



Appeal Decision

Site visit made on 21 February 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2023

Appeal Ref: APP/V4250/W/22/3305626

6 Amis Grove, Lowton WA3 2LL

- 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 Paula Crosthwaite against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/22/92970/CU, dated 5 January 2022, was refused by notice dated 10 June 2022.
 - The development proposed is described as 'change of use of detached garage to a fitness studio for personal training sessions (retrospective) together with an extension to existing driveway.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not include a description of the development proposed. I have therefore taken the description set out in the banner heading above from the decision notice and the appeal form. Moreover, whilst noting concerns about the Council's previous reference to the use as a commercial gym, based on the cases made by both sides, this seems to me to be an accurate description
3. I could see from my site visit and the information provided that the change of use of the detached garage to a fitness studio has commenced, but that the proposed extension to the driveway had not taken place. I have dealt with the appeal on that basis.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the neighbouring occupiers in respect of noise, disturbance and parking.

Reasons

5. The appeal comprises a detached dwelling with a detached single garage which is located towards the back of the site and bounded, in part, by a dense hedge. Car parking is currently provided on the driveway at the side and front of the dwelling. The site is on Amis Grove, a residential cul-de-sac which, due to the lack of passing traffic, is quiet in nature.
6. The Statement submitted with the planning application indicates that the garage was converted and its use as a fitness studio commenced approximately 3 years ago. The appellant specifies that personal training

sessions have been provided, and will continue, on a one-to-one basis or for groups of up to 3 clients. Although there is no substantive evidence to suggest that this happens frequently, comments in relation to the application and appeal refer to more than three clients attending training sessions on occasion. I shall though for the purposes of the appeal, consider the proposal based on the maximum number of clients not exceeding three at any one session.

7. The appellant has set out mitigation measures in the appeal statement and attached Management Plan to reduce the impact of the use on the surrounding residents. Such measures include a change in the schedule of training sessions, with the earliest moving from 6.00 am to 9.15, keeping the studio windows closed, not using the outdoor area and sound monitoring to manage decibel levels. The use of CCTV, a diary to monitor and record client activity and the suspension of clients who breach the terms of the management plan are also proposed.
8. Such measures would overcome many of the concerns that have been expressed and could be secured by condition. However, the noise would not be solely from the carrying out of training sessions in the studio and from the clients attending such sessions. Noise is also generated by the vehicle movements associated with the use and are additional to those arising from the residential occupation of the dwelling. Such noise includes the opening and closing of car doors.
9. The information indicates that the appellant ensures that the number of vehicles at each session does not exceed 2. As such there would be up to 4 vehicular movements for each training session. Given the number of daily sessions, which on some days extends beyond 7pm, this would inevitably result in a level of noise greater than would be expected in a cul-de-sac where such movements are more limited, particularly in the evening. The proposal therefore would result in unacceptable noise and disturbance at times when residents reasonably expect a greater level of peace and quiet.
10. The appellant has questioned the relevance of Policy S1E of the Wigan Replacement Unitary Development Plan (UDP) which the Council has referred to in its reason for refusal. However, I consider that it is relevant to the determination of the appeal as a service is proposed which has a floorspace of less than 150 square metres in a location outside of a town or local centre.
11. I note that the appellant has referred to the proposed opening hours falling well within those set out in the Hot Food Establishments Supplementary Planning Guidance. However, the proposal does not relate to a hot food establishment and as such this guidance is not material to the determination of the appeal and does not weigh in favour of the proposal.
12. On my visit, which I acknowledge is a snapshot in time, I noted that there was some on-street parking capacity in the vicinity of the appeal site. It is, however, reasonable to assume that on-street parking demands in the locality will increase at peak times when people are at home. I am satisfied the proposed additional on-site parking spaces would meet the parking requirements generated by the proposal. If, however, a small amount of additional parking is required on occasion, I consider that this can be accommodated on the highway without adversely affecting the living conditions of neighbours.

13. Notwithstanding that I have found the scheme would not cause a parking problem, for the above reasons, the proposal adversely affects the living conditions of the neighbouring occupiers in respect of noise and disturbance. It would therefore be contrary to UDP Policy S1E and Policy CP17 of the Wigan Local Plan Core Strategy (CS) which seek to protect the environment and the amenity of residents.
14. I note that the Council has referred to CS Policy CP10 in the reason for refusal. However, that policy addresses design and is not relevant to a reason for refusal relating to noise and disturbance.

Conclusion

15. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
16. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR