



Appeal Decision

Site visit made on 25 May 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2022

Appeal Ref: APP/U4230/W/21/3289447

200 Weaste Lane, Salford M5 5JL

- 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 Cheung against the decision of Salford City Council.
 - The application Ref 21/78238/FUL, dated 4 August 2021, was refused by notice dated 22 November 2021.
 - The development proposed is change of use of vacant dwellinghouse (C3 use) to an 8 bed HMO (sui generis), together with a single storey rear extension.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Mr Cheung against the decision of Salford City Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted amended and additional plans with the appeal, which were not before the Council when it made its Decision. The key alterations and additions are: 1) the height of the proposed rear extension has been reduced by 0.3 m, as a result of which the appellant suggests that the proposed extension could be constructed under permitted development rights; 2) a section plan has been submitted which demonstrates that all floor to ceiling heights are above 1.5 m, and 3) scaled sketched floor plans have been submitted to illustrate the extent of furniture that could fit within each of the proposed rooms.
4. The alteration to the height of the proposed extension does not alter the design and it would benefit occupiers of neighbouring properties, all-be-it marginally. The section plan and floor plans illustrating furniture lay out merely enhance the reader's understanding of the proposal. I consider no one would be prejudiced should I accept the amended and additional plans at this stage. I have therefore made my decision taking them into account.
5. Reason for refusal one on the Council's Decision Notice refers to the proposal being contrary to Policy H10 of the Emerging Local Plan (ELP). As noted in the Council Officer's Report, the weight given to policies in Emerging Plans (EP) will depend on: a) the stage of preparation of the EP (the more advanced the preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the

unresolved objections, the greater the weight that may be given), and c) the degree of consistency of relevant policies in the EP to the policies in the National Planning Policy Framework (the Framework).

6. The evidence provided indicates that the EP is at an advanced stage. I consider the broad aims and objective of draft policy H10, the emerging policy of most relevance to the appeal, to be broadly consistent with policies in the Framework. However, I have not been provided with any details of whether, and if so to what extent, there are unresolved objections to draft policy H10. I therefore cannot give full weight to the policy at this stage.

Main Issues

7. The main issues are:

- whether the proposal would result in an overconcentration of Houses in Multiple Occupation (HMOs) along the western side of Weaste Lane,
- if the proposal would result in an overconcentration of HMOs along the western side of Weaste Lane, the effect this would have on the surrounding neighbourhood, including community cohesion,
- the effect of the proposal on the living conditions of occupiers of the existing neighbouring property number 198 Weaste Lane, with particular regard to light, overbearing and tunnelling effect, and
- whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the floor to ceiling height and extent of useable floor area in proposed bedroom 8.

Reasons

Whether the proposal would lead to an overconcentration of HMOs along the western side of Weaste Lane

8. The site comprises a 2-storey mid-terrace property, with a basement and a floor in the roof space. There is a yard to the rear and small enclosed area at the front. The site is located within a predominantly residential area, on the western side of Weaste Lane. The surrounding area is covered by an Article 4 Direction (A4D) which removes permitted development rights that allow a change of use of a dwellinghouse to a small HMO. The A4D was introduced due to concerns about clusters and overconcentrations of HMOs within some areas of the city and the impact this was having on community balance and local amenity.
9. Saved Policy ST1 of the City of Salford Unitary Development Plan 2004-2016 (2006), (UDP), requires developments to contribute towards the creation and maintenance of sustainable urban neighbourhoods.
10. Saved Policy H1 of the UDP states, among other things, that all new housing development will be required to contribute towards the provision of a balanced mix of dwellings within the local area in terms of size, type, tenure and affordability. In determining whether the proposed mix of dwellings is appropriate and acceptable, regard will be had to a range of factors, including the mix of dwellings in the surrounding area. The reasoned justification of the Policy states, among other things, that it is vital that housing development supports the creation and protection of sustainable and balanced communities,

avoids instability in local housing markets and contributes to the mix of housing types.

11. Draft Policy H10 of the ELP seeks to carefully control conversions of existing houses into other types of residential uses, including HMOs, to ensure a good supply of houses is maintained within Salford and protect the positive character of neighbourhoods. Conversions to HMOs will only be permitted where it can be demonstrated that the proposal would not, either individually or cumulatively:
a) have an unacceptable impact on the positive residential character of the surrounding neighbourhood, having regard to noise and disturbance, on-street car parking, waste management and population turnover levels that could reduce community stability; b) result in the infrastructure capacity of a site or local area being exceeded, and c) result in any house that is in use as a single dwelling being immediately adjacent to more than one property in use as a HMO, student housing, hotel, guest house, residential institution, hostel, children's home (or similar use), or a non-residential use such as offices.¹
12. I have not been provided with any development plan definition of what constitutes a 'concentration' or 'overconcentration' of HMOs. Consideration of the issue is therefore a matter of judgement, taking account of the circumstances of the site and any factors considered relevant.
13. The Council calculate that should the proposal be allowed, 54% of properties along the western side of Weaste Lane between Edward Avenue and Tootal Road would be in use as HMOs, which the Council consider would constitute an overconcentration of HMOs along the stretch of road referred to. The appellant has not challenged this figure, and I have no reason to do so either.
14. The appellant accepts the extent of HMOs on the western side of Weaste Lane. However, the appellant contends that an assessment of whether there is or isn't a concentration or overconcentration of HMOs should include consideration of both sides of Weaste Lane and the immediate and wider contexts of the appeal site.
15. Thus, with reference to Figure 4 in the Council Officer's Report (OR), the appellant points out that there are only 2 properties identified as being in use as HMOs on the eastern side of Weaste Lane between Edward Avenue and Tootal Road. Therefore, taking the stretch of Weaste Lane referred to as a whole, the appellant concludes that the number of properties in use as HMOs is not a majority. With reference to Figure 3 in the OR, the appellant points out that, of the 60 or so properties shown on the map extract, only 3 are identified as existing HMOs. The appellant therefore concludes that if the appeal was allowed there would only be around 7% of properties within a 50-60 m radius of the site in use as HMOs.
16. Additionally, the appellant contends that if all the properties shown on the map extract in Figure 4 were considered, the number of properties in use as HMOs across the area would not constitute a significant proportion.
17. I accept that when taking both sides of the stretch of Weaste Lane referred to into account, the number of properties in use as HMOs is not a majority. However, even when taking account of both sides of the section of Weaste

¹ Immediately adjacent properties include properties directly behind or opposite, as well as to either side.

Lane referred to, the number of properties in use as HMOs would still amount to a significant proportion and therefore a concentration.

18. I acknowledge that should the appeal be allowed only around 7% of properties within a 50-60 m radius of the site would be in use as HMOs. However, I consider an assessment confined to properties within around a 50-60 m radius of the site also fails to take account of the wider context and therefore does not provide a comprehensive understanding of context.
19. With regard to the surrounding area shown in Figure 4, I have not been provided with the number of residential properties within the selected area. As such, it is not possible for me to conclude whether the proportion of HMOs in the selected wider area is significant or not.
20. Notwithstanding the opinions of the appellant in respect of what the parameters of assessment should be, I consider it to be legitimate and justifiable for the Council to consider the implications of most properties on one side of a street being in use as HMOs. With regard specifically to the western side of Weaste Lane between Edward Avenue and Tootal Road, as over 50% of the properties are currently in use as HMOs, I consider there is already a concentration of HMOs along this stretch of Weaste Lane. The proposal would exacerbate this situation, and consequently I conclude that the proposal would result in an overconcentration of HMOs along the western side of Weaste Lane between Edward Avenue and Tootal Road.
21. Nevertheless, the key issues still to address are the effect of the overconcentration on the surrounding neighbourhood and whether the proposal does or does not accord with development plan policies.

The effect of an overconcentration of HMOs on the surrounding neighbourhood, including community cohesion

22. The appellant considers that the Council's assessment of the impact of an additional HMO on the area is based on conclusions from reports that are not specific to Weaste Lane². However, firstly, I consider it reasonable of the Council to have drawn upon the information that it did to inform the implementation of the A4D; and secondly, I consider it reasonable for the Council to draw upon these reports as considerations to inform its decision-making on planning applications for HMOs, regardless of whether they are for small or large HMOs.
23. In summary, it has been found³ that high concentrations of HMOs can sometimes have a detrimental impact on local housing areas. They may involve a more intense use of dwellings⁴ which may increase noise pollution, car parking demands and/or pressure on local services and facilities. Additional impacts have been found to include anti-social behaviour, increased crime and negative impacts on the physical environment and streetscape. As HMOs often have a higher turnover of residents and therefore a more transient population, a concentration or overconcentration may lead to an imbalance of property

² In particular, 'Small houses in multiple occupation: Evidence to justify the purpose and extent of an Article 4 Direction – Salford City Council, October 2017', which draws upon 'Evidence Gathering – Housing in Multiple Occupation and possible planning responses - Department for Communities and Local Government, September 2008'.

³ 'Evidence Gathering – Housing in Multiple Occupation and possible planning responses - Department for Communities and Local Government, September 2008'

⁴ In my experience they often involve a more intense use.

types and tenures in an area, which can impact upon social cohesion and result in imbalanced and unsustainable communities.

24. The appellant contends that the findings of the reports referred to create a hypothetical scenario, rather than constituting substantive evidence specific to Weaste Lane.
25. I accept that there may be household arrangements other than HMOs where the make-up is such that comings and goings are intensive and high levels of noise and disturbance are generated. I also accept that it is not necessarily the case that all residents of HMOs would not form relationships with neighbours or engage in community activities that foster a sense of community. However, these observations do not negate the general findings referred to above, which I consider the Council are justified in taking account of in determining planning applications related to HMOs.
26. With regard specifically to the area within which the site is located, the Council's report identifies, among other things, that of the 20 wards within the City Weaste & Seedley has the 4th highest number of mandatory and licenced HMOs combined⁵. Additionally, the report notes that issues related to the impacts of HMOs, such as car parking, bins/refuse, anti-social behaviour, and noise nuisance, are frequently raised to the Council, Councillors and at Community Committee Meetings, including Weaste⁶. Furthermore, Weaste and Seedley had the 4th highest number of complaints relating to dumping, fly-tipping, littering and accumulations of waste⁷.
27. Additionally, the Council also identified that the significant increase in the number of dwellings converted to small HMOs resulted in complaints from residents regarding the impact of HMOs on community balance⁸.
28. The appellant suggests that the proposed HMO would be marketed to key workers and young professionals, and that a Residents Management Strategy (RMS), secured by condition, could be used to mitigate any potential impacts. However, even if the property was marketed in the way suggested, I consider it would not be reasonable to seek to secure the make-up of future residents of the proposal via use of a condition. Furthermore, even if it were possible to manage some matters of concern via a RMS secured by condition, such as waste storage and collection, building maintenance, or noise disturbance, the proposal would still result in an overconcentration of HMOs on the western side of Weaste Lane, and such a condition would not alter the frequency of turnover of residents. I am therefore not persuaded that a condition(s) could address all the harms associated with reason for refusal one, or that any such condition(s) would meet all the relevant conditions tests⁹.
29. I acknowledge that there is a range of housing types in the surrounding area, which could serve a range of occupiers. However, I consider the overconcentration of HMOs identified would result in an imbalance in the mix of residential accommodation in the area. Ultimately, as identified in the reports referred to, such an overconcentration could potentially undermine community

⁵ Table at paragraph 2.14 of 'Small houses in multiple occupation: Evidence to justify the purpose and extent of an Article 4 Direction – Salford City Council, October 2017'

⁶ Paragraph 2.4

⁷ Table at paragraph 3.11

⁸ Paragraph 3.5

⁹ As outlined in the Planning Practice Guidance Paragraph: 003 Reference ID: 21a-003-20190723

cohesion and potentially have some detrimental impacts on the character and appearance of the area and the living conditions of residents (some of which I consider could not be overcome by conditions which meet the relevant tests). Consequently, the proposal would not contribute towards the creation and maintenance of sustainable urban neighbourhoods.

30. The appellant contends that the lack of a numerical threshold in development plan policies, which other Authorities have, or means of quantitatively assessing the concentration of HMOs, results in an unfair and inconsistent approach to determining planning applications for HMOs. Regardless of these views, the wording and content of the relevant development plan policies for the area are the policies against which I must assess the proposal.
31. Although I note that the proposal would not result in a single dwelling being immediately adjacent to more than one HMO *vis a vis* draft Policy H10 (3) of the ELP, for the reasons outlined the proposal does not accord with existing policies ST1 and H1 of the UDP. For completeness, nor does it fully accord with EP H10.

Effect of the proposal on the living conditions of existing occupiers of No. 198

32. As noted above, the appellant has submitted amended plans with the appeal, the key alteration being a reduction in the height of the proposed single-storey rear extension, from 3.3 m to 3 m. The appellant's statement contends that the proposed extension could be constructed under permitted development rights. In its response to the appellant's statement the Council has not challenged this contention. Furthermore, although amended and additional plans have been submitted with the appeal, the Council has not commented on the matter of the effect of the proposed extension on the living conditions of existing occupiers of No. 198.
33. The existing plans of the appeal property show that the living and dining area is open plan, from front to rear, and the kitchen is a separate room. I was able to confirm during my site visit that the ground-floor layout of No. 198 is similar to that of the appeal property. Therefore, the open plan dining/living room at No. 198 is dual aspect, with the larger window being located at the front of the property and the smaller window located on the rear elevation. The terrace is orientated such that the fronts of the properties that make up the terrace face east and the rear elevations face west.
34. The nearest habitable room window of No. 198 to the proposed extension would be the dining room window, which is positioned on the inner rear elevation of the property, in between a boundary wall (around 1.8 m high) between the appeal site and No. 198 and the side elevation of the property's kitchen. Additionally, just beyond the brick boundary wall is the side elevation of the two-storey outrigger on the rear of the appeal property. Also, No. 198 has a single-storey rear extension/outbuilding extending off/close to the rear of the kitchen. Hence, the dining room window is already substantially enclosed, and the proposed extension would not significantly alter the existing situation.
35. Bearing in mind the ground-floor layout of No. 198, the room that would be closest to the proposed extension is the kitchen, which I consider to be a non-habitable room; and I consider the impact of the proposed extension on non-habitable rooms to not be as significant as the impact on habitable rooms.

The kitchen also has a dual aspect, with windows on both the side and rear elevations.

36. Within the context described above, I consider the proposed extension would not harmfully affect the extent of light currently enjoyed by the existing occupiers of No. 198. Nor would it have an overbearing impact or create a tunnelling effect on either the internal rooms of the dwelling or the outdoor space in the rear yard. I therefore conclude that the proposed extension would not harm the living conditions of existing occupiers of the dwelling No. 198 Weaste lane with regard to light, overbearing or tunnelling effect. As such, in this regard, the proposal accords with saved Policy DES 7 of the UDP and sub paragraph 130 (f) of the Framework, which collectively, and among other things, require development not to have an unacceptable impact on the living conditions of occupiers of existing properties¹⁰.

Whether the proposal would provide satisfactory living conditions for future occupiers

37. Reason for refusal 3 on the Council's Decision Notice refers to the quality of accommodation for future occupiers of bedroom 8. The OR indicates that the Council's decision was based on the conclusion that the floor to ceiling height was likely to be below 1.5 m in parts, and consequently the extent of useable/functional floor area would not adhere to the Council's internal space standards for HMOs. However, as noted above, the appellant has submitted a section drawing with the appeal and scaled sketch floor plans illustrating the furniture that could be accommodated in the rooms. Again, the Council has not pursued the matter of living conditions for future occupiers in its response to the appellant's statement.
38. Taking account of the additional information provided by the appellant, I conclude that the floor to ceiling heights and floor area of bedroom 8 would provide satisfactory living conditions for a future occupier of the room. As such, in this regard, the proposal accords with saved policies H1 and DES 7 of the UDP and sub paragraph 130 (f) of the Framework, which collectively, and among other things, require development to provide future occupiers with living conditions of a high standard, including internal floor space and layout.

Other considerations, planning balance and conclusion

39. The appellant has outlined numerous other considerations in support of the proposal. The appellant notes that the Council accepted the principle of a change of use of a C3 dwelling to a HMO on Tootal Road on the basis that it would share common characteristics with surrounding residential properties. I note the Council's decision referred to. However, in my opinion, the Council has not specifically objected to the principle¹¹.
40. I accept that the proposal would provide economic benefits during the construction phase and post construction with future occupiers contributing to the local and wider economy, a matter to which I attach moderate weight. I also accept that the proposal would renovate a dilapidated property, which would improve the appearance of the area, a matter to which I also attach moderate weight.

¹⁰ I have not referred to draft policy D5 of the ELP as I have not been provided with a copy of the policy.

¹¹ A matter that will be addressed in the application for costs Decision.

41. It is asserted that the proposal would free up single occupancy accommodation. However, no evidence has been provided to substantiate this claim. If, for example, the proposed HMO was occupied by 8 young professionals, several, if not all, may have relocated to the area from student accommodation or family homes following graduation. I therefore attach little weight to this matter.
42. It is suggested that the proposal would increase natural surveillance, thereby improving security and helping to reduce the fear of crime. However, such a benefit would also be achieved by occupation of the property as a C3 dwelling. I therefore attach little weight to this matter.
43. The appellant's evidence contends that there is a demand for HMOs in the area. It is also asserted that HMOs are a valuable source of low-cost housing that meets a need, and that the proposal would contribute to the housing needs of the area. Although there may be a demand and the proposal may seek to satisfy such a demand, I have not been provided with any evidence that the Council are not able to meet the housing needs of the area. The contribution HMOs make to the housing market are not questioned. I therefore attach little weight to these matters.
44. The appellant points out that the Framework encourages mixed communities to promote social interaction between people who might not otherwise meet each other. I acknowledge this. However, the introduction of another HMO on Weaste Lane is unlikely to alter the existing social groups in the area. I therefore attach little weight to this matter.
45. The appellant points out that the site is locationally sustainable. It would be within proximity of facilities and services to meet the day-to-day needs of future occupiers and future occupiers would have access to public transport options. Additionally, on-site cycle storage would be provided. Therefore, future occupiers would be able to utilise more sustainable modes of transport. I accept the site's location in respect of services, facilities and public transport options. However, such factors are requirements of planning policies anyway, and as such I do not consider them to be additional benefits. I therefore attach little weight to these matters.
46. The appellant suggests that re-use of the existing building would have less of an environmental impact than a new build; and re-use would also reduce the pressure on greenfield sites. Although re-use of a building may have less environmental impact than a new build, the scale of any reduced harm in this instance would be limited. I therefore attach limited weight to this matter. I have not been provided with any evidence that demonstrates there is an excessive demand within the Authority's area to build on greenfield sites. I therefore attach little weight to this matter.
47. The appellant considers that as there was only one 3rd party representation in relation to the planning application this suggests there is little concern in the area with respect to HMOs. However, it was noted above that the Council has experience of residents expressing concerns about HMOs. Furthermore, regardless of whether zero or 100 representations were submitted, the proposal still needs to be assessed against development plan policies. I therefore attach little weight to this matter.

48. Notwithstanding my conclusions regarding the effect of the proposal on the living conditions of existing occupiers, in particular No. 198, and the living conditions of future occupiers, I consider that the other considerations outlined do not outweigh the harm I have found with regard to an overconcentration of HMOs on the western side of Weaste Lane, between Edward Avenue and Tootal Road. This overconcentration would result in an imbalance of the mix of residential accommodation within the area, with the potential for such an overconcentration to undermine community cohesion and to have some detrimental impacts on the character and appearance of the area and the living conditions of residents. The proposal would not, therefore, contribute to creating or maintaining sustainable, balanced communities. For the reasons outlined, I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR