



Appeal Decision

Site visit made on 27 April 2026

by **P Brennan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 May 2026

Appeal Ref: 6003538

277 - 279 High Street, Smethwick B66 3NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr S Gill against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/25/70359.
 - The development proposed is the change of use at ground floor rear and first floor from residential to 11 No. bedroom HMO with loft conversion and first floor rear/ side extension.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use at ground floor rear and first floor from residential to 11 No. bedroom House in Multiple Occupation (HMO) with loft conversion and first floor rear/ side extension at 277 - 279 High Street, Smethwick B66 3NJ in accordance with the terms of the application, Reference DC/25/70359, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development has been amended from that on the application form to include the number of bedrooms proposed within the HMO and to exclude the second floor and two storey side extensions. As these extensions were removed from the proposal and, consequently, the number of bedrooms proposed was reduced from 20 to 11, I am satisfied that the description of development in the heading above and used on the Council's decision notice provides a more accurate description of the development proposed.
3. The appellant has referred to the Council's published 'Standards and Amenities Guide for Houses in Multiple Occupation' (HMO Guidelines). Whilst this was not originally submitted by the Council, it has been sought as it appears to be a material consideration, which I have subsequently taken into consideration in my decision.

Main Issues

4. The main issues are:
 - Whether the proposal would provide suitable living conditions for future occupants; and
 - Whether the proposal would provide suitable waste storage provision.

Reasons

Living conditions

5. The appeal site consists of an opticians and residential flats in a traditional end of terrace property with a large rear wing, within a designated local centre. Access is gained to the flats via an alley at the side of the building. Vehicle access and parking is available to the rear from Victoria Avenue. Modern extensions to the rear include a 2-storey flat roof structure which spans the width of the site.
6. The appeal proposal includes, amongst other things, further extensions to the rear of the property to create a first floor across the full width of the site and the property's conversion to an 11-bedroom HMO. The HMO would occupy 3 floors, with 2 of the bedrooms being located within the loft conversion. No communal living areas are proposed however, 2 shared kitchens would be provided.
7. The Council's HMO Guidelines identify that where HMO's with shared kitchen facilities, but no separate living room, are proposed, bedrooms for 1 person must meet the minimum size of 10sq.m. The proposed bedrooms, whilst shown as double bedrooms, are proposed for single occupancy and would meet and exceed the minimum size.
8. The provision of living and/or dining rooms within HMO's are identified as optional within the HMO Guidelines. Where the minimum bedroom sizes are used and a kitchen would be the main living space, the proposed development would be required to meet the minimum kitchen size plus the minimum living room size. The 2 kitchens proposed would have a combined floor area of around 32sq.m which would be below the 35sq.m requirement. Nonetheless, the bedrooms would generally exceed the minimum size requirement. I am therefore satisfied that the kitchen space as proposed would be of an acceptable size to provide adequate living conditions for the future occupants.
9. With regards to bathrooms, 3 of the bedrooms would have en-suite facilities leaving a further 8 bedrooms to use 2 communal bathrooms and a separate WC. This would be in accordance with the Council's HMO Guidelines and would provide appropriate bathroom facilities for the 11 occupiers.
10. For the reasons given above, the proposed development would provide suitable living conditions including living space and shared areas for future occupants. Consequently, the proposal accords with Policies HOU2 and ENV3 of the Black Country Core Strategy (BCCS) and Policy SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (DPD). These policies, amongst other things, seek development that provides an overall mix of house types to meet local needs that is accessible by sustainable transport and minimises amenity impacts and is of high-quality design that is compatible with its surroundings.

Waste Storage

11. The Council's second reason for refusal relates to inadequate waste storage provision but makes no reference to policy within the BCCS or the DPD. No evidence is before me from the Council that identifies the requirement for waste storage provision for an HMO with 11 bedrooms. The BCCS has a waste chapter, but this primarily relates to strategic waste management alongside major development proposals.

12. The proposed development would include an internal area at ground floor for cycle and bin storage which appears to be around the same size as the larger bedrooms (circa 14sq.m). The area would be accessible both internally and externally with an area reserved for access to the storage area to the rear of the neighbouring property at 275 High Street. Whilst access to the rear would be via a narrow unsurfaced road, there is no evidence before me to indicate that the bin storage area in the location proposed would result in inadequate servicing arrangements. I also note that both Public Health and Highway Officers raised no objection to the waste storage provision.
13. The reason for refusal also considers that the lack of adequate waste storage facilities would have a negative impact on neighbouring living conditions but no further reasoning for this is provided. The appellant has drawn to my attention to the issue that the HMO would be subject to a mandatory license along with the relevant checks and balances relating to its operation and management that the legislation requires. This includes confirming that the removal of waste would be undertaken in an efficient manner and that the property and its environs are kept clean and tidy at all times. I also note that a Security Management Plan outlining the management of the HMO is within the evidence before me. This outlines that tenants would be provided with a code of conduct that includes behaviour, security and waste management.
14. Based on the above, I am satisfied that the proposal would provide suitable waste storage provision that would minimise any harmful effects to neighbouring occupiers living conditions.

Other Matters

15. The appeal site is within the Smethwick High Street and Crocketts Lane Conservation Area (CA) wherein I have a statutory duty under Section 72(1) of the LBCA Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The CA protects the historic core of Smethwick. Its significance derives from its historic and architectural interest relating to its predominantly working class late Victorian character. The existing building makes a neutral contribution to the character and appearance of the area.
16. The building includes a deep two storey return with a corresponding single storey element alongside. This scale of rear return is consistent with adjacent neighbouring properties. Given the existing form of the building, the proposed first floor rear/ side extension would be a relatively modest addition. Views of the proposed extension would be limited to oblique angles only for users of the access track and from the outlook of neighbouring residential properties. Accordingly, for these reasons, the proposal would preserve the CA's character and appearance.
17. I acknowledge that there were several objections in respect of the proposal. In addition to the main issues, these included concerns relating to loss of light, overlooking, separation distances, design, parking, noise and disturbance and drainage. These factors are not in dispute between the main parties and were addressed in the Officer's report, with the Council concluding that there would be no material harm in these regards and did not form part of its reasons for refusing the proposal. I have also considered these matters including the consultation responses from Highways and Public Health concluding no objection. I am

satisfied that no substantiated evidence has been submitted that would lead me to a different view.

18. In terms of concerns raised regarding the HMO occupiers, the appellant's Security Management Plan outlines a series of measures including the undertaking of tenant background checks. I have considered the management plan and noted that West Midlands Police has raised no objection to the proposal in this regard. I am satisfied that the concerns raised could be overcome through the implementation of the management plan and details of necessary security measures, which could be secured by condition.
19. In relation to Biodiversity Net Gain (BNG), as there would be no loss of on-site habitat, the proposal is BNG exempt.

Conditions

20. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other aspects. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of clarity and enforceability.
21. To ensure certainty and clarity, I have imposed the standard conditions relating to the commencement of development [1] and approved plans [2]. Due to the narrow, unsurfaced driveway to the rear which is limited in width, the limited on-site and restricted parking on-street, and to protect the living conditions of neighbouring occupiers, it is necessary to impose a condition requiring a construction management plan to include details of parking, deliveries, storage and dust suppression [3].
22. Details of external lighting and a privacy glazing scheme for bedrooms 4 and 5 are also necessary to protect the living conditions of neighbouring occupiers and to prevent overlooking [4 and 5].
23. In the interests of future occupiers and neighbouring occupiers, a condition is necessary to secure details of security measures and their implementation [6].
24. I have also attached a matching materials condition to ensure that appropriate materials are used to preserve the character and appearance of the building and the conservation area [7].
25. Details of waste storage and secure cycle parking have been requested by the Council. However, an adequate bin store and cycle storage area is shown on the floor plan. Consequently, a condition requiring further details is not necessary. However, to ensure that cycle and waste storage is available for the use by future tenants in accordance with BCCS waste and cycling policies, a condition to secure the implementation and retention of the storage area as shown on the floor plans is necessary [8]. A condition requiring that the communal kitchen and bathroom areas are retained in perpetuity is also considered necessary to ensure that the HMO maintains the necessary quantum of kitchen and bathroom spaces for the number of occupants [9].

26. As the HMO has been assessed on 11 occupants but has the potential to be occupied by 22 occupants based on the floor plan layout, it is also necessary to restrict the HMO to a maximum 11 tenanted occupiers [10].
27. The Council has also requested a condition relating to the submission of a noise impact assessment due to road noise and adjacent commercial activities. However, I note that the first floor is already in residential use and the surrounding commercial uses are predominantly retail focused with limited evidence of late-night activity. Consequently, I consider the Council's reasons have not adequately demonstrated the need for the condition and I do not consider it necessary.

Conclusion

28. For the reasons given above the appeal should be allowed.

P Brennan

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 drawing numbers Location Plan 1, Proposed Floor Plans CA-542-02F and Proposed Elevations and Site Plan CA-54203D.
- 3) No development shall take place, including any works of demolition or site preparation, until a construction environmental management plan has been submitted to and approved in writing by the local planning authority. The statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; measures to control the emission of dust and dirt during demolition and construction; and construction works; delivery, demolition and construction working hours. The approved construction method statement shall be adhered to throughout the construction period for the development.
- 4) Prior to first occupation, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved lighting scheme shall be implemented prior to first occupation and shall thereafter be retained.
- 5) Prior to first occupation, a privacy glazing scheme for bedrooms 4 and 5 shall be submitted to and approved in writing by the local planning authority. The approved privacy glazing scheme shall be implemented prior to first occupation and shall thereafter be retained.
- 6) Prior to occupation, details of security measures associated with the HMO, which shall include CCTV, controlled access to buildings/rooms and security lighting, shall be submitted to and approved in writing by the local planning authority. Before the HMO is first occupied the approved security measures and the Security Management Plan shall be implemented and retained in that form thereafter.
- 7) The external materials of the extension hereby permitted shall match those used in the existing building.
- 8) The secure cycle parking and bin storage area shown on drawing number CA-542-02F shall be implemented prior to first occupation and shall thereafter be retained for the life of the development.
- 9) Once provided, the communal kitchen and bathroom areas shall be retained for the life of the development.
- 10) The HMO hereby approved shall be restricted to a maximum of 11 tenanted occupiers.

End of Conditions