



Appeal Decision

Site visit made on 22 November 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/P4225/W/21/3279913

Dale Mill, Dale Street, Milnrow OL16 3NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Ms Siobhan Molloy, Molloy Hale, against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 21/00467/DOC, dated 26 March 2021, sought approval of details pursuant to conditions Nos 5 and 13 of a planning permission Ref 16/01540/FUL, granted on 27 March 2018.
 - The application was refused by notice dated 12 May 2021.
 - The development proposed is conversion of Dale Mill to include the provision of front, rear and side dormer extensions and alterations to its rear elevation to provide 29 apartments. The erection of 2no. three-storey apartment blocks, comprising a total of 39 no. apartments, together with associated car parking, landscaping and infrastructure.
 - The details for which approval is sought are:
Condition 5: levels; and
Condition 13: drainage.
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Decision

1. The appeal is allowed insofar as it relates to condition 5 and the levels details submitted pursuant to condition 5 attached to planning permission Ref 16/01540/FUL, granted on 27 March 2018, in accordance with the application Ref 21/00467/DOC, dated 26 March 2021, and the plans and details submitted with it, namely drawings MH/DM/SL/01 Revision D (Proposed Site Layout), MH/DM/ESP/01 (Existing Site Plan), MH/DM/ESP/01 Rev AA (Existing Site Plan – With Combined Proposed Ground and Floor Levels)) and MH/DM/SS/01 (proposed site sections), are approved.
2. The appeal is dismissed insofar as it relates to condition 13 attached to planning permission Ref 16/01540/FUL.

Background and Main Issue

3. Planning permission was granted in 2018 for the conversion of Dale Mill to provide apartments and the erection of two apartment blocks together with associated car parking, landscaping and infrastructure under application Ref 16/01540/FUL subject to conditions. The appeal relates to the refusal of the Council to approve details required by conditions 5 and 13.

4. Condition 5 requires details of the finished ground and floor levels for the proposed buildings relative to agreed off-site datum points in the interests of amenity.
5. Condition 13 requires a scheme for the discharge of foul and surface waters from the site, including timescales for implementation, and details of how the surface water scheme will be retained and managed. The condition sets out the necessary requirements. The reason for condition 13 is to prevent increased risk of flooding and to ensure satisfactory disposal of surface water from the site.
6. The Council consider that the requirements of these conditions have not been satisfied. Therefore, the main issue is whether sufficient detail has been submitted to discharge conditions 5 and 13, having regard to amenity and flooding.

Reasons

Condition 5

7. Dale Mill fronts directly onto Dale Street. Dale Street is characterised by a mix of commercial and residential uses. There are land level differences within the appeal site which results in the rear elevation of the mill being built into the hillside. To the rear of the site are residential properties which are set at a higher level than the site.
8. Drawing MH/DM/SL/01 Revision D (Proposed Site Layout) identifies the Structural Slab Levels (SSL) of the proposed buildings. Drawing MH/DM/ESP/01 (Existing Site Plan) identifies the existing levels across the site.
9. The schedule of approved drawings stipulated by condition 2 of the decision notice, to which this appeal relates, includes MH/DM/SS/01 (Proposed Site Sections)¹. This drawing shows the general arrangement, levels and site sections of the proposed development in relation to the site boundaries. A variation from this drawing would represent a breach of condition 2.
10. The appellant has submitted a new drawing (MH/DM/ESP/01 Rev AA (Existing Site Plan – With Combined Proposed Ground and Floor Levels)) with the appeal. This drawing essentially combines MH/DM/SL/01 Revision D with MH/DM/ESP/01. Thus, the drawing incorporates existing information, provided on the drawings submitted to the Council for consideration, rather than new information. The Council has had the opportunity to comment on this drawing through the appeal process. As the drawing incorporates existing information, I do not consider that any party would be prejudiced by my acceptance of it, and I have had regard to this drawing in determining the appeal.
11. It is clear from the evidence presented, including the submitted drawings, that the pre-existing ground levels across the site are to be reinstated. Furthermore, the finished slab and floor levels of the proposed apartment blocks would be consistent with the approved drawing MH/DM/SS/01. The submitted drawings show the height, form, position and profile of the buildings as well as the finished ground levels (including for the landscape, access and parking areas). Consequently, I consider that sufficient detail has been

¹ This drawing has in error been referenced as MH/DM/5502 within the appellant's submission

submitted, including off-site datum points, to discharge condition 5 and the scheme would be acceptable in terms of amenity.

12. Accordingly, the proposal would not conflict with Policies P3 and DM1 of the Rochdale Adopted Core Strategy (2016) (CS). These policies seek, amongst other matters, to ensure development proposals are compatible with surrounding land uses and do not adversely affect the amenity of residents. It would also be in accordance with the National Planning Policy Framework (the 'Framework') which seeks to ensure developments create places with a high standard of amenity for existing and future users and are sympathetic to local character.

Condition 13

13. The condition requires evidence to demonstrate that the site is unsuitable for infiltration of surface water runoff. United Utilities recommended that condition 13 could not be discharged because the drainage hierarchy had not been evidenced, nor had the infiltration results been provided in line with the condition wording².
14. A permeability assessment (Reference 11-466-L1), including the BRE infiltration testing results, has been submitted as part of the appeal. This information is pertinent to this condition. The document states that the results indicate that the underlying soils at the site do not offer the required permeability and soakaway drainage is not considered viable.
15. Having regard to the Council's Drainage Officer comments, the assessment is not a definitive document as three out of the four trial pits failed. Therefore, the assessment of the effective permeability potential of the ground to accommodate sustainable urban soakaway drainage systems within the proposed future development was only based on one result.
16. The appellant states that infiltration is not possible at the site due to absence of permeability and have liaised with United Utilities on this matter. Nonetheless, United Utilities have not commented on the new evidence submitted with the appeal and I am unable to conclude that the additional information satisfies this condition. While information has been provided over correspondence with United Utilities, this information dates from January 2017 and states that the advice is valid for 12 months only.
17. The Drainage Officer states that there are other outstanding drainage design details required, in order to discharge the drainage condition³. These matters are addressed within the appellant's final comments. The outstanding matters were not specified in the reasons for refusal. Nonetheless, regardless of those matters, based on the information before me, it is unclear whether the drainage hierarchy is acceptable and whether sufficient detail has been provided to address the requirements of condition 13. Thus, there is no certainty that the scheme would prevent risk of flooding and ensure satisfactory disposal of surface water from the site.
18. For the reasons given above, insufficient detail has been submitted to discharge condition 13. Consequently, the proposal would conflict with Policy G8 of the CS and saved Policy EM/7 of the Rochdale Borough Unitary

² Paragraph 5.11 of the Council's Statement of Case

³ Set out in Fig 1 of the Council's Statement of Case

Development Plan (2006). These policies seek, amongst other matters, to ensure new development will not increase the risk of flooding. It would also not comply with the Framework which states that development should not increase flood risk elsewhere.

Other Matters

19. I understand that there are Listed Buildings adjacent to the appeal site (45 and 47 Dale Street and 49 and 51 Dale Street). The Council raise no concerns in respect of the effect of the development on the setting of those listed buildings, and I have no substantive reason to consider otherwise. Given the application relates to a discharge of conditions application, and the nature of these conditions, I am satisfied that the discharge of the conditions would have a neutral effect on the heritage assets and would preserve the special interest of the listed buildings. This is a neutral consideration and does not weigh in favour of the appeal.

Conclusion

20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude the appeal should succeed in relation to Condition 5. However, in relation to Condition 13, the appeal should be dismissed.

L M Wilson

INSPECTOR