

APPLICATION REPORT - FUL/347100/21
Planning Committee: 13th October 2021

Registration Date: 18th June 2021
Ward: Chadderton South

Application Reference: FUL/347100/21
Type of Application: Full application

Proposal: Change of use of residential dwelling (Class C3) to residential institution (Class C2), single storey and first floor rear extensions.
Location: 298 Moston Lane East, Manchester, M40 3HZ
Case Officer: Osian Perks
Applicant: Mr Naheem
Agent: Mr Nick Howard

UPDATE REPORT FOLLOWING DEFERRAL OF THE APPLICATION BY THE PLANNING COMMITTEE ON 15 SEPTEMBER 2021

This planning application was previously considered by the Planning Committee on 15 September 2021 and the original report is attached below at Appendix 1. At the meeting, and following debate, Members resolved to defer the application with a request that officers obtain additional information from the applicant (who was not in attendance at the meeting). This related to the following matters which are addressed in turn:

1. Details of how the proposed use would be managed / operated including the provisions made for waste storage, food deliveries, and laundry.

The applicant has stated that all organisations providing health and social care services must be registered with and are regulated by the Care Quality Commission (CQC).

The applicant has stated that the proposal is not for a secure institution (which would fall into a different use class outside C2) and that the occupants of the property would pose no risk to neighbouring residents and would be supervised at all times.

The applicant has stated that the future residents do not have criminal convictions or a history of anti-social behaviour. Residents would be people with learning difficulties, mental health needs, autism, respite needs etc, who will be sent / referred by official bodies such as the NHS. In addition to this, residents would be supervised by night staff, and there will be a CCTV camera system in operation.

The applicant has explained that waste generated from the proposed use would be stored in a standard commercial bin which located adjacent to the office/control room shown on the proposed floor plans and would not be easily visible from the public highway. The applicant has also advised that laundry would be washed on the premises within the laundry room shown on the proposed ground floor plan adjacent to the store/utilities room. Food deliveries would be made by staff arriving for their shifts and would be prepared in the large kitchen also shown on the ground floor plan.

2. Clarification whether the proposed accommodation provided for residents adequately meets their needs

The applicant has advised officers that the Care Quality Commission requires such facilities to conform to strict criteria in providing care for residents. Officers have also been advised by the applicant that Government guidelines requires such facilities to be located in residential areas to help facilitate resident's integration into society.

3. Information regarding the status of existing and partially completed extensions to the rear of the property

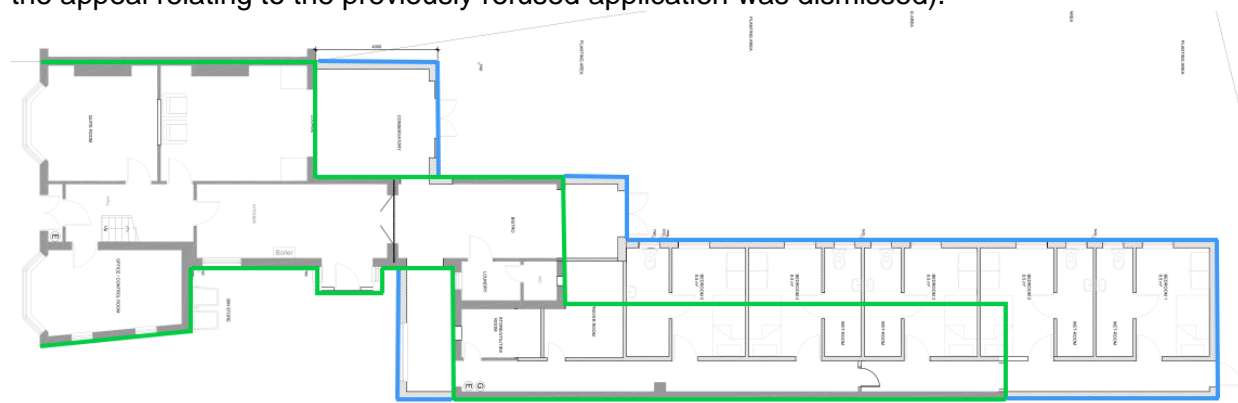
Prior to the previous planning application for the conversion of the dwelling to a class C2 institution in 2020 (HOU/345998/20), the only previous application on the site was for the erection of conservatory, which was approved on 3 September 1986 (PA/020038/86).

The applicant has indicated that a large rear outrigger adjacent to the boundary with no.296 Moston Lane East to the south was present when the site was purchased in 2001. It is apparent from historic Google Earth satellite imagery (dated December 2000 and attached below) that this outrigger was in-situ at that time. It is not clear whether this outrigger was originally a detached building and subsequently connected to the main dwelling prior to this time. Nevertheless, notwithstanding the partially constructed recent additions which remain unauthorised, this outrigger is a well-established existing arrangement associated with the current use of the property as a dwellinghouse.



To help illustrate the status of extensions to the building, and the subject matters of this planning application, the plan below shows in green the original dwelling and the rear extensions that have been in-situ since at least December 2000. The areas of the building shown in blue are those

where unauthorised works have commenced and are the subject matters of this application. However, it should be noted that the size of the extension adjacent to the boundary with 300 Moston Lane East is now shown as being 4m (a reduction from 6m and was the sole reason why the appeal relating to the previously refused application was dismissed).



4. Clarification concerning the continued objection to the application by Environmental Health

Officers have re-consulted with colleagues in Environmental Health who maintain their objection to the current proposals on the basis of noise disruption.

This, however, follows the Planning Inspectors' conclusions (in their decision on the appeal associated with the previous application) that the proposals are acceptable in a residential area given the site is on a busy through road with a variety of commercial uses in the vicinity. They had regard to the fact that during the day noise and disturbance from traffic is significant and, therefore, noise arising from the proposed use would not adversely affect the living conditions of nearby residents.

It must be recognised that the existing property could be used as a large family home with no restriction on the number of occupiers. Alternatively, it could be used as a House in Multiple Occupation for up to six residents which would not require planning permission, and such a use would likely result in an increase in noise and disturbance. The Environmental Health Officer has clarified that it is their experience that HMO's, where there is a transitory nature to occupation, is more likely to give rise to complaint.

Whilst Environmental Health officers remain concerned about noise from the proposed use, particularly during the night, the appeal decision on the previous application provides a different view and this holds significant weight as a material planning consideration in support of the application. Furthermore, the original recommendation included a condition which would have the effect of preventing staff shifts starting or ending between 10pm and 8am which would help limit disturbance that would otherwise be caused by comings and goings to the property during evening/night hours.

RECOMMENDATION: The recommendation remains as originally set out in the report attached at Appendix 1.

APPENDIX 1

ORIGINAL REPORT CONSIDERED BY THE PLANNING COMMITTEE AT THEIR MEETING ON 15th SEPTEMBER 2021.

APPLICATION REPORT - FUL/347100/21 Planning Committee: 15th September 2021

Registration Date: 18th June 2021
Ward: Chadderton South

Application Reference: FUL/347100/21
Type of Application: Full application

Proposal: Change of use of residential dwelling (Class C3) to residential institution (Class C2), single storey and first floor rear extensions.
Location: 298 Moston Lane East, Manchester, M40 3HZ
Case Officer: Osian Perks
Applicant: Mr Naheem
Agent : Mr Nick Howard

RECOMMENDATION

It is recommended that the Committee resolves to grant planning permission, subject to the conditions set out in this report.

INTRODUCTION

This planning application is referred to Planning Committee at the request of Councillor Shuttleworth who has raised concerns that the development constitutes overdevelopment, will result in traffic, and cause noise and disturbance to nearby residents.

THE SITE

This application relates to a semi-detached residential property in a predominately residential area in Chadderton. The property is one of a group of similarly designed detached and semi-detached residential properties in Moston Lane East. It has previously been significantly extended with a large single storey rear extension parallel to the boundary with No.296 Moston Lane East. It is understood the property is currently vacant.

THE PROPOSAL

The application is a resubmission of a previously refused proposal (PA/344668/20) which was subsequently dismissed at appeal. Essentially, the revised application still seeks the change of

use of the property to a residential institution (Use Class C2), alongside an extension to the existing single storey rear extension parallel to no.296 Moston Lane East. A first floor rear extension, single storey side extension, and a single storey rear extension (adjacent to no.300 Moston Lane East) are also proposed.

A notable amendment to the previously refused application is the reduction in the projection of the single storey rear extension alongside the boundary with no.300 Moston Lane East from 6m to 4m.

The Design & Access Statement submitted with the application states:

'The proposal seeks to offer 24-hour support to people within a home environment within their own personal spaces. During the night, this support can consist of waking support workers to supervise and provide support, depending on the needs of the clients. The services provided will be for people with complex challenges who have a diagnosis of mental health and/ learning disability aged 18 years and over, who require additional support to re-integrate them into society and to live Independently'

and,

'The residents will have their own 'Support / Care Package', which is tailored to meet their individual needs. Great emphasis is placed on social inclusion and the development of living skills, whilst at the same time promoting independence and self-confidence whilst they are resident.'

Eight full time residents would occupy the property. The development would create 6 to 8 full time staff with two staff at the property at all times and no shift changes at night.

RELEVANT PLANNING HISTORY:

PA/344668/20 - 1) Change of use from dwelling (use class C3) to institution (use class C2). 2) erection of single storey side and rear extensions. 3) Erection of a first-floor rear extension. Refused for the following reasons:

1. It is proposed that there will be up to 9 residents on site and 6 members of staff at the property at any one time. In addition to this, it is likely visitors would be attending the site. The concentration of people on site and the coming and going of visitors to and from the site are likely to cause significant increased levels of activity and unacceptable noise disturbance to the occupiers of neighbouring properties, contrary to Policy 9 of the Oldham Local Plan.
2. The proposed single storey extension adjacent to the boundary with the adjoining No. 300 Moston Lane East would in combination with the existing single storey outrigger at No.300 create a significant 'tunnelling effect' when viewed from the rear facing patio doors of the adjoining property which will have an oppressive impact and result in a significant loss of light. As such the proposal would fail to accord with Policy 9 of the Oldham Local Plan.

HOU/345998/20 - Erection of single storey side and rear extensions and erection of a first-floor rear extension. Refused for the following reason:

1. The proposed single storey extension adjacent to the boundary with the adjoining No. 300 Moston Lane East would in combination with the existing single storey outrigger at No.300 create a significant 'tunnelling effect' when viewed from the rear facing patio doors of the adjoining property which will have an oppressive impact and result in a significant loss of light. As such the proposal would fail to accord with Policy 9 of the Oldham Local Plan.

RELEVANT PLANNING POLICIES

The 'Development Plan' is the Joint Development Plan Document (DPD) which forms part of the Local Development Framework for Oldham.

The following policies are relevant to the determination of this application.

Policy 1 - Climate Change and Sustainable Development;
Policy 3 - An Address of Choice;
Policy 5 - Promoting Accessibility and Sustainable Transport Choices;
Policy 9 - Local Environment;
Policy 11 – Housing; and,
Policy 20 – Design.

CONSULTATIONS

Lead Local Flood Authority – No objections received.

Highways Officer – No objection subject to conditions.

Environmental Health – Raise objections to the application on the grounds that the proposed use has the potential to cause noise disturbance from those using the property and the comings and goings to it by staff and visitors. They consider that the property is not a suitable location for a C2 use and recommend that the application be refused due to the potential impact on residential amenity.

Manchester City Council – No comments received.

REPRESENTATIONS

Neighbour notification letters were sent to the occupiers of the neighbouring properties and a site notice was erected in order to publicise the application. In response, 24no. representations have been received raising the following (summarised) concerns:

- Outbuildings and extensions have been built at the property without planning permission;
- The design of the development and use proposed is out of character in this location;
- A similar institution nearby has issues with increased burglaries and shouting and screaming in the evening;
- Due to the number of people within the proposed development, the nature of the use and the comings and goings of people to and from the site, the development will lead to increased noise disturbance experienced by local residents;

- There is insufficient parking on-site and it is currently difficult for local residents to park along the highway. The parking issues experienced by neighbours will be exacerbated by vehicles associated with this development parking along the highway;
- The development will lead to increased levels of traffic in the location, to the detriment of highway safety;
- Vehicles leaving the site in a reverse gear and delivering to the site pose a risk to pedestrians and highway traffic and will cause congestion;
- Neighbouring occupiers will have to walk further to and from their cars if on-street parking spaces are occupied by vehicles associated by this development. This will put these residents at greater risk of crime;
- Adults and school children near the development could be put at risk by occupiers of the development;
- It is queried as to whether the staffing levels proposed are accurate;
- The development doesn't accord with Oldham's Suicide Prevention Strategy & Action Plan and the National Government's 'Preventing suicide in England' document due to its close proximity to motorway bridges, canals and tram/train stations.
- Concern has been raised that the institution will be managed poorly;
- Industrial bins on site will be difficult to store and move through the site and will smell which will impact the amenities enjoyed by neighbours;
- Anti-social behaviour has been associated with the application site and the development would increase resident's fear of crime;
- Notification from the Council hasn't been received by some residents;
- Additional time for neighbours to lodge objections is required;
- A public meeting is necessary for the application to be discussed;
- There will be an increase in pollution resulting from the development;
- Nearby properties will be overlooked by the property and will experience an undue loss of light;
- The application property could be rented out as a family home. The loss of its use as a family home would not accord with policy 11 of the Oldham Local Plan;
- The site has previously been used for nothing other than a private dwelling, not as indicated within the planning statement submitted;
- Increased water usage is likely to result in localised flooding; and,
- The development doesn't accord with the Winterbourne View Concordat regarding care homes.

PLANNING CONSIDERATIONS

The main issues to consider are:

1. Whether the principal of the development is acceptable.
2. The impact on residential amenity;
3. The design and appearance of the proposed extensions;
4. Highway safety;
5. Waste storage; and,
6. Other issues.

Principle of Development

Policy 2 of the Oldham Local Plan states that the Council will support appropriate development that contributes towards creating sustainable communities and promotes community cohesion across the borough, supports the transformation of education and skills, and contributes to improved health and well-being of people in Oldham.

Paragraph 5.32 accompanying the policy indicates that supported accommodation, such as that proposed, constitutes a community facility. The policy states it will support proposals for new and improved community facilities that meet an identified need. The Council's Local Housing Need Assessment (2019) indicates that between 2019 and 2030 there will be an increase in the number of adults with disabilities in the borough and more specifically an increase in the number of both older people and other adults with learning disabilities. There will also be an increased need for residential (C2) care for older people within the borough. As such, it is considered that there is an identified need, which this development would contribute towards thus complying with the requirements of Policy 2.

Policy 5 states as a minimum, new minor development should achieve 'low accessibility'. This is defined as being within approximately 400 metres of a bus route with a service, or combination of services. The proposed development would be a short walk from multiple bus stops and as such is considered to be a sustainable location and in considered to meet the requirements of this policy.

Policy 11 stipulates that all residential developments must deliver a mix of appropriate housing types, sizes and tenures that meet the needs and demands of the borough's urban and rural communities. Whilst the policy does indicate the need to build dwellings which are three bedrooms and there is an identified housing need in the borough, the policy does not restrict the change of use of existing residential properties to other uses.

Given the nature of the development, and its sustainable location, it is considered that the principle of the proposed development is acceptable.

Residential Amenity

Policy 9 seeks to protect the amenities of the occupants of residential properties by ensuring adequate outlook, levels of natural light and privacy.

In this case it is extremely important to give significant weight to a recent appeal decision which is relevant as a *material planning consideration*. The previous planning application on this site (reference PA/344668/20) similarly proposed a change of use to a residential institution (Use Class C2) with extensions to the property to accommodate it. That application was refused on 25 November 2020 on the basis that the use would be associated with activities resulting in noise disturbance for local residents and that the scale of the proposed single storey extension would cause an oppressive impact and cause loss of light to the occupiers of no.300 Moston Lane East.

The decision on this previous application was subsequently the subject of an appeal to the Planning Inspectorate (APP/W4223/W/20/3264993). Although the appeal was dismissed the Inspector made the following comments in her report:

"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.”

and,

“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 coming to their judgement, the Planning Inspector, within their report, indicated that movements to and from the development are likely to be largely within daytime hours and stated that the development ‘*would be an appropriate use within a residential area*’.

and,

“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.”

Having regard to the Inspector’s assessment, it is considered that the proposed development would not have such a detrimental impact upon the living conditions of nearby residents in regard to noise and disturbance as to justify refusal of the application. However, there remains concerns that vehicles arriving and leaving the site during the night may disturb neighbouring residents. To prevent this a condition is attached to the recommendation restricting staff shift changeovers so that they do not occur between the hours of 2200 and 0800. Subject to the imposition of this condition it is considered that the development would accord with the residential amenity aims of Policy 9.

As such, having regard to the appeal decision, and given that the policy considerations and site circumstances remain materially unchanged, it is considered that the application can no longer reasonably be refused on the grounds of noise or disturbance to nearby residents despite the continued objection from Environmental Health providing the conditions referred to above are included on any approval.

The previous application included a single storey extension adjacent to the shared boundary with no.300 Moston Lane East which projected 6 metres. The Inspector commented on this in her report as follows:

“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.”

and,

“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.”

As such, it was primarily for this reason that the Inspector dismissed the appeal.

No. 300 Moston Lane East 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.

The single storey extension proposed adjacent to the boundary with no.300 would project approximately 4m from the rear elevation of the house, over 2m less than that of the extension previously proposed. Whilst this would cause some loss of light during the very earliest part of the day it is considered it would not cause an unacceptable loss of light, cause an overbearing impact, nor dominate the outlook from the patio doors on the adjoining property. It is therefore considered that the amendments to the proposal have adequately addressed the Inspectors' concerns in this regard.

The proposed single storey element located close to the boundary with 296 Moston Lane East would have a size similar to that of the existing extension. By virtue of its height and the distance of separation between the two properties it remains to be considered that this element of the development would not have an overbearing impact upon or result in a significant loss of light to the occupiers of the neighbouring property.

By virtue of its design, and the distance of separation between it and neighbouring dwellings, it is considered that the first floor extension proposed would not cause an unacceptable loss of light or privacy to nearby dwellings.

External lighting can be important within the grounds of a residential institution to ensure safe use of the site by residents. In a residential area of this density, poorly designed external lighting has the potential to disturb residents, illuminating bedrooms in the evening. Whilst details of external lighting have not been submitted a condition is attached to the recommendation requiring details of lighting to be submitted to and agreed by the local planning authority prior to their installation.

Design & Appearance

DPD Policy 9 'Local Environment' states that it is necessary to consider how a proposed development impacts on the visual appearance of the existing building. DPD Policy 20 requires such proposals to respond positively to the environment, contribute to a distinctive sense of place, and make a positive contribution to the street scene.

Whilst the proposed extensions would be of a substantial size they would be situated towards the rear of the application property and would not feature prominently in the street scene. The single storey elements would be built with a flat roof which would not be in keeping with the application property. However, they would not appear as prominent additions by virtue of their height and siting. The first floor extension would be constructed with a hipped roof mirroring that of the application property.

A substantial area of amenity space would remain for the recreational use of occupants.

In summary, it is considered that the proposed development would appear of appropriate scale and design that would accord with the visual amenity aims of DPD policies 9 and 20.

Highways

DPD Policy 9 indicates that development should protect and improve local environmental quality and amenity by ensuring that development will minimise traffic levels and do not harm the safety of road users. Paragraph 111 of the National Planning Policy Framework 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.”

Given the nature of the development it is not expected that the car ownership of the residents will be high. The agent has confirmed that is likely to be a maximum of eight full time members of staff employed, working shifts which will include overnight. The current parking arrangements will not change with three spaces provided. The development is located in a highly sustainable location being approximately 360m from Moston Train Station and a short walk from bus stops on four separate bus routes. It is considered that given the nature and scale of the development and the high sustainability of the location the on-site parking provision proposed is adequate.

Whilst some vehicles associated with the development may be parked on the highway, given the scale of the development, it is considered that the level of on-street parking would be similar to that of a domestic property and the development would not have a significant impact upon the on-street parking available to nearby residents.

Given that parking arrangements would not change as a result of the development, it is not expected that vehicles manoeuvring to leave and enter the development would pose any greater risk to the safety of pedestrians and highway traffic.

No objections have been received by the Highways Officer and given the scale of development it is not considered that the development would have an unacceptable impact upon highway safety nor would the impacts upon the highway network be severe. As such, in accordance with paragraph 111 of the National Planning Policy Framework, it is considered that the application could not reasonably be refused on highways grounds.

Waste Storage

Poorly designed waste storage facilities can produce unpleasant smells, attract vermin and have an adverse visual impact upon the character of an area, failing to accord with policies 9 and 20 of the Oldham Local Plan.

The plans submitted indicate that there would be ample room for the storage of waste bins, stored outside public view not immediately abutting windows of adjacent properties. As such, it is considered that the waste storage area on site would be sufficient and would not result in neighbouring properties being adversely impacted upon by waste odours. As such the development would accord with the aims of policy 9 and 20 of the Oldham Local Plan.

Other issues

Objections have been received indicating that the users of the development could pose a threat to local residents and could cause anti-social behaviour. The proposal is for an assisted living facility supporting those with mental health concerns and learning disabilities. It is not considered that there is reasonable evidence to suggest that the proposed use would adversely impact upon local residents in the way suggested.

Objections have been received which cite Oldham's Suicide Prevention Strategy and Action Plan and the Governments' Preventing Suicide in England document and indicate that the development would fail to comply with these due their proximity to railway stations/metrolink stops and the M60 motorway. These documents do not limit the proximity of residential institutions such

as the one proposed to railway stations/metrolink stops and such distances are not stipulated in any adopted planning policies which is what must be considered when considering and determining a planning application.

An objection has been received which relates to the Department of Health's Winterbourne View Review Concordat: Programme of Action. This document relates to the need improve the care of children, young people and adults. Whilst this may be relevant to care providers it does not constitute planning policy that would hold significant weight in the decision making process.

A resident objecting to the development has highlighted previous drainage issues close to the site and has raised concerns about the intensification of the use of the site. No details have been provided in regard to drainage by the applicant. Given the scale of the development, and its location in an area considered to have a low susceptibility to surface water flooding, it is considered unreasonable to require further details from the applicant although drainage details are required to ensure a development accords with building regulations.

CONCLUSION

It is considered that this revised planning application fully addresses the concerns raised by the Planning Inspector who independently appraised the refusal of the previous planning application. This must be regarded as a material planning consideration in the assessment of the current application and be afforded significant weight alongside the planning policies in the Local Plan and the guidance in the National Planning Policy Framework.

Altogether, it is considered that the benefits of the development outweigh any harm caused and the development accords with the Oldham Local Plan and the National Planning Policy Framework. As such, it is recommended that the application is approved subject to the imposition of the conditions referenced below.

RECOMMENDED CONDITIONS

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

REASON - To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice.

REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be consistent in terms of colour, size and texture with those used in the existing building.

REASON - To ensure that the appearance of the existing building is acceptable having regard to Policy 20 of the Oldham Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, prior to the installation of any external lighting, a detailed scheme showing all external lighting proposed shall be submitted to and approved in writing by the Local Planning Authority. No additional lighting shall be erected without the prior approval of the Local Planning Authority.

REASON - To protect neighbouring residential properties from unacceptable levels of light pollution which may have an adverse effect upon their amenity.

5. No more than eight residents shall live at the application property at any one time.

REASON: To ensure the intensity of the use of the site does not result in any unacceptable disturbance of nearby residents.

6. No staff shifts shall start or end between the hours of 2200 and 0800 on any day.

REASON - To ensure neighbouring residents are not unacceptably disturbed during night-time hours by the development in accord and with policy 9 of the Oldham Local Plan.

7. The use of the building hereby approved shall not commence until a scheme for the provision of secure cycle parking has been implemented in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority. The approved facility shall remain available for users of the development thereafter.

REASON - In order to promote sustainable means of travel having regard to Policies 5 and 9 of the Oldham Local Plan.

Site Location Plan

