



Appeal Decision

Site visit made on 30 January 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/A4710/W/23/3317983

Prestige Cars, Rochdale Road, Walsden, Todmorden OL14 6SA

- 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 Edward Stewart, Prestige Cars against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 2022/1050/FUL, dated 21 September 2022, was refused by notice dated 31 January 2023.
 - The development proposed is construction of one detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application the scheme was amended to reduce the scale of the proposal from two dwellings to one. I have taken the description of development in the banner heading above from the Council's decision notice which reflects this change and was agreed with the appellant. The Council determined the proposal on the basis of the amended plans as I have.
3. On 22 March 2023, after the application was determined and before the appeal was made, the Council adopted the Calderdale Local Plan 2018/19–2032/33 (2023) (CLP). This now forms the statutory development plan for the area and replaces the Replacement Calderdale Unitary Development Plan. The Council specified, in the reasons for refusal, which policies of the CLP it considered to be relevant and the appellant has had the opportunity to comment upon their relevance during the course of the appeal. For the avoidance of doubt, I have determined the appeal based against the development plan (CLP).
4. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. The main parties were given the opportunity to comment on any relevant implications for the appeal. Therefore, I am satisfied that no one would be prejudiced by this change to the national policy context.

Main Issues

5. The main issues are, the effect of the proposed development on:
 - the setting of the Grade II Listed Building known as Hollins Mill;
 - highway safety; and,
 - flood risk.

Reasons

Setting of Listed Building

Special Interest and Significance

6. The proposed development would be located within the setting of the adjacent Grade II listed Hollins Mill. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving the setting of this listed building.
7. Hollins Mill is a substantial former mill complex that currently operates as separate commercial and residential units. I have been provided with the full list description which includes the main 4 storey, 16 bay former mill building; an engine house; a boiler house; a mechanics' workshops; a 14 bay shed with 'saw-tooth' roof and north-west facing lights, offices, a warehouse range and a 25 bay, single storey, former weaving shed with 'saw-tooth' roof. The complex sits in the space between Rochdale Road, Hollins Road and the Rochdale Canal. Walsden Water is a culverted watercourse that runs under the mill complex.
8. The complex was originally constructed as a cotton spinning and weaving mill between 1856 and 1858 with later additions between 1860 and 1890. The buildings are generally constructed of coursed squared gritstone with ashlar surrounds to openings and either slate or glazed roof. Rows of cast iron columns exist inside the buildings and in its past, the mill contained 30,000 spindles and the weaving shed had 600 looms.
9. The significance of Hollins Mill largely stems from its historical architectural and social interest as an example of the local industrial cotton spinning heritage. Its surviving fabric, including its complex of buildings of traditional construction and materials contribute to its historical interest. Moreover, the mill's physical and functional relationship with the canal and Walsden Water contribute to its historical significance.
10. The appeal site is located adjacent to the 2 storey, 6 bay office and warehouse range and separated from the 14 bay 'saw tooth' north lights shed by Walsden Water. The importance and significance of the 'saw tooth' feature lies not only in the fact that it formed a building between the canal and the watercourse, but that it also emphasised a design element which directly related to the functioning of the weaving sheds, a feature that occurred on other parts of the site. The 'saw tooth' roof was clearly characteristic of its time and a clear design feature for this and other parts of the mill complex.
11. Moreover, due to the partial demolition of the other 'saw tooth' building at the southern end of the mill complex, the relatively intact 'saw tooth' roof and north lights building in proximity to the appeal site, as the only remaining complete part of the mill with this feature, contributes to its overall special historical and architectural interest and the significance of the heritage asset.
12. The undeveloped qualities of the appeal site enable clear views of the 'saw tooth' roof and north lights from Rochdale Road. Also, due to the topography of the area and the surrounding roads and viewpoints, this roof is clearly seen from the surrounding area. Whilst there is little to indicate that these views were designed or were historic views, it is part of the way that the mill complex is experienced. In this regard, the relatively open quality and absence of built

form between the 'saw tooth' north lights and Rochdale Road make a positive contribution to its setting and thus the significance of the listed building.

Appeal proposal and effects

13. Policy HE1 of the CLP sets out that development proposals should conserve, and where appropriate, enhance, the historic environment especially those elements which make a particularly important contribution to the identity, sense of place and local distinctiveness of Calderdale. It is notable that Calderdale's textile/industrial heritage is listed at Criterion 1.a of the policy as embedding one such important contribution.
14. The proposed two storey detached dwelling would fill a large part of the appeal site and due to its scale and proximity to the boundary retaining wall against Walsden Water, would obscure views of the 'saw tooth' north lights and the north elevation of the adjacent 2 storey listed former warehouse. The proposal would substantially screen the north lights which would unacceptably harm the ability to read, understand and appreciate the former use of this important part of the mill complex and its significance.
15. In addition, the proposed use of reconstructed grey stone, grey uPVC dormer gable and brown uPVC windows and rainwater goods would jar with the materials and colours of the listed building and exacerbate the harm to its setting. While I accept that the proposed dwelling's external materials could be conditioned for subsequent approval, it would not outweigh the harm I have identified from the bulk of the built form in proximity to the listed building.
16. I recognise that the 3 storey apartment block at 569 Rochdale Road already impinges into some of the space between the 'saw tooth' north lights building and Rochdale Road. So too does the existing small portacabin on the appeal site and vehicles parked across the site.
17. Nevertheless, the proposed development would add sizeable bulk to the built form in this space. Views of the listed building and the understanding of its historic value would be further substantially reduced.
18. I therefore find that the proposal would harm the significance of the heritage asset. Paragraph 205 of the Framework advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
19. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. In this instance, the harm to the listed building would be 'less than substantial'. Nevertheless, any harm is of considerable importance and weight. Under such circumstances, paragraph 208 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.

Public Benefits

20. The provision of a family-sized dwelling in an accessible location on a brownfield site weighs in favour of the proposal. It would make a contribution,

albeit small, to the Government's objective of significantly boosting the supply of homes. Paragraph 70d of the Framework recognises that small sites such as this one can make an important contribution to meeting the housing requirement of an area. Moreover, the occupation of the dwelling would bring economic benefits from the spending of future occupiers in the local area, as well as from the construction works. However, there is nothing before me to suggest that comparable economic benefits from the existing or an alternative business on the site would not arise. Given the limited scale of the scheme, I attach only moderate weight to these benefits.

21. The appellant argues that the proposal would no more obscure the listed building than the current use of the site and would enhance its setting. However, the proposed two storey dwelling would introduce a larger building on the site than the present single storey portacabin and as such would obscure the listed building to a greater extent. Moreover, given my conclusion on the harm to the significance of the listed building that I have set out above, even if the proposed garden fence was replaced with a railing, the proposal would harm the setting of Hollins Mill.
22. Overall, the weight that I ascribe to the public benefits resulting from the proposed development is not sufficient to outweigh the great weight that I attach to the harm I have identified. As such, the proposed development does not comply with paragraph 208 of the Framework. It would also be contrary to the requirements of Policies HE1, BT1 and HS1 of the CLP which, together, amongst other matters, seek to ensure that development takes account of its local context, conserves or enhances heritage assets and does not harm those elements that contribute to their significance, including their settings.

Highway Safety

23. The appeal site is located off Rochdale Road which is a busy main road subject to a 30mph speed limit through the settlement of Walsden.
24. Based on the Council's assessment, in the absence of any evidence to justify a reduction in line with Manual for Streets (MfS)¹, the access would require a 43 metre visibility splay in both directions from a point 2.4 metres central to the driveway from the kerb of the access. Adequate visibility is required at accesses to ensure that emerging and approaching drivers have sufficient warning of each other's presence and intentions to allow safe manoeuvring.
25. MfS explains that visibility splays should normally be measured to the nearside of the kerb of the main highway. This is to allow for safe access to the highway when exiting the driveway. However, the plans submitted with the application do not show the visibility splays being measured to the nearside kerb. This would mean that cyclists and motorcyclists, who tend to travel closer to the nearside kerb edge, would not be clearly visible to a driver exiting the proposed driveway.
26. Based on the evidence before me, I cannot be satisfied that the required visibility distance could be achieved at the proposed site access, particularly having regard to the location of the warehouse building at Hollins Mill which is positioned at the back edge of the pavement along Rochdale Road to the south, and the wall and railings at the back edge of the pavement to the north.

¹ Manual for Streets Department for Transport 2007

27. From observations at my site visit, it would be unlikely that a driver exiting the proposed driveway in a forward direction would have a full view of the road in both directions until after the vehicle has manoeuvred onto the pavement. This would present a risk to pedestrians, especially small children. In addition, there would be insufficient space within the site for vehicles to enter and leave in a forward gear, making it likely that vehicles would be reversed either into or out of the driveway space.
28. The stopping of vehicles within the carriageway to reverse into the appeal site would be likely to conflict with the movement of vehicles and cycles along Rochdale Road, leading to situations which would be hazardous to the safety of those highway users. Reversing movements out of the driveway would also be likely to conflict with the movement of vehicles and cyclists on Rochdale Road.
29. On street parking outside the appeal site is unrestricted and at the time of my site visit on a week day late morning, albeit a snapshot in time, there were no vehicles parked in the immediate vicinity of the site. Whilst levels of on street parking could change throughout the day, even a limited number of parked vehicles would be likely to restrict the visibility of oncoming vehicles and cycles in both directions when exiting the appeal site in either a forward or a reverse gear. Reversing into the site between parked cars would be particularly hazardous. This would exacerbate the risk of conflicts and collisions occurring.
30. In considering this appeal, I have had regard to the Framework, which is unambiguous that developments should not cause highway safety to be adversely affected.
31. Although the number of vehicle movements that would result from the proposed development would be likely to be less than the existing car sales business at the site, the access point for this business is different to that proposed in this case. Vehicles are also currently able to turn within the site and exit in forward gear. Whilst pedestrians may be aware of the existing access, there is little evidence before me to demonstrate that the same risks would not pertain to the current scheme.
32. I find that the proposal would result in an unacceptable impact on highway safety. The proposal would therefore conflict with Policies BT1, BT4 and HS1 of the CLP, which require, amongst other things, that development creates no unacceptable traffic or safety problems and that access layout is designed to ensure the safe and free flow of traffic in the interests of highway safety. Conflict is also found with paragraph 114 of the Framework, which seeks to ensure that safe and suitable access to the site can be achieved for all users.

Flood Risk

33. The appeal site is located to the south of Walsden Water and the Rochdale Canal, within Flood Zone 3 according to the Environment Agency Flood Zone Map. There is no disagreement between the parties that the site is at risk of flooding. Indeed, the appellant states that the site has been the issue of flooding over the past 20 years and flooded to a depth of 150mm in 2015.
34. Paragraph 165 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is

- necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
35. Given the site's location in an area with a high probability of flooding, paragraph 168 of the Framework advises that the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. It states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.
 36. Paragraph 173 and Footnote 59 of the Framework require applications in flood risk areas to be accompanied by a site-specific flood risk assessment (FRA). Planning Practice Guidance² (PPG) advises that the FRA should demonstrate current and future risks to the development, off-site risks, measures to address any identified risks, and evidence to demonstrate that necessary sequential and exception tests are met. The Framework confirms this is relevant to all sources of flooding.
 37. Policy CC2 of the CLP sets out the Council's policy for flood risk management. It requires that development should follow a sequential risk based approach and be directed away from Flood Zones 2 and 3 in accordance with the principles of the Framework unless a closed list of criteria can be met.
 38. The appellant has not provided evidence in relation to the sequential test but has provided a Flood Risk Assessment (FRA) which includes limited information. The appellant argues that the Council carried out local flood mitigation works in 2016 and further mitigation measures have been included as part of the proposal that are proportionate to the scale of the development.
 39. The PPG³ states that 'Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Application of the sequential approach in the plan-making and decision-making process will help to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so, and developers do not waste resources promoting proposals which would fail to satisfy the test. Other forms of flooding need to be treated consistently with river and tidal flooding in mapping probability and assessing vulnerability, so that the sequential approach can be applied across all areas of flood risk.'
 40. In the absence of a sequential test from the appellant and given the objections from the Environment Agency and the Lead Local Flood Authority in this regard, I cannot be certain that all other potentially available, and less harmful alternative options in flood risk terms have been reasonably explored.
 41. Furthermore, residential development of the site would introduce a More Vulnerable development type as classified in Annex 3 of the Framework. Accordingly, in line with Paragraph 169 of the Framework and Table 2 of the PPG⁴, the exception test would also apply. This requires demonstration that development proposed in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and, that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood

² Paragraph: 020 Reference ID: 7-020-20220825

³ Paragraph: 023 Reference ID: 7-023-20220825

⁴ Paragraph: 079 Reference ID: 7-079-20220825

risk overall, taking climate change into account. Paragraph 171 makes it clear that both elements of the exception test should be satisfied for the development to be permitted.

42. No exception test has been provided in this case and no details of surface water outfall have been provided. Having regard to the vulnerabilities of the site as set out above, I find there is insufficient evidence to demonstrate that there would be no residual potential risk from surface water drainage as an additional possible source of flooding in the locality of the site.
43. Although photographs have been provided of an escape refuge to higher land opposite the site, during flooding events, some future residents - particularly the elderly or those with more limited mobility, would potentially have significant difficulty evacuating a site where pedestrian and vehicle routes could be inundated. Although the depth of water might be limited and the distance relatively short, Rochdale Road also lies within Flood Zone 3 and walking through moving water would not be safe. There is little evidence provided as to what measures might be capable of securing a more suitable evacuation route or, therefore, whether it could be achieved without undue risk to residents or those who might consequently be responsible for their evacuation.
44. Taking all the above into account, I conclude that the proposal has not met the requirements of the sequential test, the appellant has failed to provide an acceptable FRA and it has not been demonstrated that the proposal would not be at risk from flooding. The proposed development would therefore, based on the information presented, have an unacceptable effect on flood risk and would conflict with Policy CC2 of the CLP, which seeks to manage flood risk in new development. The proposed development would also be contrary to advice in chapter 14 of the Framework and PPG that collectively seek to steer development to areas with the lowest risk of flooding from any source.

Other Matters

45. At the time of determining the application, the Council's Officer Report confirms that the Council could not demonstrate a 5-year deliverable supply of housing land. However, the adoption of the CLP now means that the Council can demonstrate a 5-year housing land supply. On this basis, and in the absence of any evidence to the contrary, policies for the supply of housing are therefore up to date.
46. The Town Council's support for the scheme is not a reason in itself to allow development that is unacceptable.

Conclusion

47. The proposed development would conflict with the development plan as a whole and there are no material considerations which indicate that the decision should be made other than in accordance with it.
48. Therefore, for the reasons given, the appeal is dismissed.

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INSPECTOR