



# Appeal Decision

Site visit made on 7 June 2022

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 20 June 2022**

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## **Appeal Ref: APP/W4223/W/21/3288081 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 Naheem of A2Z Estates against the decision of Oldham Council.
  - The application Ref FUL/347100/21, dated 18 June 2021, was refused by notice dated 22 October 2021.
  - The development proposed is change of use of residential dwelling to residential institution (Class C2) single storey rear extensions and rear first-floor extension.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. Work on some of the proposed extensions has commenced but is not completed and the change of use has not occurred. I have determined the appeal on this basis.

### **Main Issues**

3. The main issues are the effects of the proposed development on:
  - the living conditions of neighbouring residents of 300 Moston Lane East in respect of outlook and light and nearby residents with particular regard to noise and disturbance;
  - the character and appearance of the area, including with regard to the provision for the storage and collection of waste; and
  - the supply of housing in the area and the creation and maintenance of sustainable communities and community cohesion.

### **Reasons**

#### *Living Conditions*

4. The appeal property is a two-storey semi-detached dwelling with the adjoining property being 300 Moston Lane East. The proposed development would include a single storey flat roofed rear extension close to the boundary with this adjoining property. No. 300 has patio doors that are close to the common boundary. From the evidence before me and my site visit observations, these appear to be the only windows serving a habitable room. A close boarded fence which the appellants states is 1.8 metres in height is located along the common

- boundary between the two properties. There is a single storey outrigger on the other side of the patio doors.
5. Although the proposed extension would be single storey, it would nevertheless be clearly visible above the fence along the common boundary. While the boundary of the two properties is set at an angle, the proposed extension would still be in close proximity to no. 300, in particular at the point nearest to its patio doors.
  6. I acknowledge that the appellant has made changes from the previous proposal to address the concerns raised by the Inspector for that scheme<sup>1</sup>. This has reduced the depth of the extension from six metres to four metres. Nevertheless, the height of the proposed extension, which would appear as a solid feature above the boundary fence, its length and proximity to the boundary would combine to result in a dominant and overbearing feature when seen from the patio doors of no. 300.
  7. In conjunction with the existing projection to the rear of this property, the proposed extension would further create a tunnelling effect, which would restrict outlook from the patio doors, and reduce the light reaching them particularly in the early part of the day. It would make the room gloomier and increase the sense of enclosure, which would significantly detract from its use and enjoyment.
  8. The Inspector for the previous proposal did not find that there would be a detrimental impact on the living conditions of nearby residents with regard to noise and disturbance.
  9. Based on the submitted evidence, the only change proposed to the appeal scheme compared to the previous proposal is the reduction in depth of the rear extension along the boundary with no. 300. Therefore, this appeal scheme is proposing the same use; numbers of bedrooms, residents and staff members; arrangements for staff changeovers; and property layout as the previous proposal. The road on which the property is located remains a relatively busy through road with commercial uses located nearby which would attract customers during the day and into the evening given the range of uses. I have no clear evidence before me about any change in circumstances between the previous proposal and the appeal scheme with regard to noise and disturbance.
  10. Within the context outlined above, I have no justifiable reason to reach a different conclusion to that of the Inspector for the previous proposal with regard to the effect on the living conditions of nearby residents with regard to noise and disturbance. I therefore find that the proposed development would not have a detrimental effect on the living conditions of nearby residents with regard to noise and disturbance.
  11. In conclusion, while I have found no unacceptable harm with regard to noise and disturbance, the proposed development would result in significant harm to the living conditions for residents of 300 Moston Lane East arising from an unacceptable loss of outlook and light. Consequently, the proposed development would conflict with the residential amenity requirements of Policy 9 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies, adopted 2011 (the

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<sup>1</sup> Appeal reference APP/W4223/W/20/3264993

DPD) and paragraph 130 (f) of the National Planning Policy Framework 2021 (the Framework).

### *Character and Appearance*

12. The property is located on a mainly residential road with a mix of detached, semi-detached and terraced dwellings in the vicinity. The front of the property has a relatively modest appearance. However, it has been previously extended at the rear including a large single storey addition parallel with the boundary with no. 296. The submitted evidence indicates that this has been in place since at least December 2000, and projects approximately 16 metres from the property.
13. The proposal would increase the length of the rear extension by around six metres. Its width would also be increased, so overall it would have a larger footprint, although its height would be less by virtue of a flat roof as opposed to the pitched roof on the existing extension. The rear extension would, in effect, extend to the whole length of the rear garden. However, a reasonably large area of amenity space would remain. Although an extension of this size may appear dominant in some circumstances, much depends on the context in which it would be seen.
14. While the rear extension would be of a substantial size, it would not be a prominent feature in the street scene. It would be mainly screened from views along Moston Lane East by the existing built development. Views would be possible near to the property's drive. However, from these vantage points, its full length would not be readily apparent, with views mainly being limited to its gable end and a relatively limited part of its length nearest to the host dwelling. In views along Moston Lane East therefore, it would not be seen as a substantial extension and would not appear significantly different to other extensions or outbuildings at properties in the vicinity.
15. The expanse of roof in particular would be visible from the first floor of a number of neighbouring properties. However, it would be seen in the context of a relatively substantial area of garden that would remain. As such, it would not have an unduly harmful effect on the character of the area in such views.
16. The proposal would also include a first floor rear extension. Its design and scale would be in keeping with the host dwelling.
17. The proposed development would make provision for the storage of waste to the side of the property. This location would be generally screened in views from Moston Lane East. The Council has concerns about the potential for waste storage bins to be located in a more prominent location to the front of the property given the manoeuvring that may be required around vehicles using the drive. I am satisfied that further details of the waste storage and collection arrangements could be secured by condition to ensure that there would be no unacceptable harm to the character and appearance of the area.
18. For the above reasons, I conclude that the rear extensions along the boundary with no. 296 would not unduly harm the character and appearance of the area and nor would the provisions for waste storage subject to the imposition of a planning condition. Accordingly, the proposed development would not conflict with Policy 9 of the DPD which seeks to ensure that development does not have a significant adverse impact on the visual amenity of the surrounding area.

### *Housing Supply, Sustainable Communities and Community Cohesion*

19. Policy 2 of the DPD is supportive of development that contributes towards creating sustainable communities and promotes community cohesion across the Borough, and for new and improved community facilities that meet an identified need. The supporting text to the policy clarifies that special needs housing involving communal living and/or supported accommodation would be considered as a community facility. Policy 11 of the DPD seeks a mix of appropriate housing types, sizes and tenures that meet the needs and demands of the Borough. The policy specifically identifies family housing (three bedrooms and above), particularly within regeneration areas, to widen the choice of housing available and address issues of overcrowding. The relevant development plan policies are therefore supportive of both family housing and community facilities such as that proposed.
20. The appellant's evidence and the Council's officer report show that there is a high demand for supported accommodation for adults. It also shows that there is a lack of availability generally but also of appropriate accommodation in suitable locations such as within easy reach of services and facilities.
21. The proposed development would provide transitional supported accommodation for up to eight residents who require additional support to re-integrate into society and to live independently within a home environment. On this basis, it would contribute to the identified need for supported adult accommodation within the Borough. In addition, the property is in an accessible location, with good access to public transport and a range of services and facilities. Given the stated purpose of the accommodation together with my conclusions about the effects of noise and disturbance, I am not persuaded that the use would fail to contribute to sustainable communities or promote community cohesion.
22. There would be a loss of a family-sized dwelling to the general housing market. While this would represent a very small change to the overall housing stock within the area, I acknowledge that there is an identified need for housing in the Borough, as demonstrated by the lack of a five year supply of deliverable housing sites, and the requirements of Policy 11 which suggests a need for family sized houses. However, Policy 11 does not restrict the change of use of existing residential properties to other uses. In addition, the proposed use would provide a form of residential accommodation. Overall, the harm from the loss of a family home in this instance would be modest and would be outweighed by the contribution that the proposed development would make to an identified need for supported accommodation for adults.
23. I therefore conclude that the proposed development would not cause unacceptable harm to the supply of housing in the area or to the creation and maintenance of sustainable communities and community cohesion. Consequently, I find no conflict with the aforementioned requirements of Policies 2 and 11 of the DPD.

### **Other Considerations**

24. There is no dispute between the parties that the Council is unable to demonstrate a five year supply of deliverable housing sites. Given the nature of the proposed development, it is questionable as to whether footnote 8 of the Framework and therefore the 'presumption in favour of sustainable

development' at paragraph 11 d) of the Framework is engaged. This depends on whether one considers the proposed use to be one that involves the 'provision of housing' in so far that it is for a residential institution. I deal with this matter in my planning balance and conclusion part of the decision below, but I acknowledge that the loss of a family dwelling would cause some harm from a housing land supply point of view. As detailed above, this harm has nevertheless to be counterbalanced against the positive contribution that the proposal would make to the provision of special needs housing in the Borough.

25. It is noted that the appellant would be able to construct a single storey rear extension under permitted development rights which could measure three metres in depth. Reference has been made to the submission of an application for a certificate of lawfulness for such an extension, but no detailed plans have been received in this respect. Nonetheless, it is acknowledged that an extension allowed under permitted development would project only one metre less than the proposed development. However, given its reduced depth, a permitted development scheme would, in relative terms, likely have a less harmful impact on the residents of 300 Moston Lane East in respect of outlook and light. I therefore afford the permitted development fall-back position limited weight in the planning balance.

### **Balance and Conclusion**

26. The proposed development would significantly harm the living conditions of residents of 300 Moston Lane East with regard to outlook and light. I have found that the proposed development would not unacceptably harm the living conditions of nearby residents with regard to noise and disturbance, the character and appearance of the area, or the supply of housing in the area and the creation and maintenance of sustainable communities and community cohesion. A lack of harm is, however, a neutral factor in any balance. Accordingly, these matters would be incapable of weighing against harm. I find that the proposed development would not accord with the development plan for the area taken as a whole.
27. It is a moot point as to whether paragraph 11 d) of the Framework is engaged in respect of this appeal. However, even if it is necessary for it to be engaged, I find that the adverse impacts of the proposal, namely the identified harm that would be caused to the living conditions of the residents of 300 Moston Lane East, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. For the above reasons, I therefore conclude that the appeal should be dismissed.

*F Wilkinson*

INSPECTOR