ceased.
6. These works and the current use of the property are accepted by the appellant as not having the benefit of planning permission, albeit that the appellant has highlighted that works were implemented which fell within the scope of the 2017 permission, and that the permissions therefore remain extant. This is a point disputed by the Council in the Officer Reports included within the submitted evidence.
7. On the question of implementation and whether there exists a fall-back position as set by the 2017 and 2018 permissions, I have carefully considered the written and verbal submissions on this matter. I note in the first instance that the conditions necessary to allow the planning permission to be implemented were addressed and where required, details were discharged to the satisfaction of the Council, and there is no apparent dispute on this as a matter of fact.

8. Whilst the internal arrangement of the units within the main property may differ from that approved under the 2017 permission, the Council has not provided me with any compelling evidence suggesting that a commencement of substantive works in accordance with the 2017 permission did not occur. It would therefore seem to me to be reasonable to conclude that a commencement of substantive works in accordance with the 2017 permission did occur, which would thus render the permission extant for all time. Although I accept that the completed internal arrangement may not have ultimately followed the approved plans, I agree that this is a matter related to a breach of condition rather than an indicator that the development carried is without permission.
9. With regards the likelihood of a fall-back position being enacted, and having regard to the submitted evidence as indicated, I have no reason to doubt the appellant would in all probability implement the original approved 2018 permission, were that to be the only remaining and available course of action. The works of conversion undertaken thus far indicate a clear intention to use the entire property for residential purposes, whether as desired as an HMO under Use Class C4, or indeed as a residential use within Use Class C3.

#### *Appeals main issues*

10. The applications the subject of these appeals sought to achieve the following. With regards Appeal A, the proposal sought to secure a change of use of the property from the previous ground floor shop and living accommodation above, into two separate units occupied as an HMO under Use Class C4, along with the conversion of the outbuilding. This would have the effect of regularising the current development and the previous use of the property as an HMO.
11. Turning to Appeal B, the purpose of the proposal was to seek to remove and vary conditions which were previously attached to the 2017 permission for the change of use into two flats (Use Class C3) along with the provision of ancillary living accommodation in the outbuilding, to incorporate the changes to the internal layout which had been undertaken in connection with the most recent HMO use.
12. In the instance of Appeal A, the Council has found the proposed development for two HMOs to represent an over-intensification of the use of the site to the detriment of the amenities and living conditions of the area and neighbouring occupiers respectively, having regard to the potential for noise and disturbance, and an intensification of demand for on-street car parking.
13. In respect of Appeal B, the reason for refusal contends that the effect of the proposal would be of a fundamental change to the originally granted planning permission for two residential units under Use Class C3, rather than a variation of the original planning permission. Reference is made to the submitted plan resulting in a layout consistent with the character and purpose of the property being provided as two HMOs, thus resulting in an error of law were permission to have been approved.
14. As a consequence of the conclusions reached in the respective reasons for refusal, the main issues are therefore;

- Whether the proposed development accords with the housing policies of the Development Plan (*Appeal A*); and,
- Whether allowing the Section 73 application for the removal or variation of conditions from the originally approved planning permission, would amount to an error of law (*Appeal B*).

## **Reasons**

### *Policy context*

15. In advance of the Hearing the parties were unable to present an agreed Statement of Common Ground (SoCG) with it indicated that the entire document was in dispute. However, whilst the draft SoCG included reference to the constituent elements of the Development Plan, it was agreed between the parties at the Hearing that the Development Plan is comprised of the Coventry Local Plan 2016 (the Local Plan). In this regard, Policies DE1 and H5 of the Local Plan are referred to in the reason for refusal related to Appeal A, along with the aims and objectives of the National Planning Policy Framework 2018 (the Framework), which has been subsequently republished under the auspices of a February 2019 iteration.
16. Policy DE1 addresses the need for all development proposals to respect and enhance their surroundings and positively contribute towards the local identity and character of an area. The policy also sets out a series of 18 design principles including ensuring attention to detail is paid in the layout of developments, individual buildings and infrastructure in terms of function and impact, not just for the short term, but over the lifetime of the development.
17. Reference is also made to Policy H5 in respect of the management of existing housing stock, including with regards to renovation and improvement in association with the enhancement of the surrounding residential environment and meeting of local housing needs, with the conversion of buildings from non-residential to residential use supported providing a satisfactory residential environment is created.
18. Despite the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, in light of the procedural and legal nature of the Council's reason for refusal for Appeal B no further reference to the policies of the Development Plan has been cited in this instance.

### *Change of Use (Appeal A)*

19. The Council's principal concerns relate to the consequences of the occupation of the property as an HMO, and the effect on the living conditions of neighbouring occupiers. In particular, the Council's assessment reflects upon the differences and comparisons with the development of the property as two residential units within Use Class C3, as approved under the 2017 permission which as I have already highlighted, I accept would be capable of representing a realistic fall-back position.
20. It is contended that the proposed HMO use would result in a significant intensification of comings and goings from the property in contrast with that likely through the occupation of the approved Use Class C3 residential flats. However, whilst I recognise that the number of bed spaces as proposed for the



HMO use would in all probability be greater, I am not persuaded that the potential difference in the quantum of occupation would be so significant as to result in the harm contended.

21. In drawing my conclusions on the proposal, I have also had regard to the fact that the previous lawful use of the premises was as a retail unit with living accommodation above. In particular I note the apparent absence of restrictions related to hours of operation and vehicular movements in connection with the use of the shop, with the potential for there to have been generated a far greater level of comings and goings than would be for a solely residential use. Furthermore, I have no evidence before me that its previous operation as a retail unit led to complaints or concerns.
22. I agree that the immediate area exhibits a relatively quiet character, but the Council has not provided any robust support to the claimed harm to the living conditions of neighbouring occupiers from comings and goings in connection with the use of the property as an HMO. From my perspective I agree with the appellant that it is quite conceivable that the occupation of the premises as two units within Use Class C3 could result in as great a level of disturbance as is contended by the Council and interested parties would be the case with the introduction of the Use Class C4 HMOs on the appeal site. In both instances it would be reasonable to surmise that the impacts associated with either use would depend on the lifestyles of individual occupants or family groups. I am not therefore persuaded with any certainty of the inevitability of the claimed levels of noise and disturbance.
23. Turning to the contended increase in demand for on-street car parking, I agree that the Council has not incorporated any reference within the reason for refusal to the parking requirements for development as expressed within the Development Plan at Policy AC3. But I also acknowledge that a straightforward assessment of the proposals against the maximum parking standards reveals that the HMOs in combination would have the potential to result in a greater parking demand in total than the Use Class C3 units.
24. Despite this, it is evident through the previous acceptance of the provision of only a single off-street parking space for the Use Class C3 development as approved in 2017 & 2018, that the Council (and Local Highway Authority) regard the location as sustainable being within walking distance of the City Centre, Earlsdon District Centre, and local bus routes, including in the direction of Coventry Railway Station. On this basis, it is quite reasonable to conclude that future residents of the property would not necessarily need to own a private car. Furthermore, based on my own observations of available on-street parking capacity and in the absence of any technical analysis or data from the Council to corroborate the claimed levels of parking stress, I see no reason why any anticipated uplift in on-street parking demand could not be accommodated without there being resultant harm to the existing parking environment.
25. In considering the impact of the change of use, I have also had regard to the verbal submissions of Cllr. Sandhu as made at the Hearing. In these submissions, Cllr. Sandhu referred to the receipt of complaints related to the occupation of properties as HMOs, as well as the potential for anti-social behaviour, littering, a loss of community ethos, and the impact of international students in the area.

26. Whilst I appreciate that complainants may be reluctant to publicly raise issue with HMO uses, the absence of evidence of such complaints does not provide me with an evidential basis upon which to draw conclusions. Whilst I acknowledge there may be concerns over the potential for anti-social behaviour and littering in connection with the use of the property as HMO accommodation, I do not consider that such accusations should be deemed to be solely attributable to HMO uses, but could equally be levelled at occupiers of other types of residential accommodation. I am not persuaded that this would be a reason to resist the proposed change of use. Similarly, although I acknowledge the points made about the loss of a community ethos and the contention that international students have a tendency to abandon cars in the area when their studies are completed, these would also not be a reasonable basis to refuse permission for the proposed change of use.
27. For the above reasons, and being mindful of the reason for refusal, I am satisfied that the proposed change of use of the property to HMOs under Use Class C4 would accord with the housing policies of the Development Plan. In particular, there would not be conflict with Policies DE1 and H5 of the Local Plan.
28. In addition to the above reasoning and assessment, I have also had regard to the establishment of an accepted fall-back position of the occupation of the property under Use Class C3. Furthermore, and in the absence of the removal of permitted development rights to allow a change of use to an HMO use, it is entirely conceivable that in the passage of time and after the occupation of the properties for a requisite period in accordance with Use Class C3, a change of use to an HMO Use Class C4 could be implemented without the need for further consent.
29. Whilst there was a detailed discussion related to the availability of permitted development rights under Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, it was agreed that the right would exist to change to HMOs under Use Class C4, albeit with some discussion over the precise mechanism and timings leading to the enactment of that right. Nevertheless, whilst the debate on the matter was instructive, having regard to my above conclusions on Appeal A, any weight that might be attributable to the issue is not determinative in this instance and does not move matters any further forward.

### *Section 73 (Appeal B)*

30. The appellant has indicated that a substitution plan was submitted with the Section 73 appeal to address an amendment to the layout of the units, to include a communal W/C and shower room. This it is contended provides benefits with regards an avoidance of the need to remove two bathrooms already installed and provides a layout better suited to family occupation as it provides suitable facilities to visitors without the need to use one of the bedrooms en-suite facilities.
31. I have had regard to the principles of the Wheatcroft judgement in considering the acceptability of this substitution but in light of the entirety of the respective cases can see no reason why the inclusion of this plan could have proved fundamental in the determination of the planning application. I am satisfied that the revised layout plan would not alter the basis for assessment of the

appeal from the development as originally proposed, and as assessed by the Council and I have therefore had regard to it in my decision-making.

32. In determining the planning application, the Council has referred me to the judgement of Sullivan J in *R v Coventry City Council, ex p. Arrowcroft Group plc [2001] PLCR 7*, in addressing the term of a *fundamental alteration*. The scope of this the Council highlights as having been further considered by Singh J in *R (Wet Finishing Works Limited) v Taunton Deane BC [2017] EWHC 1837 (Admin)*. Essentially this addresses whether the changes to a Section 73 application amount to a change to the operative part (the description of development) of the planning permission, albeit that it is recognised that an assessment as to what is a *fundamental alteration* rests with the judgement of the decision-maker.
33. The Council's evidence recognises that the original 2017 permission specified two flats within Use Class C3, and that the design of those flats must equate to that character and purpose and not to any other use not permitted in the original permission. In this regard, the Council has concluded that there are significant physical and design features shown on the proposed drawings that show the character and purpose of the buildings would be for use as an HMO. Specific reference is made to each bedroom as possessing an en-suite bathroom but there being no main bathroom, and the absence of a living room. In this respect, the Council contested that the Section 73 application represented a *fundamental alteration* to the original 2017 permission, and that it would consequently be an error in law to permit the proposal.
34. The appellant has disputed the Council's analysis of the character and purpose of the proposed units as being more akin to that of an HMO, with the point made that by their very nature it would not be unexpected for there to be certain similarities in the character and appearance of the accommodation given the permitted change that exists from Use Class C3 to C4. Furthermore, what the Section 73 application does is in effect permit a different layout for the units but for the continued use of the property within Use Class C3. In the absence of any identified harm with the Development Plan, the appellant contends there is no rational basis for refusing the application.
35. In seeking to resolve the disconnect between the respective positions of the Council and the appellant, the specific disposition and layout of the submitted plans was questioned at the Hearing. Further to questioning on the issue, it became apparent that the Council's analysis and conclusions had been premised upon consideration of the wrong plan, specifically the plan demonstrating the layout as proposed for the Change of Use application to Use Class C4. The plan submitted in connection with the Section 73 application clearly showed a revised layout of the ground floor and first floor units as including a separate lounge facing on to Mickleton Road. Having further pressed the Council on the matter it was conceded that had their assessment of the proposal been based on the correct submitted plan, they would have in all certainty have allowed the Section 73 application.
36. For the above reasons, it is therefore clear that to allow the proposed variation of the layout and amendment of conditions would not result in a fundamental alteration to the original planning permission, and that to allow the appeal would not lead to an error in law. As has already been set out, the Council has not identified in the reason for refusal that there would be any conflict with the



policies of the Development Plan as a consequence of the proposals. On the basis of my assessment of the matters at hand I also do not find there to be any conflict with the Local Plan or any other material considerations.

### **Conditions**

37. I have not been provided with a list of suggested conditions in relation to the respective appeals. However, I am mindful that the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. In a session at the Hearing, the appropriateness of using suggested conditions based on those previously utilised for the 2017 and 2018 permission was discussed with regards to both appeals.
38. In this instance, there is a consistency between the two sets of conditions, including in respect of where information related to the discharge of conditions has been provided. Where the discharge of details related to specific conditions has already occurred, I have revised the wording of the conditions to reflect that fact.
39. In addition to conditions related to the need to accord with the approved plans and previously approved technical reports, ensuring the development is carried out in accordance with agreed details of external facing and roof materials, as well as any modifications or replacement railings being to match the existing, would be in the interest of a satisfactory appearance of the development and the character and appearance of the area. The provision and retention of the single off-street parking space prior to occupation would contribute towards the parking provision necessary for the development.
40. The removal of permitted development rights for windows or openings including dormer windows and roof lights in the north-western and north-eastern facing elevation of the converted outbuilding, and ensuring approved windows in the north-western facing elevation are obscurely glazed, would be necessary in the interest of safeguarding the living conditions of neighbouring occupiers, having regard to privacy. A condition ensuring the provision and retention of the insulation of party floors would be in the interest of minimising the transmission of noise and disturbance between the respective units. Furthermore, a condition addressing the mechanism for dealing with any remaining remediation of the site would be necessary as a means of protecting the health and safety of the environment.
41. Whilst I note that its removal was agreed by the parties at the Hearing, I would also conclude that the previously applied restrictive condition related to the nature of the occupation of the converted outbuilding is not necessary to allow the proposed developments, and I have therefore omitted this condition.

### **Conclusions**

42. For the reasons above, and subject to the conditions listed, the appeals are allowed.

*M Seaton*

INSPECTOR

## **Annex**

### **Appeal A – APP/U4610/W/19/3223784**

#### **Conditions**

- 1) The development hereby permitted shall begin no later than three years from the date of this permission.
- 2) The development shall be carried out only in full accordance with the details and written schedule of external facing and roof materials as approved under reference DC/2018/1250.
- 3) The residential units hereby permitted shall not be occupied unless and until the car parking space to be provided within the application site has been provided and marked out in accordance with the approved drawing number A2/SC/02C and made available for use by the occupants. The space shall thereafter be retained for parking purposes unless otherwise agreed in writing by the Local Planning Authority.
- 4) Any replacement or modification of the railings and gates as previously approved shall be colour coated black to match, within one month of the works being carried out.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) the window to be formed at first floor level in the north-western facing elevation of the converted garage hereby permitted shall only be glazed or re-glazed with obscure glass and any opening part of any window shall be at least 1.7m above the floor of any room in which the window is installed.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) no windows or openings including dormer windows and roof lights (apart from any shown on the approved drawings) shall be formed in the north-western facing or northeastern facing elevations or roof slopes of the converted garage hereby approved without the written approval of the local planning authority.
- 7) The residential units hereby permitted shall not be occupied unless and until all party floors have been insulated to minimise the transmission of noise and vibration in full accordance with Approved Document E of the Building Regulations and thereafter such insulation shall not be removed or altered in any way without the prior written approval of the Local Planning Authority.
- 8) The development hereby permitted shall accord with the results and recommendations of the site investigation to identify the nature and extent of pollution within the site as approved under reference DC/2018/1250. The converted outbuilding shall not be occupied for living accommodation until any remediation measures deemed to be necessary have been carried out in full accordance with such approved details and a soil validation report has been submitted to and approved in writing by the Local Planning Authority.

- 9) The development hereby permitted shall be carried out in accordance with the following approved documents:

Drawing No. A2/SC/02C

Bat Survey Report for Garage, Ref: 2598-CWS-01, prepared by Cotswold Wildlife Surveys, 3rd February 2017.

### **Appeal B – APP/U4610/W/19/3223787**

#### **Conditions**

- 1) The development shall be carried out in full accordance with the details and written schedule of external facing and roof materials as approved under reference DC/2018/1250.
- 2) The residential units hereby permitted shall not be occupied unless and until the car parking space to be provided within the application site has been provided and marked out in accordance with the approved drawing number A2/SC/02C and made available for use by the occupants. The space shall thereafter be retained for parking purposes unless otherwise agreed in writing by the Local Planning Authority.
- 3) Any replacement or modification of the railings and gates as previously approved shall be colour coated black to match, within one month of the works being carried out.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) the window to be formed at first floor level in the north-western facing elevation of the converted garage hereby permitted shall only be glazed or re-glazed with obscure glass and any opening part of any window shall be at least 1.7m above the floor of any room in which the window is installed.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) no windows or openings including dormer windows and roof lights (apart from any shown on the approved drawings) shall be formed in the north-western facing or northeastern facing elevations or roof slopes of the converted garage hereby approved without the written approval of the local planning authority.
- 6) The residential units hereby permitted shall not be occupied unless and until all party floors have been insulated to minimise the transmission of noise and vibration in full accordance with Approved Document E of the Building Regulations and thereafter such insulation shall not be removed or altered in any way without the prior written approval of the Local Planning Authority.
- 7) The development hereby permitted shall accord with the results and recommendations of the site investigation to identify the nature and extent of pollution within the site as approved under reference DC/2018/1250. The converted outbuilding shall not be occupied for living accommodation until any remediation measures deemed to be necessary have been carried out in full accordance with such approved details and a

soil validation report has been submitted to and approved in writing by the Local Planning Authority.

- 8) The development hereby permitted shall be carried out in accordance with the following approved documents:

Drawing No. A2/SC/02C

Bat Survey Report for Garage, Ref: 2598-CWS-01, prepared by Cotswold Wildlife Surveys, 3rd February 2017.

## APPEARANCES

### FOR THE APPELLANT:

Gary Stephens  
Paul Cairnes QC

Planning Director, Marrons Planning  
No. 5 Chambers, Birmingham

### FOR THE LOCAL PLANNING AUTHORITY:

Emma Spandley  
Phillip Robson

Planning Officer, Coventry City Council  
Kings Chambers, Manchester

### INTERESTED PARTIES:

Anthony McMullan  
Councillor Kindy Sandhu

Commercial Partner, Homemaker Properties  
Ward Member

## DOCUMENTS SUBMITTED AT AND FOLLOWING THE HEARING

1. Correspondence (letter) from Homemaker Properties dated 13 September 2019 addressing matters related to the local housing market and the status of occupation of the appeal property.
2. Correspondence (e-mail) from the Council to the appellant dated 16 September 2019 responding to the Draft Statement of Common Ground (SoCG), and response (e-mail) from the appellant to the Council dated 17 September 2019.
3. Index of Legal Authorities Folder submitted by appellant;
  - i. *Dunoon Developments Limited v The Secretary of State for the Environment v Poole Borough Council* [1992] WL 895054
  - ii. *Kwik Save Discount Group Limited v Secretary of State for Wales* [1980] WL 149641
  - iii. *Raffaele Gambone v Secretary of State for Communities and Local Government v Wolverhampton City Council* [2014] EWHC 952 (Admin)
  - iv. *High Peak BC v SoSE* [1981] JPL 366
  - v. *Pamela Patricia Thayer v The Secretary of State for the Environment v Wycombe District Council* [1991] WL 838530
  - vi. *Malvern Hills District Council v Secretary of State for the Environment and Another* (1983) 46 P. & C.R. 58
  - vii. *Commercial Land Limited/Imperial Resources SA v The Secretary of State for Transport, Local Government and The Regions, The Royal Borough of Kensington and Chelsea* [2002] EWHC 1264 (Admin)
  - viii. *Sage v Secretary of State for the Environment, Transport and the Regions and Others* [2003] UKHL 22
  - ix. *John Leslie Finney v Welsh Ministers v Carmarthenshire County Council, Energiekontor UK Limited* [2018] EWHC 3073 (Admin)
  - x. *The Queen on the Application of Vue Entertainment Limited v City of York Council* [2017] EWHC 588 (Admin)
4. Document indicating timeline for issue of Council Delegated Officer Reports (submitted 26 September 2019).



5. Appendix 5: Car and Cycle Parking Standards for New Development (Updated January 2019), Coventry Local Plan 2016 (submitted 26 September 2019).