

Planning

Growth & Development

Delegated officer report for planning application

Application no.	137944/JO/2023
Date registered valid:	31 August 2023
Proposal:	Variation of condition no. 5 (company restriction) and removal of condition no. 9 (staff numbers) attached to planning permission 100997/FO/2012/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:	30 November 2023

Application details

Type of application:	Variation or Removal of Condition
Development type:	Minor Other
Date of site visit:	20 September 2023

Standard consultations:

Printed: 6 November 2023 Expired: 20 November 2023

Neighbour notifications

Printed: 6 November 2023 Expired: 20 November 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 and 100997/FO/2012/S2. Both consents were subject to the following condition:

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.

Reason - Having regard to the nature of the site and the particular circumstances of the application, pursuant to policies SP1 and DM1 of the Manchester Core Strategy and extant policy DC2 of the Unitary Development Plan for the City of Manchester.

This application is seeking to vary condition 5 of planning permission reference 100997/FO/2012/S2 to enable the care home 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 is 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 Class 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), or in any provision equivalent to

that Class in any Statutory Instrument revoking or re-enacting that Order, with or without modification.

Reason - Having regard to the nature of the site and the particular circumstances of the application, pursuant to policies SP1 and DM1 of the Manchester Core Strategy and extant policy DC2 of the Unitary Development Plan for the City of Manchester.

It should be noted that the revised condition would now be condition no. 3.

The applicant is also applying to remove the following condition attached to planning permission 100997/FO/2012/S2:

9) The development hereby approved shall be carried out in accordance with the operations strategy prepared by EAM lodge stamped as received by the City Council, as Local Planning Authority, on the 23 April 2013. For the avoidance of doubt this shall mean:

- No more than four members of staff present per day shift (07:45 to 15:00 & 15:00 to 21:15);*
- No more than three members of staff present per night shift (21:00 to 08:00).*

Reason - To ensure appropriate levels of comings and goings at the site in the interest of residential amenity pursuant to policy SP1 and DM1 of the Manchester Core Strategy and extant policy DC26 of the Unitary Development Plan for the City of Manchester.

The number of staff present each shift is regulated by the needs of the residents in their care, i.e. the residents may receive support of up to one to one. As a result, there may be up to six staff on shift each day, with three night staff. The residents' care packages are fluid which usually means that any increase in needs displayed by the residents results in an increased need for staff support. For this reason the applicant is wishing to remove the staff limitations imposed above.

It should be noted that the applicant has already obtained planning permission to vary 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

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. 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.

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. 5 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 that varying the condition would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of the nearby dwellinghouses.

In terms of the removal of condition no. 9, the applicant has indicated that the night time staff levels are likely to remain the same, while the day time staffing levels would only rise to six. Given the small rise in staffing levels during the daytime, it is not considered that the removal of condition no. 9 would have a detrimental impact upon existing residential amenity levels.

Visual Amenity – It is not considered that varying the wording of condition no. 5, 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.

Removal of condition no. 9 (staff numbers) would not have a detrimental impact upon existing levels of visual amenity.

Pedestrian and Highway Safety – It is not considered that varying the wording of the condition no. 5 would have a detrimental impact upon the levels of pedestrian and highway safety enjoyed along Fouracres Road.

Thirty members of staff are employed by the applicant, with most living locally or using public transport. There are only eight car drivers, five of which are nurses, but only one would be present on shift at all times. As such, it is not anticipated that removing the limitations on staff numbers would generate such a significant increase in traffic movements to and from the site so as to prove detrimental to existing pedestrian and highway safety levels.

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 policies 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:

- a) Drawing FPS-BPP-0555/02 stamped on 23 March 2013.
- b) Drawing FPS-BPP-0555/03 REV D received on 10 May 2013.
- c) Operating Strategy, received on 28 September 2023.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

2) Before first occupation the bedrooms within the extension hereby approved, the side glazing in the conservatory facing 19 and 23 Fouracres Road as indicated on drawing FPS-BPP-0555/02 stamped as received by the City Council, as Local Planning Authority, on the 23 April 2013 shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent residential property from overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Manchester Core Strategy.

3) The property known as 21 Fouracres Road shall be used as a Class 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), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, with or without modification.

Reason - Having regard to the nature of the site and the particular circumstances of the application, pursuant to policies SP1 and DM1 of the Manchester Core Strategy and extant policy DC2 of the Unitary Development Plan for the City of Manchester.

4) The refuse bins shall be stored in the location as indicated on drawing FPS-BPP-0555/03 REV D stamped as received by the City Council, as Local Planning Authority, on the 10 May 2013, for as long as the development remains in use.

Reason - To ensure that the refuse bins are store at the rear of the property to reduce the impact on the front of the property and the street scene pursuant to policies SP1, EN19 and DM1 of the Manchester Core Strategy.

5) Prior to the commencement of the development hereby approved, details of a suitable material to surface and demarcated the car parking areas, as indicated on drawing FPS-BPP-0555/03 REV D stamped as received by the City Council, as Local Planning Authority, on the 10 May 2013, shall be submitted and approved in writing by the City Council. The approved material must then be used to surface and demarcated the car parking areas and these must be in place prior to the first use of the additional living accommodation hereby approved. The car parking area must be retained and maintained for as long as the development remains in use.

Reason - To ensure a suitable material is use for surface water run off and to ensure that the parking are is available prior to the first use of the accommodation pursuant to policies SP1, T2 and DM1 of the Manchester Core Strategy

Appendix 1 – List of consultees & neighbours notified

Environmental Health

Highway Services

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

26 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