

Application Number:	22/00940/FUL
Proposal:	Two storey extension at rear.
Site:	3 Downing Close, Ashton-under-Lyne, OL7 9LX
Applicant:	Mr Frank Tinnirello
Recommendation:	Grant planning permission, subject to conditions.
Reason for Report:	A Speakers Panel decision has been requested by a member of the Council.
Background Papers:	The planning application documents are background papers to the report. They are open to inspection in accordance with Section 100D of the Local Government Act 1972.

1. BACKGROUND

- 1.1 Members will recall that this application was considered at the meeting of Speaker's Panel held on the 16 November 2022. Members decided that the application be deferred, to allow officers to carry out a site visit in order to ascertain whether an unlawful change of use has occurred at the property following reports that the property is being used primarily for business purposes.
- 1.2 A full site visit was carried out at the property on 30 November 2022, including complete inspections of the main dwelling, attached garage to the side of the property and the detached outbuilding/garage to the rear of the property. It was observed that there was no evidence of the main dwelling, nor the attached garage to the side of the property being used for business purposes, with visible signs that the property is used as a dwelling. Within the detached outbuilding/garage to the rear, 1no. ice cream van was being stored, as well as the storage of stock in relation to an ice cream business.
- 1.3 Another full site visit was undertaken in January 2023 by a planning officer and principal planning officer, who found no activity.
- 1.4 The case officer undertook a further full site visit and investigation on 23 May 2023. It was observed that there was no evidence of the main dwelling being used for business purposes, with visible signs that the property is used as a dwelling. Within the detached outbuilding/garage to the rear, 2no. ice cream van were being stored, as well as the storage of a variety of stock in relation to an ice cream business. There is an extant enforcement notice which requires that only two ice cream vans may be stored at the site at any time. In addition to the visit by the case officer, an enforcement officer has undertaken a site visit on a regular basis at different times of the day to check the applicant is complying with an enforcement notice and will continue to do so.
- 1.5 It is acknowledged that there are ongoing enforcement matters and concerns regarding potential breaches of planning at the application site. The applicant is aware of the enforcement notice, has been provided with a copy and has also been advised during the site visit on 23 May 2023 that no more than two ice cream vehicles can be stored at the property at any one time. If it is proven that there are more than two ice cream vehicles being stored at the property on a regular basis then the applicant is in breach of the enforcement notice and the local council may take further action.

- 1.6 This application is for a two-storey/single-storey rear extension to the main dwelling. On the basis of the above, the application should be considered on its own merits, based upon the information submitted.

2. SITE & SURROUNDINGS

- 2.1 The application relates to 3 Downing Close, a two storey detached dwelling set within a predominantly residential area of Ashton-Under-Lyne. The application property is brick built with a gable roof above and benefits from an existing single storey garage extension to the side of the property and a single storey detached garage to the rear.
- 2.2 The site shares a common boundary with properties along Manor Farm Close to the south. The topography of the site is uneven, with ground levels increasing from north to south and from west to east. The properties along Manor Farm Close to the south sit at a higher ground level to the application site.

3. PROPOSAL

- 3.1 The application seeks planning permission for the erection of a two-storey/single-storey extension to the rear of the property.
- 3.2 This application is a resubmission of the previous refused planning application under reference 22/00283/FUL. The current proposal is broadly the same as the previous scheme ('Two storey extension at rear'), but the two-storey rear extension is now set back from the common boundary shared with neighbouring property, no.10 Manor Farm Close by approximately 1.7m at the first floor level. Additionally, the windows proposed to the north and south facing side elevations of the original dwelling at the first floor level have been removed from the scheme.
- 3.3 The proposal will require the demolition of an existing conservatory.
- 3.4 The extension will project approximately 4m from the existing rear elevation at its further point with a maximum height of approximately 5.9m and an eaves height of approximately 5m.
- 3.5 In order to address concerns regarding scale and mass and undue impact by virtue of loss of light on the neighbouring property, new drawings were submitted by the agent on 3 November 2022, setting the rear extension away from the boundary shared with no.10 Manor Farm Close at the first floor level.

4. PLANNING HISTORY

- 4.1 18/00761/FUL Demolition of existing canopy and construction of single storey garage extension to front, side and rear of property. Single storey rear extension with external staircase to detached garage located to rear of property - Approved 5 November 2018.
- 4.2 22/00283/FUL Two storey extension at rear – Refused 13.06.2022.

5. PLANNING POLICY

National Planning Policy Framework

- 5.1 Paragraph 9 of the National Planning Policy Framework (NPPF) states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 5.2 Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (as per section 38(6) of the Planning and Compulsory Purchase Act 2004). However, where the development plan is absent, silent or out of date, planning permission should be granted unless the application of policies in the NPPF that protects areas or assets of particular importance, provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 5.3 Paragraph 12 of the NPPF clarifies 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, permission should not normally 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.

Planning Practice Guidance (PPG)

- 5.4 This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

Development Plan

- 5.5 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).

Tameside Unitary Development Plan (2004)

Tameside Unitary Development Plan (UDP) Allocation

- 5.6 Unallocated, within the Ashton Waterloo Ward
- 5.7 **Part 1 Policies:**
- 1.3: Creating a Cleaner and Greener Environment;
 - 1.5: Following the Principles of Sustainable Development
- 5.8 **Part 2 Policies:**
- H10: Detailed Design of Housing Developments
 - C1: Townscape and Urban Form

Supplementary Planning Documents

- 5.9 Residential Design Guide Supplementary Planning Document:
- RED1: Acknowledge Character
 - RED2: Minimum Privacy and Sunlight Distances
 - RED3: Size of Rear Extensions
 - RED4: Design of Rear Extensions
- 5.10 **National Design Guide (2021)**

Illustrates how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

Places for Everyone

- 5.11 The Places for Everyone Joint Development Plan Document was published in August 2021. It was submitted to the Secretary of State in February 2022 and inspectors are appointed to carry out an independent examination. It is a joint plan covering nine of the ten Greater Manchester districts, including Tameside, and is intended to provide the overarching framework to strategically manage growth across the boroughs.
- 5.12 Paragraph 48 in the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight may be given); the extent to which there are unresolved objections (the less significant, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).
- 5.13 Whilst Places for Everyone has been published and submitted, a number of representations have been received objecting to policies, and so in accordance with paragraph 48 of the NPPF, only very limited weight can be given to those policies at this time.

Other Considerations

- 5.14 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.
- 5.15 The application has been considered in accordance with the Tameside One Equality Scheme (2018-22), which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

6. PUBLICITY CARRIED OUT

- 6.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and the Tameside Statement of Community Involvement, the adjoining owner or occupiers were notified of the proposed development by neighbour notification letters and display of a site notice.

7. SUMMARY OF THIRD PARTY RESPONSES

- 7.1 In response to the neighbour notification letters, there have been 13 letters of representation received from 10 different households, one of which was from Councillor Choksi and included a call in request. The following concerns have been raised within individual objection letters, which are summarised as follows:

Design issues:

- Development too big;
- Unwanted precedent;
- Visual amenity;

- The proposal is out of character.

Amenity issues:

- Loss of Sun/Day Lighting/ Overshadowing;
- Impact on privacy.

Parking issues:

- Concerns regarding parking provision and traffic coming and going from the property.

Other matters:

On the basis of what has been submitted to the Council (an application for extensions to a single dwelling), other matters have been raised which are not material planning considerations.

- Outstanding/ongoing enforcement issues – reports of the property being used as a business as well as works not carried out in accordance with the approved plans in relation to the previous approved planning application under reference 18/00761/FUL;
- Concerns that development will be used as a business;
- Noise and hours of operation;
- Surface water/drainage;
- Concerns regarding noise and safety due to site traffic;
- Conflict with land use policy;
- Matters regarding land ownership (Removal of trees outside of the curtilage of the application property);
- Obscuring of view;
- Concerns regarding vermin; and
- Concerns regarding structural works and stability considerations.

8. RESPONSES FROM CONSULTTEES

- 8.1 No consultees were consulted on this application.

9. ANALYSIS

- 9.1 The main issues to consider in the determination of this application are:
- The principle of the development;
 - Design and local character;
 - Residential amenity; and
 - Other matters (parking).

10. PRINCIPLE

- 10.1 The site is unallocated, is a residential property and a proposed extension to the property would maintain the residential intensity of the site and subject to design/amenity considerations, as outlined below. The proposal is therefore acceptable in principle subject to both design and amenity.

11. DESIGN AND APPEARANCE

- 11.1 Policies C1 and H10 of the Tameside Unitary Development Plan (UDP) state proposals should respect the nature of surrounding fabric and relationship between buildings and that

housing developments should be of high quality, complementing and enhancing the character and appearance of the surrounding area.

- 11.2 Policy RED1 requires that proposals should apply an architectural style that reflects the existing dwelling and surrounding area and should not alter the scale and mass of the existing dwelling. Policy RED4 of the Residential Design Guide states that extensions to the rear of a house must not dominate the host dwelling, align in terms of scale and mass and roof styles should align with the host dwelling.
- 11.3 The proposed removal of the existing single storey rear conservatory presents no concerns in terms of design and appearance.
- 11.4 The proposed addition to the application property is to the rear elevation. As such, it would not be expected that this proposal would cause any undue impacts to the character and appearance of the street scene along Downing Close, by virtue of being obscured from view from this location.
- 11.5 The proposed two-storey/single-storey rear extension will increase the scale and bulk of the application property. However, overall, the increase is not considered a disproportionate addition, with the two-storey/single-storey rear extension being a subordinate addition overall.
- 11.6 The use of a gable roof is an appropriate roof type, complementing the existing gable roof to the host dwelling. The roof of the proposed extension is reduced in relation to the main roof ridge, achieving subservience. The ground floor portion of the rear extension to the rear is likewise topped with an appropriate pitched roof.
- 11.7 Proposed materials and fenestration are to match the existing throughout, which is suitable and reduces any impact the proposal would have on the character and appearance of the host dwelling.
- 11.8 Overall, the proposed two storey rear extension is deemed to meet the standards and guidelines set out under SPD Policies RED1 and RED4, Policies C1 and H10 of the adopted Tameside UDP and the NPPF.

12. RESIDENTIAL AMENITY

- 12.1 Paragraph 130 (f) of the NPPF seeks to secure a high standard of amenity for all existing and future occupants.
- 12.2 Locally, the adopted Tameside UDP Policy H10 requires that any development, including extensions, should not have unacceptable impacts on the amenity of neighbouring properties through loss of privacy nor overshadowing.
- 12.3 In addition, Tameside Residential Design Supplementary Planning Document (March 2010) (the SPD) contains specific standards and guidelines for different development types to ensure that no undue amenity impacts are caused to the occupiers of neighbouring properties. Policy RED2 establishes guidelines for privacy and sunlight distances; in order to ensure that developments do not cause unacceptable overshadowing, loss of natural light, or reduce privacy to neighbouring properties, minimum distance allowances have been implemented between new extensions and existing properties. Policy RED3 of the SPD states that if rear extensions are badly designed they can result in overshadowing, loss of privacy and/or a reduced outlook for neighbouring properties and their inhabitants. In order to avoid such issues, the Council will limit the size of extensions using 45 and 60 degree angle line rules. If a neighbour has an existing extension and this is the nearest habitable room window, the rule should be applied from the extension.

- 12.4 The Council acknowledges the concerns/objections that have been raised by neighbouring residents.
- 12.5 It is noted that neighbouring property, no.2 Downing Close is set at a lower level in relation to the application property, due to the relief of the land in this locality. The single storey element of the proposed rear extension adjacent to the common boundary shared with no.2 Downing Close projects approximately 4m from the rear elevation of the application property and projects 3m at the first floor level. Given that the neighbouring property, no.2 Downing Close benefits from a single storey rear extension, Officers are satisfied that the two-storey/single-storey rear extension is compliant with the 60/45 degree rules as found under SPD Policy RED3.
- 12.6 The element of the proposed extension adjacent to the common boundary shared with neighbouring property, no.10 Manor Farm Close is set away from the boundary by approximately 3.4m at the ground floor level and by approximately 5.1m at the first floor level. The proposed height of the eaves is approximately 5m, with the highest part of the roof set approximately 7.6m away from the common boundary with no.10 Manor Farm Close. It is noted that no.10 Manor Farm Close benefits from an elevated position in relation to the application property.
- 12.7 In respect of SPD Policy RED2, the requisite separation distance between the proposed rear extension and the habitable room window of the rear extension of no.10 Manor Farm Close is 14m when measuring to the sidewall of the first floor element of the proposed extension and 10m when measuring to the sidewall of the single storey element. The proposed rear extension meets the standards and guidelines set out under SPD Policy RED2 at both the ground and first floor levels. The proposed extension would not be projecting any closer to the common boundary shared with no.10 due to being located entirely to the rear of the application property. Moreover, noting the raised positioning of the neighbouring dwellings on Manor Farm Close and the siting of no.10 Manor Farm Close to the south of the application property, it is not expected that there would be a significant loss of light to the neighbouring property as a result of the proposed extension.
- 12.8 The proposed windows meet separation distances as outlined in Policy RED2 and Officers are satisfied that the proposed extension would not cause undue harm to the amenities of the neighbouring residents.
- 12.9 In light of the above, the separation distance and impact upon resident's amenity is fully policy compliant, meeting the standards and guidelines set out under SPD Policies RED2 and RED3 and Policy H10 of the adopted Tameside UDP and the NPPF.

13. OTHER MATTERS (HIGHWAYS)

- 13.1 Sufficient space for the parking of at least two vehicles will be retained to the front of the property, as well as the existing provision for parking the side and rear of the property. As such, it is not considered that the impact on the public highway would be severe as a result of the proposed scheme, in accordance with paragraph 111 of the NPPF.

14. CONCLUSION

- 14.1 The proposed two-storey/single-storey rear extension is considered to be sustainable development under the terms of the NPPF, whilst also complying with relevant policies of the Tameside Unitary Development Plan, as well as meeting the standards and guidelines set out in the Tameside Residential Design Supplementary Planning Document.

RECOMMENDATION

Grant planning permission, subject to the following conditions:

1. The development hereby permitted must begin before the expiration of 3 years from the date of this permission.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in full accordance with the following amended plans/details:

Site Location Plan 00 Rev F (received by the Council 3 November 2022)

Existing Plans and Elevations 01 (received by the Council 21 September 2022)

Proposed Plans and Elevations 02 Rev F (received by the Council 3 November 2022)

Reason: In the interests of the visual amenities of the locality and in accordance with UDP Policies and relevant national Planning Guidance (Policies RED1, RED2, RED3 and RED4 of the Tameside Residential Design SPD; Policies C1 and H10 of the Tameside UDP).

3. The external materials shall match those used in the existing building.

Reason: In the interests of the visual amenities of the locality, in accordance with UDP Policy C1: Townscape and Urban Form.