



Appeal Decision

Site visit made on 22 July 2025

by **K L Robbie BA (Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th September 2025

Appeal Ref: APP/M4510/W/25/3364255

1 - 3 Graingerville North, Westgate Road, Newcastle Upon Tyne NE4 6UJ

- 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 Ahmed against the decision of Newcastle Upon Tyne City Council.
 - The application reference is 2023/1916/01/DET.
 - The development proposed is the change of use of hotel (Use Class C1) to house of multiple occupation (HMO) (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted amended plans with their appeal and requested that it be determined on this basis. I am mindful that the appeals process should not be used to evolve a scheme to overcome the Council's reasons for refusal and instead a fresh planning application should usually be made¹.
3. Whilst, in certain circumstances, a proposal can be amended through revised plans during an appeal, in line with the Wheatcroft principles², it is my view in this case that the appeal must be determined on the basis of plans submitted to the Council and upon which it based its decision. To do otherwise would prejudice the interests of the Council, interested third parties and consultees, who have not been specifically consulted on the revised scheme and who may have wished to make representations. I have therefore proceeded to determine the appeal based on the scheme upon which the Council made their determination, which is for a 36-bedroomed HMO accommodating up to 44 persons.

Main Issues

4. The main issues are:
 - The effect of the proposed use on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance;
 - Whether the proposed use would provide future occupiers with adequate living conditions with particular regard to noise, outlook, light and privacy; and
 - Whether or not the appeal proposal would lead to an over-concentration of shared accommodation in the local area.

¹ Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

² *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37]

Reasons

Living conditions – Existing Occupiers

5. It is likely that occupiers of the rooms in the HMO would be unrelated individuals, who would be highly unlikely to function as a single household. Each occupier would be likely to have different schedules, make separate trips and receive individual visitors and deliveries.
6. The activity and noise generated by up to 44 persons living independently in one property with separate routines and comings and goings along with those of their visitors would lead to a significant level of activity. For example, from people conversing outside the property, multiple sources of music and televisions playing, general comings and goings, taxi engines idling and vehicle doors being slammed shut. This would be readily, and in my judgement harmfully, discernible from neighbouring properties particularly those closest to the appeal property on Dilston Road.
7. The appellant's revised noise assessment³ (RNA) states that comings and goings would be likely to result in noise levels which would be lower than the highest recorded night-time noise levels. However, from the information before me it is not clear that the tonal characteristics of people talking loudly, or car doors banging, for example have been taken into account. Coupled with the likelihood of these types of disturbances occurring close to noise sensitive properties, I am not persuaded that activities associated with the HMO, would be less intrusive than noise associated with road traffic which appears to be the source of the highest recorded levels in the area.
8. The RNA suggests that tenancy agreements could include measures such as tenancy clauses regarding anti-social behaviour. However, suggested measures for a Noise Management Plan would mainly rely mainly on signage requesting doors to be closed, respecting neighbours and using designated smoking areas, (locations of which have not been identified) alongside staff making sure doors are shut, to minimise external noise. Although, CCTV would be installed at the property and noise complaints would be recorded and investigated, I am not persuaded that the measures in themselves would provide a sufficiently robust mechanism to ensure that noise does not occur in the first instance and would be unlikely to be effective in controlling noise outside the property. A condition to require the implementation of a management plan to control external noise would be unlikely to pass the relevant tests for conditions.
9. Therefore, from the information before me I cannot be certain that the living conditions of existing residents living close to the appeal property would not be adversely affected by the comings and goings of occupiers of what would be a substantial HMO. Nor am I persuaded that that the information provided robustly demonstrates that noise from the proposal would result in an acceptable noise environment for neighbouring occupiers.
10. I acknowledge that hotel users may be transient, and some guests may have little regard for their surrounding neighbours. However, I have no substantive evidence before me that occupiers of an HMO in this location, who the appellant has

³ Revised Noise Assessment Grainger Hotel dated April 2025 by NJD Environmental Associates

indicated would likely be short term tenants, would be less probable to cause noise and disturbance than a hotel guest.

11. At full occupancy, as a hotel, the appeal premises is capable of accommodating up to 100 guests. The appellant suggests that the occupancy of the appeal proposal would be significantly less at a maximum of 44 persons. However, he has also stated that the hotel use is not viable. Although no occupancy information has been provided, it would not be unreasonable to assume that it is not always occupied at full occupancy.
12. I therefore conclude that it has not been adequately demonstrated that the living conditions of existing occupiers of neighbouring residential properties would not be adversely affected with regard to noise and disturbance contrary to Policies DM23 and DM24 of the Newcastle City Council's Development and Allocations Plan 2020 (DAP), which seek to ensure a good standard of residential amenity for existing occupants of existing dwellings and no adverse environmental and health impacts arise from development.

Living Conditions – Future Occupiers

13. The property would be occupied by up to 44 residents with accommodation over three floors. Residents would share kitchens and lounges. No laundry facilities would be provided. There would be two kitchens on the ground floor, one of which would have a connected communal lounge. On the first floor there would be one kitchen and a separate lounge and on the second floor, two kitchens and a separate lounge.
14. The kitchens would range in size from 7sq.m to 16sq.m., which when work surfaces, appliances and door openings are taken into account, would leave very little floorspace for circulation and would, on the whole, feel very cramped for multiple users. Information before me indicates that licencing regulations for a property of this size would require 3 kitchens of at least 13 sq.m. each. Although cumulatively, these floorspace requirements would be met over the 5 kitchens, in reality the provision of multiple smaller kitchens with little or no space to sit and eat would not provide pleasant or practical spaces for residents to use.
15. Three of the 5 kitchens would also have no windows. The appellant has provided a daylight and sunlight report ⁴ however this is based on the amended scheme, and I therefore attribute little weight to it for reasons set out in the preliminary matter. From the information before, however, some rooms, particularly kitchens would be likely to be gloomy and oppressive spaces for residents to use and would not offer good quality living accommodation that Core Strategy and Urban Core Plan (CSUCP) Policy CS11 seeks to promote.
16. Communal lounges on the first and second floor would be very small and would not be located or laid out in terms of being conducive to communal use. They would be located directly adjacent to bedrooms. The RNA states that partition walls between communal areas and bedrooms would be fitted with acoustic insulation, which may provide some sound insulation between these areas. However, given the small size of the communal areas proposed, it is highly likely that residents would spend considerable time in their rooms and are likely to have televisions or music equipment in them. From the information before me it is not clear that all walls and

⁴ Daylight & Sunlight Report dated 11th April 2025 by MES Building Solutions

partitions would be fitted with acoustic insulation. I am also not persuaded that acoustic insulation would be effective in protecting occupiers from being disturbed by doors banging shut which would resonate beyond the provisions of acoustic insulation. Those residents occupying rooms close to entrances would be likely to be particularly likely to be disturbed by comings and goings from the building including conversations between groups of people and doors banging. As a result, I am not persuaded that the living conditions of future residents would not be adversely affected by noise and disturbance.

17. The Council's reason for refusal relates to outlook and light. However, other than the kitchens with no windows discussed above, I have little evidence before me to identify any shortfall in outlook and light to any other room within the building. Therefore, on this matter, I can only conclude that the outlook and light for occupiers of the building would be satisfactory, other than for the lack of windows in the identified kitchens.
18. Four bedrooms on the ground floor would face directly onto access routes in and out of the building. Given the number of occupiers of the building it is likely that the occupiers of these rooms would feel vulnerable to noise and disturbance arising from people regularly passing close to their bedroom windows. This would result in a loss of privacy for occupiers of those rooms.
19. In conclusion, on the basis of the evidence before me, the proposal would be harmful to the living conditions of future occupiers with specific reference to the provision of internal living accommodation, noise and disturbance, privacy, and outlook. The proposal would, therefore, conflict with policies DM23 and DM24 of the Council's Development and Allocations Plan (2020) and Criteria I of Policy SC1 of the Maintaining Sustainable Communities SPD. Collectively, amongst other things, these seek to ensure a good standard of residential amenity for existing and future occupiers of land, ensure a good standard of daylight, sunlight, outlook and privacy and ensure that noise and disturbance does not have an unacceptable adverse impact on residential amenity.

Locational Suitability

20. The appeal property is located on Westgate Road, a busy main road on the approach to Newcastle city centre. It is situated on the edge of an established residential area consisting predominantly of traditional terraced properties. The terrace in which the appeal property is situated is made up of a mix of uses including a dental surgery and office premises as well as several residential properties. The majority of the surrounding properties on this side of the road are in residential use. The appeal property is made up of three former residential properties and is currently in use as a hotel.
21. Policy CS9 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CS) amongst other things, seeks to prevent an over-concentration of shared accommodation. The purpose of the policy is to ensure that existing communities are places of quality and choice offering a variety of good quality homes. The supporting text does not indicate a level at which it is considered that an over-concentration of such uses is reached. However, it states that where there are problems with environmental quality or residential amenity then permitted development rights will be removed. Accordingly, as permitted development rights have not been removed in this location, I can only assume that

such issues have not reached levels which are deemed to cause harm to the neighbourhood. That is not to say however, that this may not change in the future or that HMOs may not be acceptable for other reasons.

22. The Council's Maintaining Sustainable Communities Supplementary Planning Document (SPD), amongst other things seeks to protect the character of areas of the city through Policy SC1 where criteria for the acceptability of HMOs are set out. One of which is that the proposal would not lead to a level of concentration of such uses which would be damaging to the character of the area.
23. From information before me, there appears to be numerous HMOs within the immediately surrounding streets. I recognise that the aim of Core Strategy Policy CS9 to ensure that existing communities are sustainable place of quality and choice by preventing an over-concentration of shared accommodation is not confined to areas where permitted development rights have been removed, I have no substantive evidence before me which would support the view that the appeal proposal would lead to a level of concentration which would be damaging to its character and therefore not suitable for HMOs per se. Rather the appeal proposal being for a large HMO would result in environmental impacts which would be detrimental to the living conditions of neighbouring occupiers. The impacts would however be localised to those living immediately adjacent to the appeal property rather than detrimental to the neighbourhood as a whole.
24. I therefore conclude that the proposal would not be contrary to Policy CS9 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CS) which amongst other things seeks to prevent an over concentration of shared accommodation, the purpose of which is to ensure that existing communities are places of quality and choice offering a variety of good quality homes.

Other Matters

25. The appellant asserts his integrity as an HMO landlord, and I have no reason to doubt that. However, permission goes with the land, not the person and future operators or owners however may not. Furthermore, I have no mechanism by which this can be ensured. I also note the comments made by Northumbria Police and the appellants response. Matters relating to crime or fear of crime were not a reason for refusal and I therefore attribute little weight to these matters.
26. I acknowledge that there may be a demand for this type of accommodation, and I do not doubt that HMOs offer a form of low-cost housing. However, I have not been provided with evidence that this cannot be provided elsewhere. Irrespective of the quantum of the accommodation proposed I am not satisfied that the evidence before me adequately demonstrates a need for the proposed HMO, or that it would provide accommodation of an acceptable quality. These are not factors which weigh in favour of allowing the appeal and do not diminish the harm that I have found on the main issues.
27. The RNA cites a number of appeal decisions for HMOs which have been allowed. I do not have their full details before me. However, none of them are in Newcastle upon Tyne and none of them appear to be on the scale of the proposal before me. I therefore, attribute little weight to them and they do not lead me to an alternative conclusion on the main issues set out above.

Conclusion

28. The proposal would provide some benefits in terms of providing a form of low-cost housing and although that I have found that the location would not necessarily unacceptable and would be potentially suitable for this type of accommodation, I have identified that the proposal would not provide adequate living conditions for future occupiers and would cause harm to the living conditions of existing occupiers of neighbouring properties. The benefits of the proposal do not outweigh the significant harms which I have found on these matters. There are no material considerations which would indicate a decision other than in accordance with the development plan.
29. Therefore, for the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal is dismissed.

KL Robbie

INSPECTOR