

# Planning Appeals Update

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## **Planning Committee**

Report of Head of Planning and Infrastructure

### **DATE OF COMMITTEE**

**April 2021**

### **PLANNING APPEALS**

### **WRITTEN REPRESENTATION**

### **HEARINGS**

### **HOUSE HOLDER**

### **ADVERTISEMENTS**

ADV/345360/20 - Junction Of Knott Lanes/Ashton Road, Oldham

ADV/345361/20 - 173 Higginshaw Lane, Royton, Oldham, OL2 6HQ

### **APPEAL DECISIONS**

PA/344668/20	298 Moston Lane East, Chadderton, Oldham, M40 3HZ
<b>Appeal decision</b>	<b>Dismissed</b>

**RECOMMENDATION -** That the report be noted.

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The following is a list of background papers on which this report is based in accordance with the requirements of Section 100D (1) of the Local Government Act 1972. It does not include documents, which would disclose exempt or confidential information as defined by that Act.

Files held in the Development Control Section



## Appeal Decision

Site visit made on 8 March 2021

by **Alison Partington BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 22<sup>nd</sup> March 2021**

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**Appeal Ref: APP/W4223/W/20/3264993**

**298 Moston Lane East, MANCHESTER, M40 3HZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Billy Naheem (A2Z Estates) against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/344668/20, dated 16 March 2020, was refused by notice dated 25 November 2020.
  - The development proposed is single storey rear extensions, rear first-floor extension and change of use from dwelling to institution.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Work on some of the proposed extensions has commenced but is not completed and at the time of my site visit the work appeared to be halted. I have determined the appeal on this basis.
3. Local residents have raised concerns about the way the Council notified them of the proposal. This is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

### Main Issues

4. The main issues in the appeal are the effect of the proposed development on:
  - the living conditions of the occupiers of No 300 Moston Lane East with particular regard to outlook and light; and
  - nearby residents with particular regard to noise and disturbance.

### Reasons

*Living Conditions – No 300 – outlook and light*

5. The appeal property is a semi-detached house on a predominantly residential road. The property has previously had significant extensions to the rear including a long single storey extension close to the common boundary with No 296. The appeal scheme would see further extensions to the front, side and rear of this, as well as a single storey rear extension close to the boundary with No 300 and a first floor extension, set in from either common boundary.
6. No 300 has patio doors that are close to the common boundary. These serve a habitable room and are the only windows serving the room. To the other side

of these is a single storey outrigger. At present a high fence is located along the common boundary between the No 300 and No 298.

7. The extension would project over 6m from the rear elevation of the house, and although called a conservatory, would have a solid brick side elevation facing the adjoining dwelling. Although the extension would have a flat roof, it would still be clearly visible above the boundary fence. Given the depth and the solid nature of the extension it would have an overbearing impact and would dominate the outlook from the patio doors on the adjacent property.
8. The extension would lie to the south east of the patio doors and so would result in a loss of light to them, particularly in the early part of the day. In combination with the existing outrigger on No 300, the proposed extension would create a tunnelling effect and would make this rear room very dark.
9. Consequently, I consider that the proposed development would unacceptably harm the living conditions of the occupiers of No 300 Moston Lane East with particular regard to outlook and light. It would therefore conflict with Policy 9 of the *Joint Core Strategy and Development Management Policies Development Plan Document (adopted November 2011)* (DPD) which, amongst other things, seeks to ensure that new developments do not cause significant harm to the amenity of existing and future neighbouring occupiers.

*Living Conditions – nearby residents – noise and disturbance*

10. The appellant has stated that currently the property comprises a 3 bedroom dwelling and a separate 1 bedroom flat, although the Council has stated that planning permission has not been granted for any sub-division of the property. Irrespective of this, the property is currently a 4 bedroom dwelling. The proposal would create a 9 bedroom property, 8 for residents and 1 for staff. At any one time there would be at least 2 staff present. This means that generally at least 10 people would be on the site.
11. I note the appellant's comments that the current property could be used by a large multi-generational family, which could result in a similar number of people living on the site. However, it is not possible to be categorical about how many people might occupy the house if used as a single dwelling. Nonetheless, I consider an increase from 4 bedrooms to 9 represents a significant intensification in the use of the house.
12. It is proposed that the property would be used as a transitional social care residential institution, providing care and support for adults with mental health and /or learning difficulties such as autism. The aim is that they can be re-integrated into society and live independently and so it would be an appropriate use within a residential area. Each resident would have a care plan tailored to their individual needs.
13. It is stated that staff will work 12 hour shifts with a change over at 8am and 8pm each day, with part-time staff being present during the afternoon and early evening. However, it is not unreasonable to suppose that the residents would receive visits from other professionals, as well as from friends and family. As such, movements to and from the proposal are likely to be greater than if used as a family dwelling, with the consequence that the proposal would be likely to create more noise and disturbance from these comings and goings.

14. Notwithstanding this, such movements are likely to largely be during the daytime rather than in the evening or late at night. Given the appeal property is located on a relatively busy through road, and there are a variety of commercial uses that attract customers in the vicinity, during the day at least noise and disturbance from traffic is significant. As a result, whilst the proposal may create more noise and disturbance than if the property were used as a dwelling, I am not persuaded that this would adversely affect the living conditions of nearby residents.
15. Furthermore, the appellant has suggested a condition preventing staff change overs, and the coming and goings of visitors and residents, between 8pm and 8am. Whilst the Council has suggested this would be unreasonable and unenforceable, conditions restricting hours are commonplace to address potential noise and disturbance issues, and are considered enforceable. Even if it was considered unreasonable for this condition to apply to residents, as they would not have cars, their comings and goings would be unlikely to create significant levels of noise.
16. In addition, although there would be up to 8 residents in the property, I am satisfied that the use of the garden would not create significantly more noise than if the property were to be occupied as a family home.
17. Therefore, I consider that the proposed development would not have a detrimental impact on the living conditions of nearby residents with regard to noise and disturbance. In this respect, there is no conflict with Policy 9 of the DPD outlined above.

### **Other Matters**

18. The property is currently vacant and the appellant has stated that as it is difficult to let it is often vacant for lengthy periods and prone to vandalism. His evidence also shows that there is a high demand for supported accommodation such as this. The proposal would therefore make a small contribution towards meeting this need and would bring a vacant building back into use. Moreover, it is not disputed that the property is in an accessible location, with good access to public transport and a range of services and facilities. These are all matters which favour the proposal.
19. In coming to my decision, I have had regard to concerns raised by interested parties, many of which are covered in the main issues. Given my conclusion it has not been necessary for me to consider these matters in detail. However, the Council did not identify any significant harm in respect of overlooking, light pollution, parking and highway safety, drainage and flooding or the storage of bins, and none of the evidence before me leads me to a different conclusion. In addition, there is no firm evidence to indicate the proposal would lead to significant increases in anti-social behaviour, that the residents will pose any risk to local residents or that it would lead to a loss of property values. None of the other matters raised alters or outweighs my overall conclusion below.

### **Planning Balance and Conclusion**

20. Whilst I have found that the proposal would not unacceptably harm the living conditions of nearby residents with regard to noise and disturbance, it would have a detrimental impact on the living conditions of the occupiers of No 300 with regard to outlook and light. Whilst I have given weight to the benefits of

the proposal, taken together, I consider that they would not outweigh the harm I have identified it would cause.

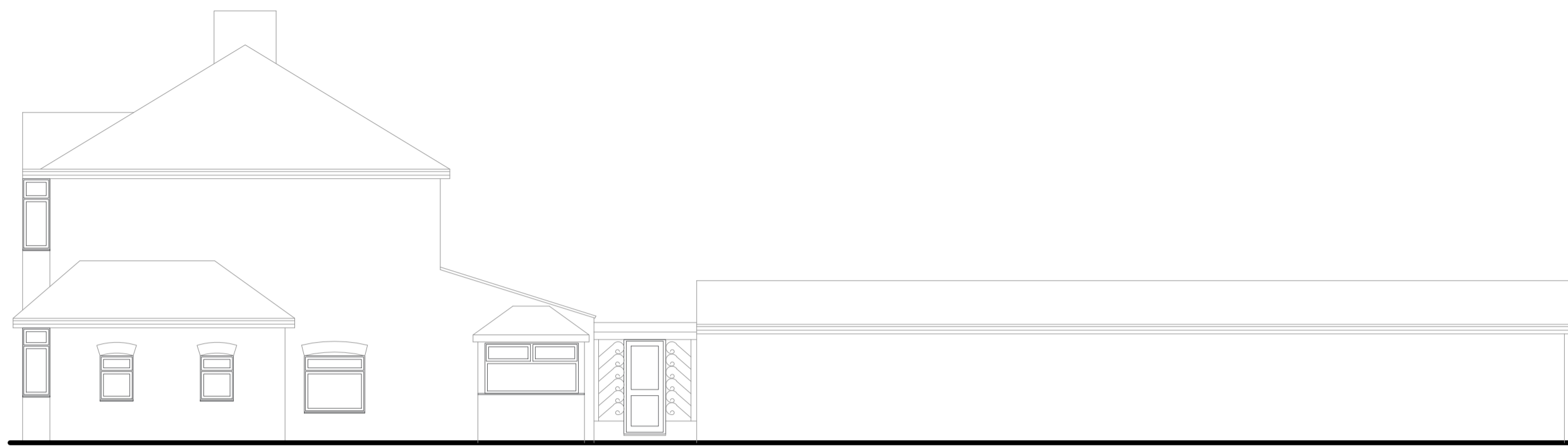
21. For the reasons set out above, I therefore conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR



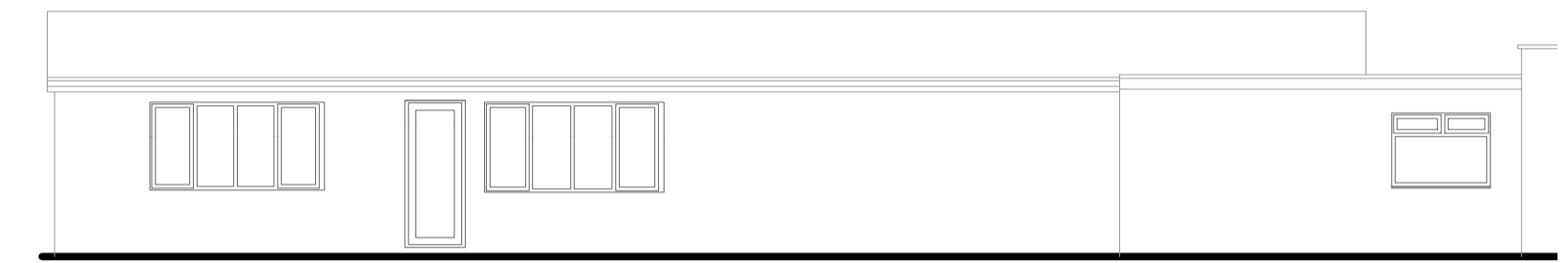
Front Elevation



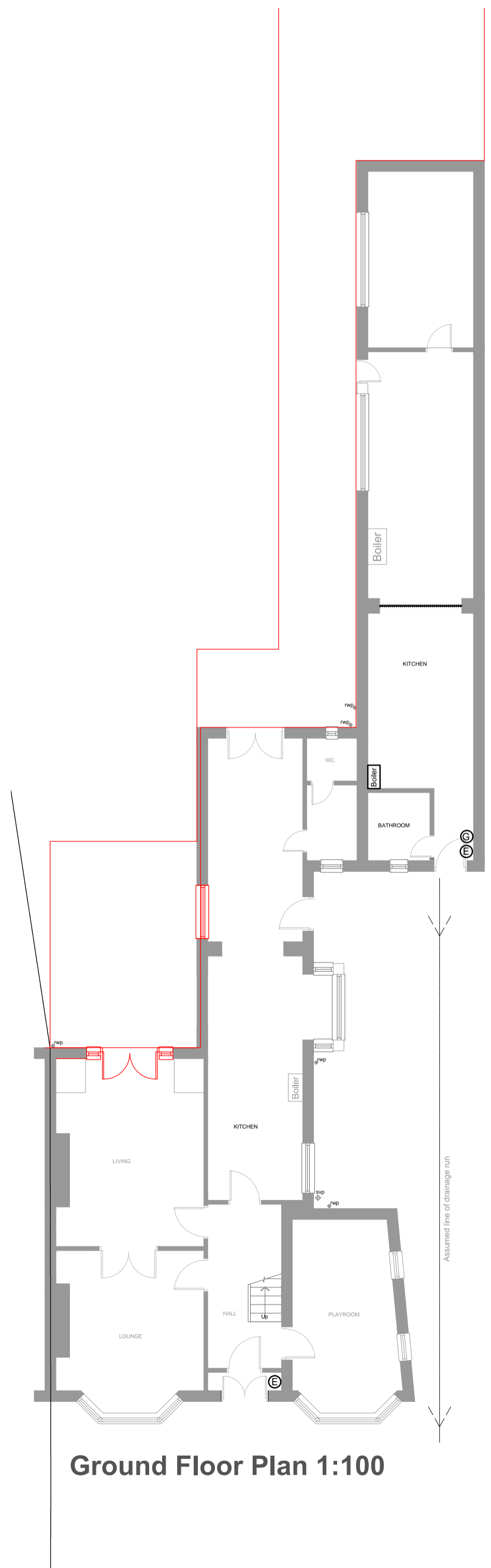
Side Elevation



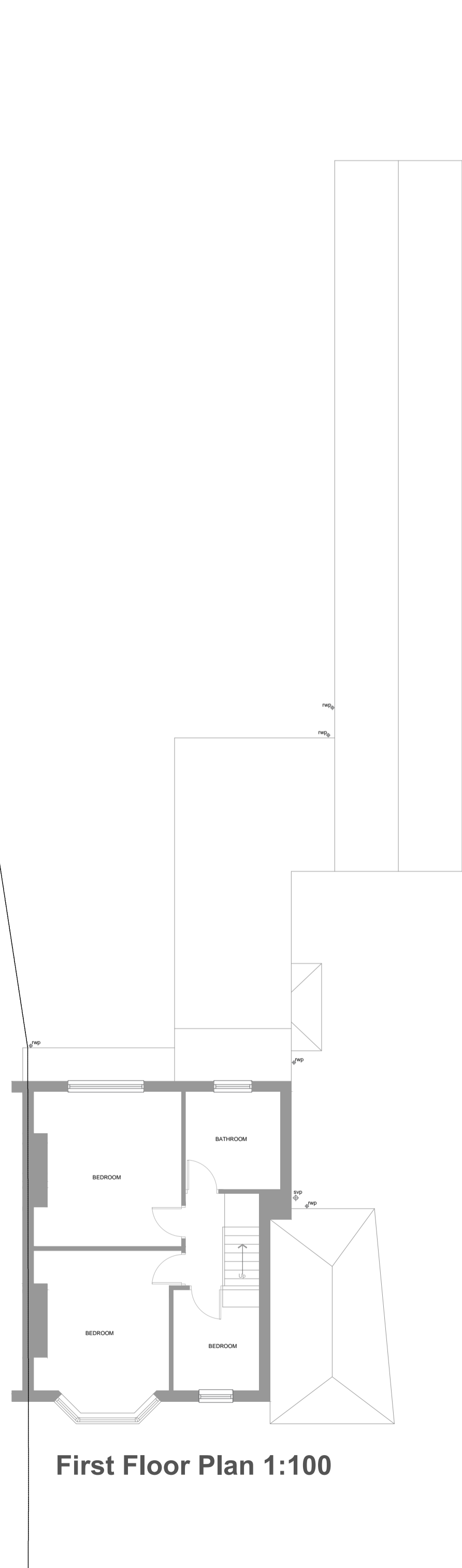
Rear Elevation



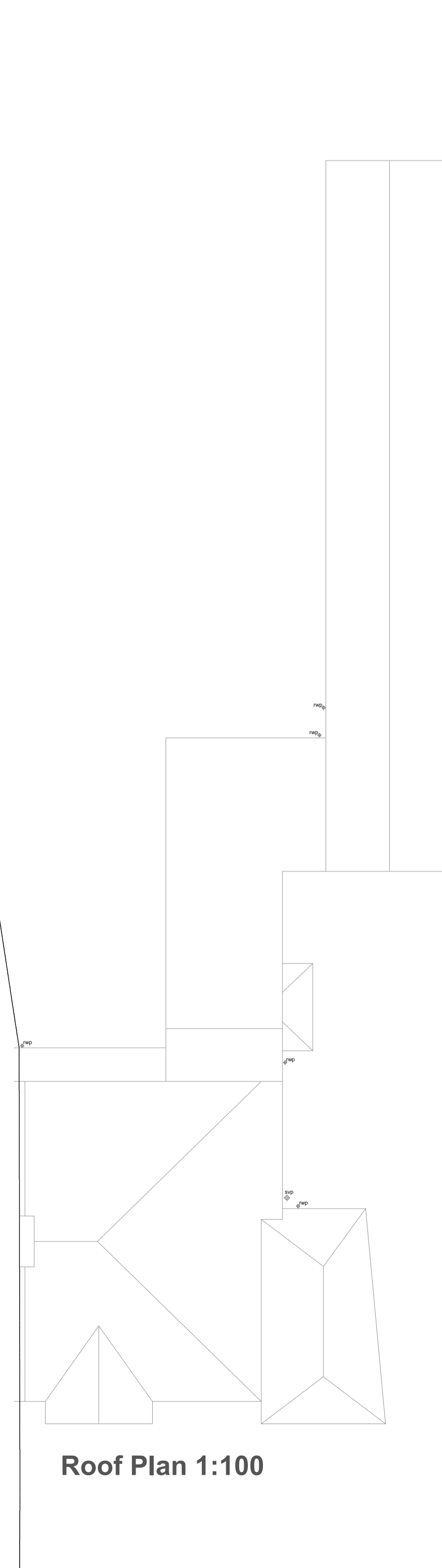
Side elevation viewed from neighbour



Ground Floor Plan 1:100



First Floor Plan 1:100



Roof Plan 1:100



Site Plan 1:500



Location Plan 1:1250

Additional notes



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Phase: Existing Scale: Varies

Project Number: 2002

Site Address:  
298 and 298a Moston Ln E  
Chadderton  
Manchester  
M40 3HZ