MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	137943/JO/2023
Date registered valid:	31 August 2023
Proposal:	Variation of condition no. 4 (company restriction) attached to planning permission 087696/FO/2008/S2 to allow the care home to continue operating under a different company.
Address:	EAM Lodge CIC, 21 Fouracres Road, Manchester, M23 1FG
Ward(s):	Baguley Ward
Applicant:	EAM Lodge CIC
Agent (if any):	Mrs Hayley Knight, Hayley Knight Planning Ltd
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	12 October 2023

Application details

Type of application: Variation or Removal of Condition

Development type: Change of use

Date of site visit: 20 September 2023

Standard consultations:
Printed: 5 September 2023 Expired: 26 September 2023

Neighbour notifications
Printed: 5 September 2023 Expired: 26 September 2023

Site notice
No site notice has been produced

Press advert
No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

21 Fouracres Road is a part two and three storey building that has been operated as a nursing home for young people with complex health needs since 2008. The property is located within a residential area of Wythenshawe, with dwellinghouses located on all sides of the Site. Access to the property is gained directly off Fouracres Road.

Listed building: No
Conservation area: No
Tree Preservation Order: No

Description of development

The use of 21 Fouracres Road as a nursing home was established by planning permission reference 087696/FO/2008/S2. This application granted planning permission on 23rd October 2008, and was subject to the following condition no. 4):

> *The property known as 21 Fouracres Road shall be used as a C2 nursing care home operated by Elizabeth Marland, and for no other purpose (including any other purpose in Class C2 of the schedule to the Town and Country Planning (Use Classes) Order 1987), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, with or without modification.*

This application is seeking to vary condition 4 of planning permission reference 087696/FO/2008/S2 to enable the car homes to be operated by another party, as Elizabeth Marland is now looking to retire. The part of the condition relating to restriction of the use of the property however are to be retained, as the purchaser is wishing to continue operating the care home in the same way. As such this application is seeking to change the wording of the condition to the following:

The property known as 21 Fouracres Road shall be used as a C2 nursing care home, and for no other purpose (including any other purpose in Class C2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, with or without modification.

It should be noted that the revised condition would now be condition no. 2.

Consultations & Notification Responses

Local Residents – No comments received.

Highway Services – No objections to the proposal.

Environmental Health – No objections to the proposal.

Policies

The National Planning Policy Framework (September 2023) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
ii. ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below:

Policy SP1, *Spatial Principles* – Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy DM1, *Development Management* – This policy states that all development should have regard to a number of issues, in this instance the most relevant are considered as follows:-

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Effects relating to biodiversity, landscape, archaeological or built heritage.

Places for Everyone Plan – The Places for Everyone Plan is a Joint Development Plan Document, providing a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester. Once the Places for Everyone Plan is adopted it will form part of Manchester's development plan.

To date, five consultations have taken place in relation to the Plan. The Examination of the Plan, following its submission in February 2022, began in November 2022. Following the completion of the Examination of the Plan, main modifications have now been proposed which will now become the subject of further public consultation. The City Council's Executive agreed the Main Modification on 4 October 2023 and endorsed an 8 week period of public consultation on the Main Modifications commencing no earlier than 9 October 2023. Any representations will be forwarded to the Examination team managing the Plan. The Inspectors will consider all representations on the proposed Modifications before finalising the examination report.

Given the stage the Plan has reached and level of public consultation and scrutiny it has received, the Plan and its policies are now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance.

Issues

Residential Amenity – Condition no. 4 was originally imposed to protect residential amenity by limiting who could operate the care home. It is recognised that the care home offers specialist care to young people with acute physical illnesses and given the type of care offered and number of residents who live there at any one time, the impact upon local residents has not been unduly detrimental. In addition, there are no records of any enforcement matters arising because of the use.

Given how the care home operates and the fact there is little impact upon local residents, it is not considered vary the condition would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of the nearby dwellinghouses.

Visual Amenity – It is not considered that varying the wording of the condition, to enable another company or individual to operate a care home at 21 Fouracres Road, would have a detrimental impact upon the levels of visual amenity enjoyed within the vicinity of the site.

Pedestrian and Highway Safety – It is not considered that varying the wording of the condition would have a detrimental impact upon the levels of pedestrian and highways safety enjoyed along Fouracres Road.

Other Legislative Requirements

Equality Act 2010 – Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved polices of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approve

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner to resolve any problems arising in relation to dealing with the planning application.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

a) Drawing no. 73728, received on 12 September 2008

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policy DM1 in the Manchester Core Strategy.

2) The property known as 21 Fouracres Road shall be used as a C2 nursing care home, and for no other purpose (including any other purpose in Class C2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, with or without modification.

Reason - In the interests of residential amenity, pursuant to policy DM1 in the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

59 Fouracres Road, Manchester, M23 1ER
24 Fouracres Road, Manchester, M23 1FG
22 Fouracres Road, Manchester, M23 1FG
20 Fouracres Road, Manchester, M23 1FG
18 Fouracres Road, Manchester, M23 1FG
27 Fouracres Road, Manchester, M23 1FG
19 Fouracres Road, Manchester, M23 1FG
16 Fouracres Road, Manchester, M23 1FG
23 Fouracres Road, Manchester, M23 1FG
29 Fouracres Road, Manchester, M23 1FG
25 Fouracres Road, Manchester, M23 1FG
17 Fouracres Road, Manchester, M23 1FG
67 Fouracres Road, Manchester, M23 1ER
65 Fouracres Road, Manchester, M23 1ER
63 Fouracres Road, Manchester, M23 1ER
61 Fouracres Road, Manchester, M23 1ER

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 45M
Area Team Boundary - Name: SOUTH AREA