
Appeal Decisions

Hearing Held on 22 November 2022

Site visit made on 22 November 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal A: APP/R0660/W/22/3291801

Alma Mill, Crompton Road, Macclesfield SK11 8DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mujahid Afzal of Alma Mill Development Ltd against the decision of Cheshire East Council.
 - The application Ref 20/3627M, dated 17 August 2020, was refused by notice dated 9 August 2021.
 - The development proposed is extension and change of use of vacant mill into 24 self-contained apartments with associated car parking.
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Appeal B: APP/R0660/Y/22/3291803

Alma Mill, Crompton Road, Macclesfield SK11 8DX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mr Mujahid Afzal of Alma Mill Development Ltd against the decision of Cheshire East Council.
 - The application Ref 20/3628M, dated 17 August 2020, was refused by notice dated 9 August 2021.
 - The works proposed are alterations and extensions to facilitate change of use of vacant mill into 24 self-contained apartments.
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Decisions

Appeal A

1. The appeal is allowed, and planning permission is granted for change of use and extension of vacant mill into 24 self-contained apartments with associated car parking, at Alma Mill, Crompton Road, Macclesfield SK11 8DX in accordance with the terms of the application, Ref 20/3627M, dated 17 August 2020, and subject to the conditions set out in the schedule at the end of this decision.

Appeal B

2. The appeal is allowed, and listed building consent is granted for alterations and extensions to facilitate change of use of vacant mill into 24 self-contained apartments, at Alma Mill, Crompton Road, Macclesfield SK11 8DX in accordance with the terms of the application Ref 20/3628M, dated 17 August 2020, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

3. I have modified the description of the proposed development in relation to Appeal A to add reference to extension, and in relation to Appeal B to make reference to both alteration and extension. There is no need for car parking to be referenced in relation to Appeal B. These modifications are necessary in order to ensure that the descriptions properly reflect the development and works to which they relate.
4. The application subject of Appeal A was partly refused on the basis of adverse effects on the living conditions of occupants of nearby dwellings in relation to loss of light. However, having considered the sunlight and daylight assessment provided by the appellant with the appeal, the Council confirmed at the Hearing that it no longer wished to defend this reason. I shall therefore consider the matter no further.

Main Issue

5. The main issues are:
 - the effects of the scheme on designated heritage assets, including whether it would preserve a Grade II listed building (Alma Mill) and any features of special architectural or historic interest which it possesses, and, in relation to Appeal A, whether the scheme would preserve the setting of the adjacent Grade II listed building (Crompton Road Mill); and,

solely in relation to Appeal A:
 - the effects of the development on the living conditions of occupants of 39 Crompton Road and 1 Pownall Cottage in relation to outlook; and
 - the effect of the development on highways safety in relation to parking.

Reasons

Heritage

6. Alma Mill is a Grade II listed building, and thus a designated heritage asset. Whilst the Act sets out the desirability of preserving listed buildings, paragraph 199 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets. In this context, any harm should require clear and convincing justification.
7. Insofar as it is relevant to these appeals the special interest and significance of Alma Mill resides in its early C19th date, and its functional design and original construction in relation to the Macclesfield silk industry. In this regard significance is also derived from its relationship with other surviving mills, including Crompton Road Mill adjacent, and the important contribution they together make to the historic identity and distinctiveness of the town.
8. Again, insofar as it is relevant to Appeal A, the special interest and significance of Crompton Road Mill generally mirrors that of Alma Mill, albeit Crompton Road Mill is larger, in better condition, and unlike Alma Mill, may have been specifically designed to accommodate power looms. Both mills were at one time operated together.

9. Alma mill is a typically rectilinear building of relatively small and compact size. It is orientated roughly perpendicular to the main street frontage, with a long side elevation facing onto Pownall Square. It has not been in its original use for many years, and having been subsequently put to other uses, it has now been disused for a prolonged period. In this regard it contrasts with Crompton Road Mill which remains occupied. Though a scheme of conversion was previously approved in 2006 (the previous scheme) this was never implemented.
10. Alma Mill has a long history of settlement damage, and disuse and neglect has led to its condition becoming both very poor and unsafe. Few windows are intact, and the building is suffering ongoing water damage. It has also been subject of vandalism, including attempted arson. It does not appear that the current owner has taken any meaningful steps to make the building weather and watertight, or to arrest its decay since it was acquired. The building was however clearly in an advanced state of decay when it was last structurally assessed in December 2019, which I have taken as a baseline.
11. Following past marketing, the parties agree that the only viable use for the building is residential. Straight conversion in the manner approved by the previous scheme is however no longer a viable option. Insofar as the appeal proposal has itself been presented as now representing the only viable option, the Council confirmed at the hearing that this was probably the case. I find no reason to disagree, notwithstanding an updated viability assessment which indicates that the projected profit margin for the scheme has narrowed to a precarious 6%. The appeal scheme would therefore deliver the optimum viable use of the building as defined by the Planning Practice Guidance. In this regard the parties disagree on whether the harm caused by the scheme can be justified within this context.
12. The scheme would see loss of the historic roof covering and structure, and addition of 2 further floors, together with a full height extension to the rear. Extension would alter the overall scale and mass of the building, and its original rectilinear form would be obscured by the extension added to the rear. The external design of the latter, which would generally follow that of the retained elevations, but using 'pale' brick and 'soldier courses' above windows, may risk appearing as a somewhat crude imitation. The contemporary design of the roof extension would however be more successfully differentiated. The extent to which the existing internal fabric would be retained itself remains to be confirmed, however, given its condition it is anticipated that this would be largely removed, and the current open plan form would necessarily be subdivided. Extensive repairs would also be required to the external walls, necessitating significant reconstruction work in places.
13. The original main street facing, and side elevations would nonetheless be retained, stabilised and repaired. Within most external views, and most particularly those from within Crompton Road, the former identity of the mill would remain clearly appreciable despite the change. Insofar as specification and methodology can be secured by condition, the quality of the works can be assured. This would include the rear extension, given scope available for refinement.
14. Most of the shell of the building would therefore survive, but the scheme would also involve radical change, and inevitable loss of historic character and

integrity. This would at the very least result in less than substantial harm to the significance of the listed building.

15. In this regard the Council also identified less than substantial harm when the scheme was assessed, albeit at the Hearing it stated that the harm caused would be substantial. Moreover, at the same time as objecting to such harm, it additionally confirmed that loss of the building would be its preferred alternative to the appeal scheme. Given both the Council's view and the agreed position in relation to viability, it therefore appears that the building would ultimately be lost were the appeals to be dismissed. Clearly, nothing could be more harmful to the significance of the building than its complete loss.
16. I cannot agree that loss of the building would be in any way desirable, or thus preferable to its retention, even if this means accepting the level of radical change proposed. Set within this context, the conservation benefits of securing the optimum viable use of the building would be substantial, and would therefore clearly and convincingly outweigh the harm that the scheme would cause to the significance of the listed building, howsoever such harm is classified. It can only follow that the scheme would preserve Alma Mill.
17. Alma Mill would continue to be viewed, and its significance would continue to be experienced, within the context of Crompton Road Mill. The significance of the latter would not be directly affected by the appeal scheme. The level of external visual change proposed would however have some effect on the way in which the significance of Crompton Road Mill was appreciated. Indeed, the buildings would no longer be of wholly like type, and Alma Mill would become considerably greater in height than Crompton Road Mill. Nonetheless, as noted above, the original identity of Alma Mill would remain appreciable, and the fact that the building was no longer semi-derelict would represent a clearly positive improvement within the immediate physical and visual setting of Crompton Road Mill. Again, the effects would compare favourably to that of the complete loss of Alma Mill, which would in turn result in the complete loss of any significance Crompton Road Mill draws from their historic relationship. I find therefore that the overall effect of the appeal scheme in relation to Crompton Road Mill would be neutral, and that the scheme would therefore preserve its setting.
18. For the reasons set out above I conclude that the effects of the scheme on designated heritage assets would be acceptable. Therefore, in relation to Appeal A, and insofar as it has any relevance to Appeal B, the scheme would comply with saved Policy BE15 of the Macclesfield Borough Local Plan 2004 (MBLP) which encourages the repair and enhancement of listed buildings; saved Policy BE19 of the MBLP which supports the change of use of listed building subject to a range of criteria which would be broadly satisfied; Policy BE 15 of the MBLP which supports repair and enhancement of listed buildings; Policy SE 1 of the Cheshire East Local Plan Strategy 2010-2030 (CELPS) insofar as this seeks to secure sensitive design in relation to designated heritage assets; Policy SD 2 of the CELPS insofar as this similarly seeks to secure development that respects and where possible enhances the significance of heritage assets; and Policy SE 7 of the CELPS which both reiterates the above and broadly reflects national policy. The decision notice also cites saved Policies BE 17 and BE 18 of the MBLP which relate to listed building consent. Of these, saved Policy BE 17 is irrelevant given that the building would not be demolished, and saved Policy BE 18 sets out a level of restriction with which

the scheme would conflict, but which is at odds with national policy. In this regard, and taking into account the fact that there is no requirement to determine applications for listed building consent in accordance with the development plan, I attach greater weight to the scheme's compliance with the more recent policies listed above.

Living conditions

19. Whilst the decision notice makes general reference to 'nearby residential property', the Council confirmed at the Hearing that its concerns specifically relate to the first floor bedroom windows of Nos 1 and 39. It additionally confirmed that its reference to 1 Pownall Square was intended to be read as reference to 1 Pownall Cottage, which is a different property.
20. Nos 1 and 39 are 2 storey terraced dwellings which are far more modest in height and mass than the mill opposite. The first floor window of No 39 faces obliquely towards, and provides a direct outlook across the frontage of the mill. The direct outlook from the adjacent and similarly oriented window at No 1 is a little more obstructed by the mill. Both windows however provide an outlook which also includes Crompton Road. As such, whilst the mill forms a dominant and overbearing feature within the existing outlook, the outlook is not wholly dominated by the mill.
21. The development would see the height and mass of the mill increased. But though this would result in an increase in existing overbearing, the addition of 2 storeys would not fundamentally alter the nature of the existing relationship between the mill and Nos 1 and 39. The outlook would otherwise remain unaltered. It is therefore unlikely that the development would result in any perceptible diminution in the living conditions of occupants of either dwelling. More so when additionally taking into account the lack of any adverse effect in relation light.
22. For the reasons outlined above I conclude that the development would not have an unacceptable impact on the living conditions of occupants of Nos 1 and 39 in relation to outlook. The scheme subject of Appeal A would therefore comply with saved Policy DC3 of the MBLP which requires that development should not significantly injure the amenities of nearby residential property due to overbearing effects. Though Policy SE1 of the CELPS is also cited in the decision notice this contains no specific provisions in relation to outlook.

Parking

23. The Council's concerns in relation to highways safety relate to parking. In this regard Policy SD1 of the CELPS requires provision of parking in accordance with adopted highway standards wherever possible, whilst saved Policy DC6 of the MBLP requires new development to provide sufficient space to enable all parking off-street where appropriate. The wording of each provides some flexibility.
24. Given the nature of the site there is limited capacity to provide off-street parking. As only 4 spaces would be provided some overspill on-street could potentially arise. How highway safety risks would arise from this is unclear, and the Council has not identified any specific 'unsuitable' locations in which such risks might arise. In this regard the surrounding area predominantly contains terraced housing with parking on-street. This is largely free from restriction,

though permit control exists in some places, and double yellow lines in others. On-street parking space in the surrounding area appears to be well used, and the dimensions of the roads are such that where parking occurs on both sides of the street this narrows the carriageway sufficiently to temporarily disrupt the flow of traffic.

25. Other than parking within available unrestricted on-street space, it is unclear where else future occupants of the development could park. Indeed, parking in restricted locations could obviously result in enforcement. There is therefore no reason to suppose that parking generated by the development would result in the carriageway becoming any more obstructed than it is by parking at present, and parking on the pavement does not present itself as a possible alternative option.
26. Given such constraints it is logical to presume that the development would attract future occupants without a car, and conversely that it would not appeal to persons requiring parking space. This would equally apply to a future occupant who later considered acquiring a car, given that there would be no certainty of finding a space nearby in which to park it. Whilst the Council has identified scope which might exist within some flats to add an additional bed space, thereby increasing the theoretical demand for parking space, the above considerations again apply. The location clearly lends itself to walking and cycling, and bike storage would be provided. Measures that would encourage use of sustainable modes of travel could also be secured by condition. In practice therefore it is likely that any additional on-street parking demand generated by the development would be modest.
27. Insofar as the development could be expected to attract deliveries, vehicles could cause some disruption to the flow of traffic depending on where they stopped. This is however presumably already true in relation to other development in the area. In this regard the responsibility for appropriate parking both does and would lie with delivery drivers.
28. The Council's stance is notably at odds with that of the Highways Authority (HA) which has raised no objection to the scheme and has further confirmed this in a separate Statement of Common Ground. This is notwithstanding the HA's initial concerns regarding parking pressure and potentially adverse effects to the safe and free flow of traffic. The HA's altered stance is based on its acceptance that increased parking demand is an inevitable consequence of the use of Alma Mill, and that such demand would be low based on the location and mix of accommodation. Though the HA also took the unrealistic fallback of commercial use into account, such use in the past would also have generated parking demand. The above points otherwise remain valid unless accepting loss of the building. This I have already rejected.
29. For the reasons outlined above I conclude that the development would not give rise to any unacceptable harm in relation to highways safety arising from parking. Though neither Policy SD1 of the CELPS nor saved Policy DC6 of the MBLP contains any provisions specifically related to highway safety, to the extent that they remain relevant, no conflict would arise given that it would be neither possible nor appropriate for the development to provide more than 4 off-street parking spaces.

Other Matters

30. The Council attached significant weight to the scheme's failure to provide affordable housing and contributions towards education, open space and recreation when assessing the scheme. However, it stated at the Hearing that this was a mistake, and further confirmed its satisfaction that none of the above could be viably provided. These matters do not therefore alter my findings above.
31. Concern has been raised by interested parties that the development would prevent access to part of Crompton Road Mill. As this revolves around issues of land ownership and rights of access, it is however a private matter which would require separate resolution between the parties involved.

Conditions

32. For sake of certainty, I have imposed standard conditions setting out the time period for commencement, and, in relation to Appeal A, identifying the approved plans. No authority exists to impose a plans condition on a listed building consent. It is however otherwise a legal requirement to execute works in accordance with a consent. In this regard I have referenced the plans in my decision, and, for the avoidance of doubt, these are the same as the plans listed in relation to Appeal A.

Appeal A

33. Conditions (3) and (4) each relate to potential contamination and are required given that the Council considers that the ground on site may be contaminated given past industrial use. Though proposed, an additional condition covering garden soil and soft landscaping is not required as the scheme does not include gardens or soft landscaping.
34. Condition (5) requires details of the light well balustrade. This is in order to ensure that it complements the listed building.
35. Condition (6) requires provision and retention of parking and cycle storage spaces and facilities in order to limit any impacts on the surrounding area, and to promote sustainable modes of travel.
36. Condition (7) is imposed in order to secure the installation of obscure glass to limit the potential for overlooking between the mill and existing dwellings. Details of the glazing will otherwise require approval in relation to Condition (6) imposed in relation to Appeal B, as set out below.
37. Condition (8) requires travel packs to be provided to new occupants, again in order to encourage sustainable modes of travel. The contents can be subject of agreement and need not be specified within the condition.
38. A number of conditions agreed between the parties are unnecessary. In this regard there is no need to impose conditions in relation to pile driving, electric vehicle charging points and nesting birds as no pile driving is envisaged, charging points are covered by the Building Regulations, and nesting birds are protected under other legislation.

Appeal B

39. No conditions have been specifically proposed in relation to the listed building consent. As discussed at the Hearing, the imposition of a number of conditions is however essential given the need to clarify details relating to design and methodology. As these details were not required to establish the acceptability of the scheme, I am satisfied that in this particular case their imposition is appropriate. The following conditions are therefore imposed in the interests of preserving the special interest of the listed building, and there is no need for them to be duplicated in relation to Appeal A.
40. Condition (2) requires details of structural support to be provided to external walls. This is required in order to ensure that appropriate steps are taken to avoid collapse given the nature of the works involved and the condition of the building.
41. Condition (3) is imposed to ensure the proper specification and execution of any works to be undertaken to the external walls.
42. Condition (4) is imposed in order to ensure that every opportunity is taken to retain internal historic fabric where feasible.
43. Condition (5) is imposed in order to ensure that the detailed design of the extensions and lift shaft complement that of retained historic fabric.
44. Condition (6) is imposed to ensure that window and door designs employed within historic openings are of appropriate design, fabrication and installation.
45. Condition (7) is imposed in order to ensure that flues and vents are only inserted through historic walls where this is demonstrably essential, and that in such instances full details are subject of approval.

Conclusion

46. For the reasons set out above I conclude that Appeal A and Appeal B should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 351.100 Rev. PL1; 351.101 Rev. PL1; 351.102 Rev. PL1; 351.103 Rev. PL1; 351.104 Rev. PL1; 351.105 Rev. PL1; 351.106 Rev. PL1; 351.107 Rev. PL1; 351.200 Rev. PL1; 351.201 Rev. PL1; 351.300 Rev. PL1; 351.301 Rev. PL1; 351.302 Rev. PL1; 351.303 Rev. PL1; 351.900 Rev. PL1; 351.901 Rev. PL1.

- 3) No excavation shall take place in relation to the development hereby permitted until:
 - (a) a Phase II ground investigation and risk assessment has been completed, and a report setting out the results has been submitted to, and approved in writing by the local planning authority; and
 - (b) if the report identifies the presence of contamination for which remediation is necessary, a Remediation Strategy, including a timetable for implementation and arrangements for verification, has been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with approved strategy.
- 4) If, during the course of the development hereby permitted, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
- 5) The metal balustrade to the light well hereby permitted shall not be installed until details of its design, construction and finish have been submitted to and approved in writing by the local planning authority. The balustrade shall then be installed in accordance with the approved details.
- 6) The development hereby permitted shall not be occupied until the parking spaces and cycle storage shown on the approved plans has been provided and made available for such use by the occupants. The parking spaces and cycle storage shall thereafter be retained and shall be kept available for such use by the occupants at all times.
- 7) The development hereby permitted shall not be occupied until the lower panels of the windows shown as obscure glazed on page 19 of the submitted Design and Access Statement have been fitted with opaque glass. The glass shall thereafter be retained.
- 8) The first occupant(s) of each of the apartments hereby permitted shall be provided with a Residential Travel Pack whose purpose will be to positively promote the use of sustainable modes of travel, and whose contents shall first have been submitted and approved in writing by the local planning authority.

Appeal B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Before any part of the building fabric is removed pursuant to the works hereby authorised, full details of measures to be taken to secure the safety and stability of the external walls of the building during the implementation of works shall be submitted to and approved in writing by the local planning authority. The works shall then be carried out in accordance with the approved details.
- 3) The external walls of the building shall not be dismantled, reconstructed, repaired or otherwise modified pursuant to the works hereby authorised until:

- a) an assessment has been made by a suitably qualified professional of the extent and nature of work necessary; and
 - b) a method statement, including a specification of materials, which sets out how the works will be executed,have been submitted to and approved in writing by the local planning authority. The works shall then be carried out as approved.
- 4) No internal fabric shall be removed from the building pursuant to the works hereby authorised until:
 - a) an assessment has been made by a suitably qualified professional of the potential to repair and/or retain any historic material; and
 - b) where such potential is identified, details of how and where this will be achieved,have been submitted to and approved in writing by the local planning authority. The works shall then be carried out as approved.
- 5) Works to construct the extensions and lift shaft hereby authorised shall not commence until the following details relating to their design and construction have been submitted to and approved in writing by the local planning authority as applicable:
 - a) all external facing materials and finishes, including brick bond and arch design;
 - b) window design, fitting, and means of opening;
 - c) the way in which structural support will be provided to external openings;
 - d) the nature of the interface between the extensions and historic fabric;
 - e) measures to incorporate features supportive of nesting/roosting by birds and bats; and
 - f) the design, fabrication and location of all external flues and vents.The extensions shall then be constructed in accordance the approved details.
- 6) Pursuant to the works hereby authorised, no new windows, doors or other treatments shall be inserted into historic or reconstructed historic openings, until details of their design, construction, materials, fitting, glazing and means of opening, including elevations at scale 1:10, and sections at scale 1:5, have been submitted to and approved in writing by the local planning authority. The works shall then be carried out in accordance with the approved details.
- 7) Pursuant to the works hereby authorised, no flues or vents shall be inserted through the retained historic walls of the building unless it has first been demonstrated that no alternative location or solution is available, and unless the details of the design, fabrication and location of the flues and vents have first been submitted to and approved in writing by the local planning authority.

APPEARANCES

For the Appellant

Andrew Jalali BA(Hons) MSc MRTPI	Mosaic Town Planning
Clive Sall BA(Hons) BA(Hons) DipArch	Carson Sall Architects
David Stoddart BA(Hons) CMILT MCIHT	Prime Transport Planning
Kate Martyn BSc MSc IHBC	Donald Insall Associates

For the Council

Matthew Keen Msc	Senior Planning Officer
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