



Appeal Decision

Site visit made on 30 January 2025

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/V4250/W/24/3349861

Vacant Land, Collard Street, Atherton, Wigan M46 0HQ

- 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 J&D Construction Ltd against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/23/96564/FULL.
 - The development proposed is construction of four x 3 bed houses with associated landscaping, refuse storage and cycle provision following demolition of the existing garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of four x 3 bed houses with associated landscaping, refuse storage and cycle provision following demolition of the existing garage at vacant land, Collard Street, Atherton, Wigan M46 0HQ in accordance with the terms of the application, Ref A/23/96564/FULL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by J&D Construction Ltd against Wigan Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the banner heading and my formal decision is taken from the planning application form. However, I have removed the words “...on land adjacent to the former Railway Inn, Collard Street, Atherton M46 0HQ...” as this does not form part of the development.
4. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were given the opportunity to comment on the implications of the revised Framework and I have taken into account any comments raised.

Main Issue

5. The main issue is the effect of the proposal on highway safety and the living conditions of the occupiers of nearby dwellings, with particular regard to car parking.

Reasons

6. The appeal relates to a largely grassed parcel of land at the junction where Railway Street joins Bag Lane. The site is currently vacant except for a detached garage building and group of trees. Directly to the southeast is a vacant public

house and to the north is a row of terrace properties fronting onto Railway Street. The surrounding area is predominantly residential, although to the south and west are some larger commercial buildings.

7. The appeal proposal seeks to erect 4no. dwellings on the site, arranged as two pairs of semi-detached properties, following the demolition of the existing garage. Each dwelling would have 3-bedrooms and a rear garden area, however the proposal does not include any off-street parking provision.
8. Saved Policy A1S of the Wigan Replacement Unitary Development Plan (2006) (UDP) requires convenient, safe and secure car parking for new development, in line with the maximum standards. These standards are set out within Appendix 9 of the UDP and specify that three-bedroom dwellings should each provide one car parking space. However, Policy A1S goes on to state that the scope for providing car parking below the maximum standards will be considered against four factors.
9. My attention has been drawn to a Policy Note: Car Parking Standards for New Development (2023) (PN), however no substantive evidence has been provided to demonstrate that this PN has been through any public consultation or examination. Nevertheless, the PN refers to the above-mentioned requirements of UDP Policy A1S and states that car parking standards should no longer be a maximum.
10. The PN details that for 3-bedroom houses, 2no. car parking spaces should normally be required. However, it also includes a list of additional factors, beyond those specified in UDP Policy A1S, that should also be considered when assessing proposals for schemes providing car parking above or below the standards adopted by the Council. These additional factors include the type of development and local car ownership levels.
11. The application is accompanied by a Highways Technical Note¹ (THN) and using 2021 census data this document concludes that car ownership in the local area is at 114%, which would equate to a parking demand of 5no. spaces arising from the proposed development. I note the Council has not challenged the suggested local car ownership levels provided by the appellant.
12. Nevertheless, the provision of 0 (zero) off-street parking spaces is clearly below the parking standards of UDP Policy A1S, the guidance within the PN, as well as being below local car ownership levels detailed within the THN.
13. As mentioned, Policy A1S and the PN both state that the scope for providing car parking below the maximum² standard will be considered against other factors. Those factors relevant to this appeal, and put forward by the appellant, are (i) the accessibility of the site; (iii) the availability of on-street car parking without detriment to residential amenity and highway safety and (iv) the feasibility of providing on-site parking relative to other planning issues such as the result of a constrained site or building and urban design.
14. The appeal site relates to a vacant corner plot which contains a detached garage building and a number of self-seeded trees, adjacent to a vacant public house. In its present state the site does not make a positive contribution to the character and appearance of the area and the proposed residential development for 4no. dwellings would improve the visual appearance of this prominent corner plot.

¹ Prepared by Axis (Dated October 2023. Ref: 3565-01-HTNO1a)

² NB - The word 'maximum' is removed from the PN

Furthermore, I find the feasibility of providing on-site car parking, in addition to appropriate levels of outdoor amenity space for residents, is somewhat constrained by the site's size and corner location close to a highway junction.

15. With regard to the accessibility of the site, the THN includes details of services and facilities which are accessible from the appeal site on foot and on cycle, as well as the accessibility of the site in relation to means of public transport³. The THN concludes that the appeal site benefits from a high level of accessibility by the main non-car modes of transport, being within walking distance of a number of amenities, within cycling distance of various settlements and having good access to bus and train services.
16. I am not convinced that the appeal site "*benefits from a high level of accessibility*", a phrase which would likely apply to sites within, or very close to, town and city centres, with a high level of sustainability. Nevertheless, I acknowledge there are services and facilities, including schools, shops, bus stops and railway stations, within a reasonable walking and cycling distance of the appeal site and thus I find the appeal site is located within an accessible location.
17. However, given the 3-bedroom nature of the proposed dwellings, described as 'family homes' by the appellant, it is likely that occupants will be reliant on a private car for some journeys, and visitors are also likely to travel by car. This is supported by the findings of the THN which, as detailed above, suggests that 5no. cars would arise from this proposal based on local car ownership levels in the area.
18. In this regard, the THN contends that there is on-street car parking capacity on the surrounding streets to accommodate the amount of cars arising from the proposed development. In support of this claim the THN includes a parking survey (PS). The PS was carried out on two days between the hours of 03:00 and 04:00, in order to determine the parking capacity / availability at night during the worst-case period for parking demand in residential areas.
19. The PS includes a table documenting the utilised and unutilised on-street parking spaces within the vicinity of the appeal site during these periods. This table shows that there is on-street parking capacity for a total of 170no. cars on surrounding streets, and 138no. spaces (81%) were unutilised on one recording day and 136no. spaces (80%) unutilised on the other.
20. Furthermore, the THN also explains that Railway Street and Birchfield Avenue are the most likely places that residents of the proposed development would park, given their proximity to the appeal site, and the PS demonstrates that there was a total of 50no. unutilised car parking spaces on these two streets at the time of the surveys. The THN therefore concludes that the PS demonstrates there is sufficient on-street parking provision in the area to accommodate the number of cars arising from the proposed development.
21. Whilst the Council has stated there are terraced houses nearby which rely on on-street parking and that it is highly likely the proposal will increase demand further, they have not questioned the figures, findings or results of the PS, or provided any detailed analysis of the existing parking situation in the area. Consequently, there is no substantive evidence before me from the Council to demonstrate a current shortfall in spaces, or details to indicate the extent to which the development may

³ Bus and Rail

affect demand for roadside parking, or how the proposal would exacerbate local on-street parking stress.

22. During my site visit, on a weekday morning, I noted there were a significant number of unoccupied spaces on the nearest streets of Railway Street and Birchfield Avenue. Whilst I appreciate my site visit is a single snapshot in time, and parking demand will likely fluctuate at different times of the day, my observations on site were not dissimilar to the findings and evidence detailed within the submitted PS.
23. Consequently, on the evidence that is before me, as well as my own observations on site, I cannot but conclude that there would likely be an adequate number of on-street car parking spaces available in the vicinity of the appeal site to cater for the additional parking demand arising from the proposed development.
24. I acknowledge the Council's comments in relation to potential for cars to park inappropriately at this busy road junction, which would be detrimental to highway safety. However, there are double yellow lines at this junction and therefore parking here would be illegal. Furthermore, for the reasons given above, the evidence before me is that there is sufficient space for vehicles to legally park on-street within the vicinity of the appeal site.
25. In summary of the above, I find the appeal site is located in an accessible location; is somewhat constrained in its ability to provide on-site parking; and there is sufficient available on-street car parking capacity in the area to accommodate the appeal proposal without causing detriment to residential amenity and highway safety. These are all factors which UDP Policy A1S, and the PN, require to be taken into account when considering car parking provision below the standards. Additionally, the proposal would also provide social and economic benefits through the provision and construction of 4no. dwellings, and result in a visual improvement at this vacant corner plot.
26. I conclude that the proposal would not have a harmful impact upon highway safety and the living conditions of neighbouring residential properties by unduly adding to on-street parking stress. The proposal therefore complies with Policy CP7 of the Wigan Local Plan Core Strategy (2013), Policy JP-C8 of the Places for Everyone Joint Development Plan (2024), and saved UDP Policy A1S, which all seek to ensure the provision of appropriate, adequate, convenient and safe parking. The proposal would also comply with the Framework where it states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Conditions

27. The Council has provided a list of suggested planning conditions, which I have considered against paragraph 57 of the Framework, and the advice contained in the Planning Practice Guidance, and I have edited to improve precision and enforceability.
28. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). I have imposed a condition requiring the full details, or samples, of the external materials (3) to be used in the development to be submitted to safeguard the character and appearance of the surrounding area.

29. Whilst not requested by the Council, I have included a pre-commencement condition which requires the submission of a demolition and construction management plan (4). This pre-commencement condition is necessary to protect the living conditions of occupiers of neighbouring properties, and in the interest of highway safety, throughout the demolition and construction phases. A pre-commencement condition regarding land contamination (5) is also necessary to ensure that any contamination is dealt with properly before work commences, in the interest of public health and safety.
30. Again, whilst not suggested by the Council, I have imposed a condition requiring details of the finished ground floor levels of the proposed dwellings to be submitted (6). This condition is necessary to safeguard the visual amenity of the area and to protect the living conditions of neighbouring occupiers. A condition requiring the submission of details relating to surface and foul water drainage (7) is necessary to reduce the risk of flooding at the site and within the surrounding area.
31. I note the appellant's comments in respect of the appeal site being within a predominantly residential area. However, the appeal site is located close to a busy main road and there are commercial uses within the vicinity. As such, a condition requiring a noise assessment to be carried out, along with details of any required mitigation measures that need to be implemented within the construction of the dwellings, is necessary to protect the living conditions of future occupiers (8).
32. A condition requiring the submission of details relating to hard and soft landscaping, which shall then be implemented within the first planting season following completion of the development (9), has been attached. While this condition is necessary to safeguard the character and appearance of the area, the 7-year period suggested to replace dead trees is unreasonably onerous and thus I have reduced this to 5 years.
33. Conditions requiring the submission of details relating to bat and bird boxes to be installed at the site (10) and preventing works to vegetation taking place within bird breeding season, unless it is confirmed that no birds are present, or measures are in place to protect them (11), are both required to safeguard and enhance biodiversity and ecology.
34. A condition requiring the development to be carried out in accordance with the submitted details relating to the nearby culvert is necessary to ensure the structural integrity of this culvert and to reduce the risk of flooding from blockages (12).

Conclusion

35. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR

Schedule of Conditions

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - PL01 Rev F – Proposed Drawings
 - G24295 01 – Topographical Survey
- 3) Notwithstanding any description of materials in the application, no above ground construction works shall take place on the development hereby permitted until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
- 4) No development hereby permitted shall take place, including any works of demolition, until a detailed demolition and construction management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan shall detail the arrangements for:
 - a) the parking of vehicles for site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in the construction of the development;
 - d) measures for the control and reduction of dust;
 - e) measures for the control and reduction of noise and vibration;
 - f) how traffic would be managed to minimise disruption; and
 - g) hours of operation.

The demolition and construction of the development hereby approved shall be carried out in complete accordance with the approved management plan.

- 5) No development hereby permitted shall take place including any works of demolition, until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until: i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; ii) the site has been remediated in accordance with the approved measures and timescale; and iii) a verification report has been submitted to and approved in writing by the Local Planning Authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until: i) additional measures for the remediation of the site have been carried out in accordance with details

that shall first have been submitted to and approved in writing by the Local Planning Authority; and ii) a verification report for all the remediation works has been submitted to and approved in writing by the Local Planning Authority.

- 6) No development hereby permitted shall take place, except for demolition works, until full details of the finished levels, above ordnance datum, of the ground floors of the proposed dwellings, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 7) No development hereby permitted shall take place, except for demolition works, until details of the method of surface water and foul water drainage from the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to first occupation of the approved development and shall be maintained at all times thereafter.
- 8) No development hereby permitted shall take place, except for demolition works, until a noise assessment report detailing the nature and extent of any existing noise affecting the residential development site has been submitted to and approved in writing by the Local Planning Authority. The noise assessment report shall be carried out in accordance with a methodology which has first been agreed in writing by the Local Planning Authority and shall include details of any mitigation measures required to be carried out and implemented within the dwellings. The approved mitigation measures shall be implemented in full prior to first occupation of each dwelling to which they relate, and shall be retained thereafter.
- 9) No development hereby permitted shall take place, except for demolition works, until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include natural landscape features to be retained; proposed boundary features, walls and other means of enclosure; and schedules of plants and trees, noting species, plant sizes and proposed numbers/densities. The hard landscaping shall be implemented in full accordance with the approved details prior to first occupation of each dwelling to which they relate, and the soft landscape planting shall take place in the first available planting season following the completion of the development and maintained for a period of 5 years from planting. Any trees or plants which die, become diseased, or are removed during the maintenance period shall be replaced with specimens of an equivalent species and size.
- 10) No development hereby permitted shall take place, except for demolition works, until details of bat and bird boxes to be incorporated into the development site have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the related bat and bird boxes have been provided in accordance with the approved details. Thereafter, the bat and bird boxes shall be retained.
- 11) No works to trees or shrubs shall occur, or demolition commence, between 1st March to 31st August inclusive (bird breeding season). If it is necessary to undertake these works during the bird breeding season, then all vegetation shall

be checked first by an ecologist to ensure that no breeding birds are present and written confirmation shall be provided to the Local Planning Authority to confirm that no bird(s) would be harmed. If breeding birds are present, details of how they will be protected shall be submitted to and approved in writing by the Local Planning Authority before the works commence, and the protection plan shall be implemented in accordance with the approved details.

- 12) The development shall be carried out in accordance with the submitted Topographical Survey (drawing reference G24295 01 and dated June 2024) with specific reference to its mitigation measures to safeguard the area shown to contain the diameter of the culverted statutory main river, and the 3m easement from this culvert. These mitigation measures shall be fully implemented and adhered to throughout the construction phase and retained and maintained thereafter throughout the lifetime of the development.

***** End of Conditions *****