



Appeal Decisions

Site visit made on 22 October 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Appeal A Ref: APP/V4250/W/24/3346626

131 Wigan Lane, Wigan WN1 2NB

- 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 Ms K Repova against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/24/97096/CU.
 - The development proposed is change of use from dwellinghouse (Use Class C3) to a 5 bed, 6 person HMO (Use Class C4), together with associated external alterations.
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Appeal B Ref: APP/V4250/W/24/3341815

131 Wigan Lane, Wigan WN1 2NB

- 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 Ms K Repova against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/23/96503/CU.
 - The development proposed is change of use from dwelling house (Class C3) to 7 bed, 7 person house of multiple occupation (Sui Generis) together with associated external alterations.
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Decision

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Applications for costs

3. Applications for costs have been made by Ms K Repova against Wigan Metropolitan Borough Council. These applications are the subject of separate Decisions.

Preliminary Matters

4. As set out above, there are two appeals on this site. They differ in the number of bedrooms/persons sought and subsequent internal layouts. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. As the site is in a Conservation Area, I have had special regard to sections 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This requires that special attention shall be paid to the desirability of '*preserving or enhancing the character or appearance*' of a Conservation Area (CA).

Main Issues

6. The main issues are:

- Whether the proposals would preserve or enhance the character or appearance of the Wigan Lane CA (Both Appeals);
- The effects on the living conditions of the occupiers of Nos 127 and 129 Wigan Lane with particular reference to privacy, noise and disturbance (Both Appeals);
- The effects on the living conditions of future occupiers of bedroom five with particular reference to outlook, natural light and access to toilet and washing facilities (Appeal A); and
- The effects on the living conditions of future occupiers of the development with particular reference to the size of the kitchen, and regarding natural light and outlook with particular reference to the kitchen and bedrooms one and seven (Appeal B).

Reasons

Conservation Area (Both Appeals)

Significance/special interest

7. The appeal property lies within the Wigan Lane CA. This part of the CA is characterised by a variety of building styles including two to three storey scale blocks of terraced properties and semi-detached houses. In so far as it relates to this appeal, this part of the CA derives its significance from the high quality of the dwellings that it contains. Despite the variation of houses, this includes their architectural detailing, materials and the uniformity, rhythm, and appearance of the different house types in the streets.
8. No 131 Wigan Lane is a mid-terrace dwelling, with two other properties of a similar style (Nos 127 and 129) attached to a short row of larger dwellings (Nos 133 and 135). The appeal premises is modest in its scale and understated in its architectural design detailing. The contrasting scale to the taller attached neighbouring property, the materials, ground floor bay window, roofscape, and open qualities to the front all contribute positively to the mixed character of this part of the CA.
9. There is a clear distinction between the front and rear facades of the appeal premises and the other properties which back onto a car park to the rear. This reflects the difference in the service status and function of the rear. The appeal premises has a ground floor window to the rear façade of its outrigger, No 129 has no window, whilst No 127 has ground floor patio doors in the rear façade of its outrigger. The variety of fenestration and differing forms of the rear outriggers are such that the uniformity and rhythm found to the front of this row of terraced properties is not as striking a feature to the rear. In this regard, I do not find that the ground floor fenestration of this row of properties contributes to the significance of the CA. Instead, it is the historical, varied, and contrasting scale of buildings which are still evident, particularly in views of the upper floors and the roofscape that contributes to the character, appearance, and significance of the CA, albeit to a very small degree.

Appeals proposals and effects

10. The proposed bin storage would involve six bins being positioned along the front boundary occupying most of the width. The bins would be housed in a timber store behind the front boundary hedge. Due to the size of the bin store for six bins, it would not be a discreet feature and its utilitarian form and appearance would detract from the attractive frontage. The front hedge would offer some screening but can not be relied upon in the long term. In this regard, I find that both appeal proposals would erode the attractive streetscape that forms this part of the CA.
11. I am mindful that bins could be stored to the front of the existing dwelling as part of the existing use of the property. However, the number of bins proposed are intrinsically linked to the two schemes and form part of the proposals. Moreover, I am not convinced that a similar number of bins for the existing use of the property would be a realistic fallback position. In my view, the potential harm from bins associated with the existing use, being stored to the front, would not be as great as the proposals before me.
12. Considering my findings in relation to the significance and special interest of the CA, the alterations to include rear patio doors, and in the case of Appeal B blocking up of existing openings, would not be at odds with the character and appearance of the CA. The absence of harm in this regard is a neutral matter.
13. Drawing the above together, I find that the proposals would not preserve or enhance the character or appearance of the CA.

Public benefits

14. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
15. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. In this instance, as the harm would be confined to a small part of the CA, the harm to the CA as a whole would be 'less than substantial' but, nevertheless, of great weight. Under such circumstances, paragraph 208 advises that this harm should be weighed against the public benefits of the proposal. This includes securing the asset's optimum viable use.
16. There would be some economic and social benefits resulting from the works and the general investment into the property. The absence of harm from other considerations, including highway safety, are neutral matters that weigh neither for nor against the proposals. However, the nature and scale of the associated public benefits that would flow from the schemes to the public at large would be minimal. As such, the associated public benefits carry little weight in favour of the appeals.
17. The continued viable use of the appeal property as a residential dwelling is not dependent on the proposals as the building has an ongoing residential use that would not cease in its absence.

18. Overall, the weight that I ascribe to the public benefits that would accrue from the proposals, are not sufficient to outweigh the great weight that I attach to the harm I have found. As such, the proposals would not comply with paragraph 208 of the Framework. Accordingly, the proposals would be contrary to the requirements of both the Act and the Framework in so far as they relate to this main issue. They would also be contrary to the requirements of Policy CP11 of the Wigan Local Plan Core Strategy (the CS) and Policy EV4A of the Wigan Unitary Development Plan, when taken together and in so far as they relate to this main issue. These say, amongst other things, that the Council will ensure that any proposal for development within a Conservation Area will preserve or enhance and will not harm the character or appearance of that area.

Living conditions (Nos 127 and 129) (Both Appeals)

19. The rear garden of the appeal premises is accessed either through the house or via a route that passes through the rear gardens of Nos 127 and 129 through a gate to the side of No 127. The Council require cycle parking, given the absence of off-street vehicle parking, the high demand for parking nearby and its location relative to services and facilities and have suggested that this should be to the rear. Notwithstanding the existing opening mechanism of the gate, this would necessitate occupiers using the side gate to access any cycle parking to the rear. The appellant has not disputed the need for this, and I have no reason to reach a different conclusion.
20. A property occupied in a C3 use would, in my view, have a greater unity in the activities within, and from its comings and goings. This is because members of the same household have a greater level of shared activities and visitors than would be associated with the number of unrelated adults in the two appeal proposals. In this regard, whilst I accept that there are no controls on the number of occupiers within the five-bedroom dwelling house, the nature of unrelated occupiers is such that both appeal schemes would, in my view, generate a greater level of activity from its occupiers and visitors.
21. The specific nature of the rear access passing through the rear gardens, and by the rear windows of Nos 127 and 129, is such that the increased comings and goings of future occupiers of the HMO to access the cycle parking would be invasive and disturbing for these neighbouring occupiers.
22. I have been referred to an appeal decision (Ref: 3290187) where the change of use from a dwelling house to an eight person HMO was allowed. However, from the evidence before me, the Inspector had regard to the fallback position of a six person HMO and works had commenced on that fallback scheme. In that regard, the Inspector's conclusions were based on a comparison between an addition of two occupiers from a six person HMO to an eight person HMO. This distinguishes it from the appeal proposals before me where no such fallback position has been identified and my assessment is based on the changes from a dwelling to a HMO of either six or seven occupiers.
23. I therefore find, in relation to both appeals, that the proposals would have a harmful effect on the living conditions of the occupiers of Nos 127 and 129 with particular reference to privacy, noise and disturbance. As such, I find conflict with the requirements of Policy CP17 of the CS, the Council's Houses in Multiple Occupation Supplementary Planning Document (the SPD), and paragraph 135 of the Framework, when taken together and in so far as they

relate to this main issue. These say, amongst other things, that the Council will enhance and protect its environment for the benefit of people and wildlife, and make the borough a better place for people to live and businesses to locate and thrive, by ensuring that new development is planned and designed so that it does not have an unacceptable adverse impact on amenity and quality of life and/or that it will not itself be impacted upon in such a way by existing uses or activities in the area.

Living conditions (bedroom five) (Appeal A)

24. The proposed bedroom five is located on the second floor. A water closet (w/c) is labelled on the basement floor with a toilet and sink illustrated. Even if there was space for, and the intention was to include, a shower, the occupier of bedroom five would need to travel from the second floor to the basement to make use of the facilities. This arrangement would be at odds with the guidance within the SPD for bathrooms, shower rooms and sanitary conveniences. Moreover, it would result in a layout that would not function well, causing a level of inconvenience that would result in poor living conditions for future occupiers of this room.
25. The Council calculate that bedroom five has a glazed area of 0.6 m², which is less than 10% of the floor space of the room. The appellant has not disputed these calculations and I have no reason to disagree. In this regard, the room would not accord with the Council's natural light standards in the SPD.
26. The room is currently a bedroom used in association with the existing house and I saw that it was not unduly dark. Moreover, whilst the low-lying position of the window did restrict the outlook from within the room, when nearer to the window it provided a positive outlook over the rear garden and beyond. In this regard, I am satisfied that the occupiers of this room would have acceptable living standards, in so far as they relate to outlook and natural light, despite the shortfall against the SPD standards.
27. I therefore find on this main issue that the proposed development would have a harmful effect on the living conditions of future occupiers of bedroom five, with particular reference to access to toilet and washing facilities. As such, the proposal would conflict with the requirements of Policy CP17 of the CS, the SPD, and paragraph 135 of the Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things, that developments should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions (kitchen and bedrooms one and seven) (Appeal B)

28. The appellant indicates that the kitchen/dining room labelled on the plan would not be used for dining and instead would be only a kitchen, with occupiers using their rooms to dine individually. In that instance, the size of the room is such, that the proposal would accord with the SPD space standards and would be acceptable. The kitchen would be in the basement and served by an existing lightwell. This provides very little natural light and no outlook, placing a reliance on artificial lighting. As such, even as a kitchen, the room would have a poor standard of natural light and outlook.

29. The proposed bedroom one would be served by a single glazed door, which faces directly towards a retaining wall. This results in a dimly lit room with a need for artificial lighting to provide adequate light. As the outlook faces directly toward the wall in close proximity, future occupiers of this room would not have acceptable levels of natural light or outlook.
30. The existing layout indicates that the basement rooms include a bedroom and a snug. Although there is nothing to preclude the use of these rooms for these purposes, neither were being used for those functions. In any case, as future occupiers of the proposed bedroom one would cook in the kitchen, and it is put to me would eat in the bedroom, occupiers of this room would benefit from good natural light only within the communal lounge on the ground floor. This contrasts with the existing layout as a dwelling, even if the room was used as a bedroom, as occupiers would have access to more rooms and more natural light within the house.
31. Turning to bedroom seven, the bedroom size is the same as bedroom five within Appeal A. However, the floor space allocated to the occupier of bedroom seven has been extended to include an ensuite, which wouldn't have any natural light and a kitchenette, which would only benefit from some borrowed natural light from a rooflight above the staircase. As set out in relation to bedroom five within Appeal A, the size of the window would fall short of the SPD guidance.
32. In contrast to the layout in Appeal A, occupiers of bedroom seven would spend time cooking, eating, and relaxing in the second floor leading, in my view, to an increase in time spent on this floor. Taken together, with the level of natural light and outlook from the window, these differences in the use of this space from Appeal A, leads me to conclude that occupiers of bedroom seven would not have access to acceptable levels of natural light and outlook.
33. Drawing the above together, I find that the proposal would have a harmful effect on the living conditions of future occupiers of the development with particular reference to natural light and outlook of the proposed kitchen and bedrooms one and seven. As such, the proposal would conflict with the requirements of Policy CP17 of the CS, the SPD, and paragraph 135 of the Framework, when taken together and in so far as they relate to this main issue.

Conclusion (Both Appeals)

34. For the reasons given above, both proposals would conflict with the development plan when taken as a whole and I find there to be no material considerations, that would indicate that either of the appeal decisions should be taken other than in accordance with it.
35. Therefore, for the reasons given, I conclude that both Appeal A and Appeal B should be dismissed.

Mr R Walker

INSPECTOR