
Appeal Decision

Site visit made on 22 July 2025

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/V4250/W/25/3364633

Astley House, Johnson Street, Tyldesley, Manchester M29 8AB

- 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 Mr Adam Rowland against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/25/098405/CU.
 - The development proposed is change of use from commercial to a 16 person, 16 bedroom house of multiple occupation (Sui Generis) together with associated external alterations including new render additional window openings and replacement windows.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Adam Rowland against Wigan Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.
4. The Council requested that I enter the appeal site to assess the impact of the proposal, and I was able to view the site from communal accessible areas sufficiently to assess the proposal.

Main Issues

5. The main issues are the effect of the proposal on the:
 - Living conditions of nearby residents with regards to noise, disturbance and privacy; and
 - The living conditions of future residents of the proposal with regard to noise and disturbance.

Reasons

Living Conditions – Nearby Residents

6. The appeal site is a vacant commercial building on a backland site located to the rear of terraced dwellings on Johnson Street and adjacent to a public car park accessed from Primrose Street.
7. The proposal would introduce a significant number of residents who would live independently from each other. Residents are therefore likely to arrive and leave at differing times, and due to the independent circumstances of each resident then this would also be likely to generate further social visits from friends and family. The resultant comings and goings would therefore be more intense compared to nearby residential properties. The proposal includes an open area between the building and the rear of the terraced houses, and although this may represent a suitable amenity area for the house in multiple occupation (HMO), due to the number of proposed residents then activity within this open area would also be relatively intense. The movements and activity generated by the HMO would be in an enclosed area to the side and rear of houses on Johnson Street, and due to this arrangement these activities would be readily apparent and unduly intrusive to nearby residents.
8. Within this context, the activities arising from the proposed number of residents would lead to an overly intrusive level of noise and disturbance to nearby residents. A tenant management plan as suggested would not mitigate this harm, given the number of proposed residents as well as the location and arrangement of the proposal.
9. The use of the site as a commercial premises would also have generated vehicle and other movements to and from the site as well as other forms of activity. However, it has not been demonstrated that these were of a form or intensity similar to those generated by the appeal proposal.
10. Large HMOs are not inherently unacceptable, and there is no local or national policy that sets limits on the intensity of use of HMOs. However, the proposal should still be viewed within its context, and on that basis the Council's concerns are well founded.
11. With regard to privacy, the appeal proposal would introduce residential accommodation on the first floor of the building facing onto the rear of the terraced dwellings on Johnson Street. The proposed accommodation includes a living room/dining room, kitchen and bedrooms. The Council's Design Guide¹ recommends a separation distance of no less than 21.5 metres between the main elevations containing windows of habitable rooms. I consider that this separation distance is a reasonable measure to ensure the privacy and amenity of existing residents of nearby dwellings.
12. The windows serving the first floor accommodation created by the appeal proposal would be approximately 17m from the main rear elevations of dwellings on Johnson Street. Even allowing for a degree of flexibility with regard to the standards of the Design Guide, the limited separation distance would enable an unacceptable degree of overlooking and loss of privacy for residents on Johnson Street. Although views from the first floor bedrooms of the proposal may be offset from the main rear elevations of the dwellings, the living/dining room and kitchen are communal facilities and due to the level of communal use they would enable an intrusive extent of overlooking into nearby dwellings.

¹ Design Guide for Residential Development Supplementary Planning Document 2006

13. Although the Design Guide is of some age and pre-dates the National Planning Policy Framework (the Framework), this does not negate the advice it contains or reduce the weight I give to it. The HMO SPD² may not refer to separation distances, but this does not mean that the standards of the Design Guide should be set aside in respect of the appeal proposal. The appellant submits that the Design Guide only applies to 'new housing development'. However, the proposed change of use is a new development, and there is nothing before me which indicates that the Design Guide does not apply in these circumstances.
14. I therefore conclude that the proposal would lead to significant harm to the living conditions of nearby residents with regards to noise, disturbance and privacy. The proposal would be contrary to Policies CP10 and CP17 of the Wigan Local Plan Core Strategy 2013 (Core Strategy) and Policy JP-P1 of the Places for Everyone Joint Development Plan 2024 (PfE) with regards to being integrated effectively with its surroundings, reduction of anti-social behaviour, and impact on amenity and quality of life. The proposal would also be contrary to the Framework with regards to achieving a high standard of amenity. The proposal would also conflict with the advice of the Design Guide in respect of separation distances and privacy, and the HMO SPD in respect of negative impacts on the amenity of neighbouring residents.

Living Conditions – Future Residents

15. The proposal includes a number of windows on the ground floor which would look directly onto a public car park, with parking spaces adjacent to the windows. These windows serve a number of bedrooms as well as a living room/dining room.
16. Due to the proximity of the windows serving these rooms and the parking spaces, the noise from vehicles using the car park would be unacceptably intrusive to residents of the proposal. This would include the noise from vehicles manoeuvring into the parking spaces as well as those passing through the car park, the bangs of car doors being shut, and noise from car radios. The glare from car headlights would also be unduly intrusive. Given the nature of the noise and the proximity to the car park, I am not persuaded that double glazing or other measures would successfully mitigate the noise and disturbance impacts. Furthermore, the nature of occupancy of a HMO is that residents would spend a significant period of time in their rooms, which would exacerbate the harm arising from noise and disturbance from the car park.
17. The appellant contends that residential premises adjoining car parks are not unusual. However, windows of main habitable rooms looking directly onto public car parking spaces is not commonplace, and any examples of this elsewhere would not lead me to a different conclusion in respect of the harm to future residents arising from the relationship with the car park. The appellant refers to overlooking from residents and potential benefits in respect of noise and anti-social behaviour within the car park, but this benefit would not outweigh the significant harm to living conditions.
18. In conclusion on this issue, the proposal would lead to significant harm to the living conditions of future residents of the proposal due to noise and disturbance arising from the car park. The proposal would therefore be contrary to Policies CP10 and CP17 of the Core Strategy and Policy JP-P1 of the PfE with regards to being

² Houses in Multiple Occupation Supplementary Planning Document 2022

integrated effectively with its surroundings, and impact on amenity and quality of life. The proposal would also be contrary to the Framework with regards to achieving a high standard of amenity.

Other Matters

19. The appellant submits that a 'fallback' of a conversion under Class MA of the General Permitted Development Order would provide similar living conditions to the appeal proposal. However, a Class MA proposal would be for self-contained dwellings which would result in fewer residential units with commensurately less impact on neighbouring properties, and would also enable greater flexibility regarding the internal arrangement of the dwellings so that the relationship with the car park may be properly addressed. On that basis, the fallback position of a Class MA development would be materially different to the appeal proposal, including in respect of intensity and layout, and this does not therefore carry significant weight in favour of the appeal proposal which I have considered on its own merits.
20. I have had regard to the appellant's concerns regarding the Council's consideration of the planning application. However, this does not alter my findings on the proposal before me, which I have considered on its planning merits.

Planning Balance and Conclusion

21. The appellant contends that the Council has a housing land supply of approximately 3 years and 9 months, and that the 'tilted balance' of paragraph 11(d) of the Framework should apply. In contrast the Council states that the SHLAA 2024 update shows that the Council can demonstrate a 5.41 year housing land supply.
22. The Council has confirmed that its housing land supply figure was calculated using the annual housing requirement set out in the PfE, rather than the higher requirement derived by the Standard Method, with a 5% buffer in accordance with the Framework. The PfE requirement forms the basis of the Council's 5-year land supply calculations until March 2029 when the PfE becomes 5 years old. The appellant submits that the ability to meet the 2029-2030 requirement is unknown, however they also accept that if the additional years figure is similar to the 24-29 average then the Council can marginally demonstrate a 5 year housing land supply. Even allowing for the uncertainty in respect of the post-2029 figures, based on the evidence before me the Council's land supply calculations have been undertaken in accordance with the Framework, and demonstrate that the Council has a housing land supply greater than 5 years. The tilted balance of paragraph 11(d) is therefore not engaged.
23. I am mindful of the benefits of the proposal. It would bring a vacant building back into a productive use, it would refurbish and enhance the appearance of the site, and may also deter antisocial behaviour that can arise in association with vacant buildings. But this may also be achieved by a more suitable use or development compared to the appeal proposal. The proposal would add to the mix and supply of housing in a location with good access to services and facilities by sustainable methods of transport. But even if the Council's housing land supply is as submitted by the appellant, the benefits to the supply of housing arising from a single HMO would be limited even allowing for the number of proposed residents.

24. Residents of the proposal would contribute to the local economy, but even given the number of residents the contribution to the economy would be of a limited degree. I have also concluded that overlooking of the car park would not be a sufficient benefit in respect of noise and anti-social behaviour to outweigh the identified harm. Considered individually and cumulatively, the benefits arising from the proposal would carry no more than moderate weight.
25. I have had regard to the comments raised in support of the proposal, but these do not lead me to a different conclusion in respect of the weight to be given to the benefits of the development.
26. I have concluded that the Council can demonstrate a 5-year housing land supply. However, even if I were to conclude that the tilted balance of paragraph 11(d) of the Framework is engaged, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I have had particular regard to directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes. However, although the proposal is in a sustainable location with good access to services, due to the harm I have identified it would not be an effective use of land or contribute to well-designed places. The amount of affordable housing provided by the HMO would also be limited.
27. The appellant refers to an Appeal Decision³ in Coventry where the Inspector gave substantial weight to the provision of 6 independent studio bedsits. However, the evidence suggests that the form and context of that proposal is materially different to the appeal before me. It has also not been demonstrated that the Council's housing land supply is similar to the circumstances of the Coventry Appeal, including in respect of the 'tilted balance' of paragraph 11(d) of the Framework. Accordingly, the Coventry Appeal Decision does not provide a strong argument to support the appeal before me, which I have determined on its particular merits.
28. Drawing the above together, the proposal would not represent sustainable development within the terms of the Framework. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
29. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR

³ Appeal Ref: APP/U4610/W/24/3349977