

**APPLICATION REPORT - FUL/350209/22**  
**Planning Committee 15<sup>th</sup> February 2023**

Registration Date: 12<sup>th</sup> December 2022  
Ward: Chadderton South

Application Reference: FUL/350209/22  
Type of Application: Full

Proposal: Change of use from dwelling (use class C3) to transitional social care (use class C2). Erection of single storey side and rear extensions and first-floor rear extension

Location: 298 Moston Lane East, Manchester, M40 3HZ

Case Officer: Emma Breheny  
Applicant: Mr M Naheem  
Agent: Mr N Howard

## **INTRODUCTION**

The application is referred to Planning Committee given it proposes an amendment to an application previously refused by the committee against officer recommendation (FUL/347100/21). The application was considered by the committee at their meeting in September 2021 and Members will recall it was refused for five reasons which are covered in more detail below.

The decision to refuse the previous application was the subject of an appeal to the Planning Inspectorate. The appeal was dismissed but only on one ground which related to the size of the single storey extension alongside the boundary with 296 Moston Lane East and the resultant impact on residential amenity. Three of the refusal reasons were considered by the Planning Inspector to be unreasonable, therefore amounted to unreasonable behaviour, and resulted in an award of costs against the Council.

This application is identical to the previous application except for the depth of the single storey rear extension having been reduced by 25% from 4 metres to 3 metres.

## **RECOMMENDATION**

It is recommended that the application be approved, subject to the conditions set out in this report, and that the Head of Planning shall be authorised to issue the decision.

## **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 on 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. There is a two storey rear extension adjoining a single storey rear extension which is unauthorised. The property is currently vacant.

## THE PROPOSAL

For the avoidance of doubt the application seeks planning permission for the change of use of the property to a residential institution (Use Class C2) together with 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.

As previously described, 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 4 metres to 3 metres.

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

FUL/347100/21 - Change of use of residential dwelling (Class C3) to residential institution (Class C2), single storey and first floor rear extensions. Refused for the following reasons:

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 Joint Development Plan Policy 9 of the Oldham Local Plan.
2. The scale and nature of the proposed extensions to the existing rearward projection alongside the boundary with 296 Moston Lane East is disproportionate in size and would be out of character within a residential setting to the detriment of residential amenity. This is an impact exacerbated by its proximity to the boundaries of the application site. As such the proposal would fail to accord with Joint Development Plan Policy 9 of the Oldham Local Plan.
3. The application has failed to make adequate provision for the storage and collection of waste (including recycling) that would appropriately cater for the proposed use. As such the proposal would fail to accord with Joint Development Plan Policy 9 of the

Oldham Local Plan which, amongst other matters, requires that development does not cause significant harm to the visual appearance of the area.

4. The proposed C2 use would result in the loss of a large family home at a time when the Council is unable to demonstrate a five-year housing land supply. Furthermore, as a result of the scale of the proposed use, it would not make a positive contribution towards creating sustainable communities and promoting community cohesion across the borough. As such the proposal is contrary to the requirements of Joint Development Plan Policies 2 and 11 of the Oldham Local Plan.
5. The proposed use of the property as a Residential Institution would, given the scale of the accommodation proposed and the likely increase in activity and movements associated with the use when compared with a Dwellinghouse, result in additional noise and disturbance to surrounding residents. This would cause significant harm to the amenity of surrounding residents which would conflict with the requirements of Joint Development Plan Policy 9 of the Oldham Local Plan and paragraph 185 in the National Planning Policy Framework.

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 2 – Communities;  
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**

Highways Engineer: Requested additional plans detailing the parking provision for the premises, however the proposed parking provision remains as the previous two applications, to which the Highways Engineer raised no objections. A condition will be imposed requiring cycle store provision.

Environmental Health: No objections

## **REPRESENTATIONS**

The application has been publicised by means of neighbour notification letters and a site notice. In response 23 representations have been received raising the following (summarised) issues:

- Increase in traffic;
- Overdevelopment of site;
- Parking;
- Design unacceptable;
- Flooding;
- Pollution;
- Waste storage;
- Noise;
- Development taking place without planning permission;
- Anti social behaviour; and,
- Devaluation of property

## **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. Parking and Highway safety;
5. Waste storage; and,
6. Other issues.

### **Principle**

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 is considered to be a sustainable location thus meeting 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 substantial weight to the recent appeal decisions in respect of previous applications on the site which are relevant as a *material planning considerations*.

#### *Appeal Decision 2020 Application:*

Planning application PA/344668/20 proposed a change of use of the building 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 was then 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.”*

*Appeal Decision 2021 Application:*

The most recent application on the site (i.e., application reference FUL/347100/21) was for a change of use to a Class C2 residential institution, single storey rear extensions and a first floor rear extension. The proposed single storey rear extension was located directly adjacent the boundary with 300 Moston Lane East and was proposed to project 4 metres. It is this application that was refused by the Planning Committee in September 2021.

In summary, the Planning Inspector concluded:

1. The proposed change of use would not have an unacceptable impact on the living conditions of nearby residents in terms of noise and disturbance;
2. That the proposed change of use to a C2 care home would be an acceptable form of development;
3. That the extension to the existing single storey rear extension adjacent the boundary with 296 Moston Lane East would not have an unduly harmful effect on the character of the area; and,
4. That the first floor rear extension was acceptable.

However, the Inspector did consider the single storey rear extension projection of 4 metres adjacent to the common boundary with 300 Moston Lane East would have an overbearing impact on this property, and was out of character, and the appeal was dismissed for this reason alone.

*Council’s Assessment on Amenity:*

The previous application included a single storey extension adjacent to the shared boundary with no.300 Moston Lane East which projected 4 metres. The Inspector commented on this in her report as follows:

*“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.”*

and,

*“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.”*

This was the sole 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 now proposed adjacent to the boundary with no.300 would project 3 metres from the rear elevation of the house. Extensions of this size attached to the rear elevations of dwellings do not usually require planning permission due to the provisions made by 'permitted development' rights which is a factor that must be considered. Whilst it is acknowledged that the proposed extension would cause some loss of light during the very earliest part of the day, it is considered that the proposed 25% reduction in the projection of the single storey rear extension fully addresses the concerns raised by the Planning Inspector.

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. Furthermore, 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.

However, there remains a concern 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 10pm to 8am. Subject to the imposition of this condition it is considered that the development would accord with the residential amenity aims of Policy 9.

Having regard to the appeal decisions referenced above, which have **substantial** weight as material planning considerations, 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. Furthermore, the concerns raised by the Planning Inspector about the size of the single storey rear extension adjacent to No.300 Moston Lane East have been fully addressed through a 25% reduction.

## **Design and 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.

The Highways Engineer requested a site plan to demonstrate the proposed parking layout, however this was not requested in either of the previous applications, and as such, Members are advised that as with the previous appeal decisions, the introduction of new issues is likely to result in a decision of unreasonable behaviour by the Council, which may lead to further costs being awarded against the Council.

In relation to the 2020 application, the Highways Engineer's comments advised that:

*“The proposed development is located in a sustainable location with links to public transport. I do not expect the car ownership of the residents to be high. The Applicant/Agent has confirmed that is likely to be a maximum of five FTE members of staff on site, working shifts which will include overnight. The current parking arrangements will not change. Three*



*spaces will be provided and I consider this adequate given the type of use and location. I do not consider that there will be any significant additional traffic generated by the proposed development and I do not therefore object to planning permission being granted for highway safety reasons”*

A condition requiring secure cycle parking was recommended and will be imposed, should Members resolve to grant planning permission.

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 Matters**

#### *Drainage:*

Given the scale of the development, and its location in an area considered to have a low susceptibility to surface water flooding.

#### *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 terms of anti social behaviour.

#### *Devaluation of Property:*

This is not a material planning consideration and cannot be afforded weight in the decision making process.

### **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.

## **RECOMMENDATION**

It is recommended that the application be granted, subject to the following 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.
8. Prior to the first occupation of the care facility hereby approved, full details of waste storage arrangements shall be submitted to and approved in writing by the Local Planning Authority and the screened waste store fully implemented. The waste storage arrangements shall thereafter be retained at all times. REASON - In order to ensure waste bins are stored in a screened location in order to protect the

appearance of the street scene having regard to Policies 9 and 20 of the Oldham Local Plan.

**SITE LOCATION PLAN (NOT TO SCALE):**

