



Appeal Decision

Site visit made on 30 September 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

Appeal Ref: APP/Z2315/W/25/3370041

145 Nairne Street, Burnley, Lancashire BB11 4PD

- 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 JC Turner Ltd against the decision of Burnley Borough Council.
 - The application Ref is FUL/2025/0327.
 - The development proposed is the change of use of a two-storey end-terrace dwelling (Use Class C3) to a small House in Multiple Occupation (Use Class C4) to accommodate no more than four unrelated residents, with internal reconfiguration only and no external alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a two-storey end-terrace dwelling (Use Class C3) to a small House in Multiple Occupation (HMO) (Use Class C4) to accommodate no more than four unrelated residents, with internal reconfiguration only and no external alterations at 145 Nairne Street, Burnley, Lancashire BB11 4PD in accordance with the terms of the application, Ref FUL/2025/0327, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Prior to the first occupation of the HMO the Bike Shed as detailed within the Vertical Bike Shed specification and as shown on the Site Plan (Drawing No 20_001) shall be installed and brought into use and retained thereafter in perpetuity.
 - 3) There shall be no burning of construction-derived waste within the curtilage of the premises.

Preliminary Matters

2. The description of development in the banner and decision above is duplicated from the Application Form. However, I have removed reference to "The proposed development involves ..." as this does not refer to an act of development.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers of the HMO, with particular regard to the provision of external amenity space.

Reasons

4. It is common ground between the parties that there is not a space standard for either external or internal amenity space within the development plan or within

local planning guidance. Furthermore, the Nationally Described Space Standard¹ does not provide guidance for HMOs. It is therefore a matter of planning judgement whether the proposed HMO would include sufficient amenity space and, in this regard, comply with the development plan. Whilst not planning policy or planning guidance, the Council does have HMO standards which are used by the Council's Housing Standards team to determine whether HMO accommodation is acceptable. As such, this is a material consideration in the determination of the appeal. The standards do not specify how large external amenity space should be, but advise that internal amenity space should be 18m² for a HMO which would be occupied by up to 4 people.

5. The proposal does not include any external works. Therefore, the building's footprint and size of the rear yard would remain the same. Although it is modest in size, the rear yard would be able to accommodate both the bin and cycle stores, and the remaining space could be used to dry clothes or sit outside.
6. As the HMO would be occupied by up to 4 unrelated occupants, there is likely to be an increase in demand for external amenity space, compared to a family who would be more likely to share this space. For example, multiple people may want to dry clothes at the same time. In this scenario, future occupiers could be discouraged from sitting outside as the external amenity space could begin to feel cramped. However, Scott Park is a short walking distance from the appeal property and in this scenario would be sufficient to fulfil the recreational needs of future occupiers. Consequently, despite the increase in demand, the proposed provision of external amenity space would be acceptable for the proposed level of occupancy.
7. The proposal also includes an open plan kitchen/dining/living area which would be 22.6m², which is larger than required by the Council's HMO standards. The internal space would be of an appropriate size and layout to meet the day-to-day needs of up to 4 unrelated occupants. Consequently, it would not be necessary to provide additional external amenity space to compensate for a shortfall of internal amenity space. Therefore, both the proposed internal and external amenity space would be of an acceptable size for a HMO with up to 4 unrelated occupants.
8. The Sunnyhill Road² decision is materially different to the appeal proposal as the Inspector had concerns with the quality as well as the size of the external amenity space. The Woodside Green³ decision is materially different to the appeal proposal as the Inspector concluded that the presence of bin and cycle stores would make the space cramped and limit its usability but did not consider the presence of nearby public recreational space. As such, neither decision sets a precedence for dismissing the appeal proposal.
9. I acknowledge the Council's representations on the quality of the existing housing stock. However, the perceived poor quality of the existing housing stock has not been a positive factor in my assessment on the acceptability of the appeal proposal.
10. I conclude that the proposed development would provide acceptable living conditions for future occupiers of the HMO, with particular regard to the provision

¹ Technical housing standards – nationally described space standard

² Appeal Ref. APP/N5660/W/24/3355286

³ Appeal Ref. APP/L5240/W/24/3352344

of external amenity space. The proposal would comply with Policy SP5 of Burnley's Local Plan, July 2018, where it indicates that proposals will be expected not to result in unacceptable conditions for future occupiers of the development. The proposal would also be in accordance with paragraph 135 of the National Planning Policy Framework (the Framework) where it advises that planning decisions should ensure that developments create places with a high standard of amenity for future users.

Other Matters

11. Out of the properties that are within 100m of the appeal property, less than 10% are HMOs. As such, the evidence indicates that there is a low concentration of HMOs, and one more would not lead to an inappropriate housing mix in the area.
12. Concerns have been raised that anti-social behaviour, such as fly tipping, or crime is likely to increase due to an increase in the number of HMOs in the area. This is a fear of crime and anti-social behaviour which can be a material consideration in a planning application or appeal. However, for that fear to be given significant weight in the planning balance, there must be a reasonable and evidential basis for it. There is no convincing evidence before me which would lead me to conclude that the proposed development would give rise to an increase in anti-social behaviour or crime, that would warrant the refusal of the appeal proposal.
13. There is no substantive evidence before me of parking stress in the area or that the increase in demand for on-street parking could not be safely accommodated. There is also no compelling evidence before me that the increase in occupancy of the appeal property would lead to a harmful increase in noise and disturbance experienced by neighbouring occupiers.
14. The planning system is primarily concerned with the public interest. The effect of a proposal on neighbouring house values is a matter of private interest and does not alter my assessment on the appeal proposal.

Conditions

15. The Council has indicated the conditions that it considers would be appropriate if I were to allow the appeal. I have considered the suggested conditions in light of the guidance within the Framework and Planning Practice Guidance. Some of the conditions have been amended from those suggested to be more concise and to ensure they are enforceable.
16. A condition specifying a time limit to implement the decision is necessary in the interest of certainty. A condition requiring the bike storage to be installed prior to occupation of the HMO is reasonable to promote sustainable transport modes. A condition restricting the burning of construction derived waste is necessary to conserve the living conditions of occupiers of neighbouring dwellings during the construction period.
17. There is currently no restriction on burning materials and there is no evidence that the proposed change of use would lead to increased occurrences of materials being burnt on site. As such, it would not be reasonable to impose a condition restricting the burning of materials in perpetuity.

18. Finally, it would not be reasonable or necessary to attach a condition specifying approved plans when the proposal is for a change of use only, and no external works are proposed.

Conclusion

19. It has been alleged that the proposal would have a harmful effect on the wellbeing of local children. As above, this could be defined as a fear of crime and anti-social behaviour and there is no compelling evidential basis before me to support this fear.
20. The protected characteristic of age is relevant for local children. I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010. Allowing the appeal would not have a harmful effect in terms of elimination of discrimination against people with protected characteristics, advancing equality of opportunity for those people, and fostering good relations between them and others. I conclude that it is proportionate and necessary to allow the appeal.
21. The proposal complies with the development plan, when read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be allowed and planning permission should be granted.

J Hobbs

INSPECTOR