



Appeal Decision

Site visit made on 7 May 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/V4250/W/23/3331173

20 Prospect Street, Tyldesley, Wigan M29 8SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Ryan Wrigley against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/23/95449/CU was approved on 23 August 2023 and planning permission was granted subject to conditions.
 - The development permitted is conversion of former funeral directors (Class E) to form two dwellings (Class C3), external alterations to include the insertion of new windows and door openings.
 - The condition in dispute is No 4 which states that: "Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 the dwellings hereby approved shall be used as C3(a) single person or single household dwellings, and for no other purpose (including any other purpose in Class C3 of the Schedule to the (Use Classes) Order 1987) or any provision equivalent to that Class in any statutory instrument revoking and reenacting that Order with or without modification)."
 - The reason given for the condition is: "To protect the amenity and living conditions of prospective and neighbouring residents, having regard to Policy CP10 of the Wigan Local Plan Core Strategy and the National Planning Policy Framework."
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Decision

1. The appeal is allowed and the planning permission Ref A/23/95449/CU for conversion of former funeral directors (Class E) to form two dwellings (Class C3), external alterations to include the insertion of new windows and door openings at 20 Prospect Street, Tyldesley, Wigan M29 8SU granted on 23 August 2023 by Wigan Metropolitan Borough Council, is varied by deleting condition 4.

Preliminary Matters

2. The post code for the appeal site was different on the appeal form and planning application form. It has been confirmed in correspondence with the appellant that the correct post code is M29 8SU.
3. A planning application¹ for the conversion of the appeal building to a house in multiple occupation (HMO) with 8 single bedrooms and 1 double bedroom, was refused in April 2023. The application was refused due to the effect of the proposal on neighbouring occupant's living conditions and a lack of off-street parking.

¹ Planning application ref. A/23/94913/CU

4. It has been confirmed in correspondence with the parties that the proposed development has not commenced. I will therefore refer to the two dwellings as proposed dwellings throughout my decision.

Main Issue

5. The main issue is whether Condition No 4 is necessary and reasonable, to protect the living conditions of neighbouring occupants, with regard to noise and disturbance, and parking provision, and future occupants, with regard to the provision of amenity space.

Reasons

6. The appeal building is located at the end of a block of terraced housing. The area is largely defined by rows of terraced housing with no off-street parking. Behind the appeal building there is an alleyway which provides access to the rear of the terraced houses. Beyond that there is a block of flats which benefit from relatively spacious grounds, compared to nearby terraced houses.
7. Without Condition No 4, both of the proposed dwellings could be occupied by up to six unrelated residents. Also, the properties could be converted to a HMO, without the need for planning permission, under The Town and Country Planning (General Permitted Development) (England) Order 2015.
8. A change in the nature of the occupation of the proposed dwellings to unrelated people is likely to lead to increased occupation of the dwellings. The intensification of use and change in nature of the occupancy would also lead to increased activity associated with the proposed properties across a longer period. Consequently, this would lead to an increase in noise and disturbance.
9. However, the potential increase in occupancy and use would be limited given the modest scale of the proposed dwellings. Moreover, the properties are located at the end of a block of terraced houses and are well separated from the flats behind. Given the separation and lack of housing to one side of the building, the increase in noise and disturbance would not have a materially harmful effect on the living conditions of nearby residents.
10. Another consequence of the increased occupation would be an increase in demand for parking. I note that the Council's Highways team raised no objection to the appeal proposal, but objected to the previous application for a HMO. The Council has made it clear that the increased demand for parking would not create a highway safety issue, rather that it would lead to dispersed parking. There is no substantive evidence that there is parking stress in the area and that people would not be able to park near to where they live. Also, the proposal would not alter the existing parking arrangements.
11. Furthermore, the appeal building was previously used as a Funeral Directors and could be converted to another use within Use Class E, as defined by The Town and Country Planning (Use Classes) Order 1987. These uses include retail and office space, which would generate significantly more demand for parking than an unrestricted residential use.
12. Due to the modest size of the proposed dwellings, it is unlikely that either property could be altered to accommodate 6 people, without significant extension. Similarly, if the proposed dwellings were converted to HMOs, accommodating 5 or more people, they would require a licence to operate.

Without a significant extension, it is unlikely that a licence would be granted given the modest internal space.

13. Currently the proposed properties could be occupied by more than 6 residents if they form one household. As such, Condition No 4 does not restrict the proposed level of occupancy and, therefore, it does not preserve the extent of amenity space available per person for future occupants.
14. Overall, Condition No 4 is neither necessary nor reasonable, to protect the living conditions of neighbouring occupants, with regard to noise and disturbance, and parking provision, and future occupants, with regard to the provision of amenity space. As the living conditions of neighbouring and future occupants would not be materially harmed by the proposal, without the condition, it would comply with Policy CP10 of the Wigan Local Plan Core Strategy and Paragraph 135 of the National Planning Policy Framework.

Conclusion

15. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

J Hobbs

INSPECTOR