



Appeal Decision

Site visit made on 26 April 2023

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 July 2023

Appeal Ref: APP/A4710/W/22/3309963

25 Square Road, Calderdale, Halifax HX1 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Lund of Prospect Estates Ltd against Calderdale Metropolitan Borough Council.
 - The application Ref 22/00138/VAR is dated 7 February 2022 .
 - The application sought planning permission for the conversion of vacant building to form 31 residential units without complying with a condition attached to planning permission Ref 21/00243/FUL, dated 16 July 2021.
 - The condition in dispute is No 1 which states that: *The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.*
 - The plans referred to are listed:
 - Existing Floorplans 21-018-01 Received 22.02.2021
 - Existing Floorplans 21-018-02 Received 22.02.2021
 - Existing Elevations 21-018-05 Received 22.02.2021
 - Proposed Floorplan 21.018-10 Version A Received 15.07.2021
 - Proposed Floorplan 21-018-11 Received 22.02.2021
 - Proposed Elevations 21-018-15 Received 22.02.2021
 - The reasons given for the condition is: *For the avoidance of doubt as to what is permitted and to ensure a more satisfactory development of the site and compliance with the Replacement Calderdale Unitary Development Plan.*
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Decision

1. The appeal is dismissed and planning permission for variation of condition 1 on application 21/00243/FUL is refused.

Preliminary Matters

2. Planning permission was granted for the conversion of the existing building to 31 residential units and condition 1 requires the development to be carried out in accordance with the approved plans. The relevant plans are:
 - Existing:- 21-018-01; 21-018-02; and 21-018-05
 - Approved:- 21-018-10A; 21-108-11; and 21-018-015
3. The proposal would amend the above approved plans for the following:
 - Existing:- 21-018-01A; 21-018-02A; and 21/018-05
 - Proposed:- 21-018-10A; 21-108-11A; and 21-018-SK 15A

4. The amendments to the scheme would add two dormer windows in the south facing elevation in lieu of double rooflights and replace all windows and doors with a high quality upvc anthracite grey colour finish.
5. The Council has indicated that had it made a decision on the application it would have been refused on the basis of the harm caused by the dormer windows to the character and appearance of the existing building and harm to the significance of the Conservation Area.
6. Whilst the Council's appeal statement makes no reference to the acceptability or not of the replacement windows and doors, the accompanying report details the Council's Conservation Officer's assessment in which they suggest that the replacement windows and doors are considered unacceptable. I have therefore based my assessment on both elements of the proposed alterations to the approved scheme.
7. As the proposal is within a Conservation Area, I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Main Issue

8. The main issue is whether the proposed dormer windows and replacement windows and doors would preserve or enhance the character or appearance of the Halifax Town Centre Conservation Area.

Reasons

9. The appeal building is a four/five storey former wool warehouse dating from the 1850's/1860's. It is referred to on the appeal form as Greenwoods Mill. The Council's Conservation Officer describes it as a key unlisted building of quality and character, close to a number of Listed Buildings in the Town Centre and forms an important part of the historic townscape within the Conservation Area, a description I agree with. Therefore, although not a Listed Building itself, its historical contribution is its position within the Halifax Town Centre Conservation Area.
10. The building and its position within the Conservation Area make a positive contribution to the significance of this heritage asset. This is reinforced by its strong presence in the Town Centre, with its southern elevation imposing and prominent in the street scene. Also, due to the topography of the area and the surrounding roads and viewpoints, the roof is clearly seen from the surrounding area.
11. This large building with its rows of windows with stone cills and heads with a simple roofline, broken only by the gable features which themselves carry through a feature to the floors below in terms of window detailing, makes for an impressive building highlighting its significance to the historic and economic development of Halifax.
12. The proposed dormers would cut into the eaves and whilst they would be modest in size, they would appear totally at odds with the simple roof form and introduce an uncharacteristic addition at eaves level. They would jar with the form and character of the building and therefore harm its appearance.

13. Turning to the replacement windows and doors, the appellant has fitted a window with a sample of the anthracite grey upvc frame proposed. The proportions of the sample window differ from those on the original windows, which does little to promote their acceptability. Notwithstanding this, I accept that it may be necessary to replace windows and the plans indicate that they would be of the same proportions as the existing windows in terms of the size of the panes of glass and their design. However, I can agree with the Council, that upvc windows tend to have less elegant frames and appear chunky. This is borne out by the sample window installed. Given the number of windows on this building and their prominence and importance to the character of the building, the proposed windows, and at street level the doors, would not be acceptable and would result in harm to the appearance of the building.
14. There are poor quality upvc windows on parts of the larger building that adjoins the appeal site. I acknowledge that the proposed windows would be a better quality than these, but this does not lessen the harm I have identified.
15. The Council indicate that approval of precise details of the windows and door openings could be dealt with by condition. The submitted plans indicate that the windows would be anthracite grey upvc and this appeal seeks to substitute the approved plans for those now submitted. It would not therefore be reasonable to approve the plans and then to require changes, via a condition, given that there is no certainty as to what might be acceptable in any alternative scheme submitted.
16. Given the prominent position of the building in the Conservation Area, I consider that the proposal would harm the significance of the heritage asset. Paragraph 199 of the National Planning Policy Framework¹ advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and substance of the proposal, I find the harm to the Conservation Area would be less than substantial in this instance, but nonetheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that the harm should be weighed against public benefits of the proposal.
17. In terms of benefits, I note that the dormers would be constructed in reclaimed stone from within the building in order to match the building but this does not overcome the introduction of a feature which whilst may not be uncommon on other buildings of this age, would appear alien to this building. With regard to the windows, given the number of window/door frames in this building I do not agree with the appellant that the proposed upvc replacements would have a neutral effect and so I see no public benefit in this regard.
18. Compared to the approved scheme, the dormers would provide natural light and ventilation and better views through the dormer windows rather than roof lights to the main living areas of two of the units on the third floor. Whilst this may be the case, it would be a private benefit and not a public one. In any event, if the layout is unsatisfactory, there could be other ways to create better living conditions than adding the dormers to this building.
19. As a whole, the benefits of the scheme would bring a vacant building into use, refurbish it into a new use and provide 31 new homes. However, these benefits

¹ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021.

can be achieved through the approved scheme. The benefits referred to above with regard to the alterations proposed do not outweigh the harm that I have identified.

20. The proposal would fail to preserve or enhance the character and appearance of the Halifax Town Centre Conservation Area and would conflict with Local Plan² Policy HE1 and HS1 which reflect the statutory duty to preserve or enhance the character or appearance of a Conservation Area, amongst other things. It would also conflict with the heritage objectives set out in the Framework. Furthermore, the proposal would conflict with Local Plan Policy BT1 which requires development to be of a high standard of design.

21. For the above reasons I therefore conclude that Condition 1 should be retained unaltered.

Conclusion

22. For the reasons given above, and having regard to the development plan and all other considerations, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR

² Calderdale Council – Calderdale Local Plan 2018/19 – 2032/33 Written Statement, Adopted March 2023.