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## Appeal Decisions

Site visit made on 23 January 2024

**by K A Taylor MSC URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> February 2024**

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### **Appeal A Ref: APP/R0660/W/23/3327907**

**Synergist Express Ltd, Clarence Mill, Clarence Road, Bollington, Macclesfield SK10 5JZ**

- 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 Lord Rupert Beckwith-Moore against the decision of Cheshire East Council.
  - The application Ref 22/3976M, dated 7 October 2022, was refused by notice dated 19 April 2023.
  - The development proposed is new external air handling unit including fixing of pipework to building.
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### **Appeal B Ref: APP/R0660/Y/23/3327999**

**Synergist Express Ltd, Clarence Mill, Clarence Road, Bollington, Macclesfield SK10 5JZ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Lord Rupert Beckwith-Moore against the decision of Cheshire East Council.
  - The application Ref 22/3977M, dated 7 October 2022, was refused by notice dated 19 April 2023.
  - The works proposed are new external air handling unit including fixing of pipework to building.
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## **Decision**

### *Appeal A*

1. The appeal is dismissed.

### *Appeal B*

2. The appeal is dismissed.

## **Preliminary Matters**

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
  4. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. In the interests of natural justice both main parties have had the opportunity to make representation. In reaching my decision I have had regard to the revised Framework.
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5. I have also had regard in so far relevant, and in accordance with Paragraph 30 of the Framework in this appeal decision to the Bollington Neighbourhood Plan (BNP), brought into force 1 June 2018, which is identified as part of the appeal submissions.
6. The application form sets out the description of the proposed development and works as set out in the banner heading above. This is replicated within the accompanying design and access statement. However, the Heritage Statement refers to the replacement of vents in 6 windows with glass to return them to their original appearance. The Council in their evidence have also noted this and assessed on this basis.
7. I observed at the time of the site visit that these windows were not on the floor which would serve the Synergist offices identified on the plans which are located on the third floor. In the interests of natural justice, the main parties were given the opportunity to comment on the position and consideration of the window(s) in the appeals. I have had regard to the appellant's submissions, which clarifies that there is only 1 window affected by the alteration, with the 6 windows referred to being on the floor below.
8. Nevertheless, I am not presented with substantive evidence of which window(s) or full details of the works that would be undertaken to replace any glazing. Any such alteration or works would require correct identification and detailed plans, and considering I have insufficient evidence it would not be appropriate to condition such works or detail. Therefore, I have considered the proposal solely based on the installation of the external air handling units including fixing of pipework. The window(s) are as such future matters between the main parties.

### **Main Issues**

9. The main issues are whether the proposal would preserve a grade II listed building Clarence Mill, Clarence Brow and any of the features of special architectural or historic interest that it possesses, and linked to that whether it would preserve or enhance the character or appearance of the Conservation Area.

### **Reasons**

10. The appeal site relates to a grade II Listed building known as Clarence Mill which was listed in 1977 (ref:1138958). A former cotton mill c1830, with an extension to the left dated 1854, and extension to the right c1900 associated with the company partnership of Brooks Swindells. The building is some 5 storeys, 51-bay canal front and constructed of hammer-dressed sandstone with a green and Welsh slate roof, timber windows, projecting 6 stage water tower including ornate staircase and clasping square pilasters. It has a tall red brick chimney to the southwest corner and one storey 2-bay engine house. The listing refers to the building as a fine example of a mid 19C cotton mill by '*The industrial Archaeology of North West England*'. It is situated adjacent to the Macclesfield Canal and is within the Macclesfield Canal Conservation Area (CA).
11. There is a former tunnel through the building which now creates a pedestrian open 'passageway' from the canal side to the rear of the building and car park. The passageway is concrete with a mix of concrete block walls and brick with render and features steps leading down from the north. There appears to be a

service doorway with some pipework running along the ceiling underneath. Its former historic association was to convey boiler ash across the canal to the ash dump located in the woodland. The passageway, despite the materials is therefore part of the intrinsic character and in my view associated to the former historic use of the cotton Mill, and forms part of the building including its historical industrial heritage.

12. There is no doubt that the use of the building has evolved over time and has been converted into various mixed uses of commercial and businesses to the lower floors with residential apartments on the upper floors. The building and wider site has undergone several changes throughout time including the multi-storey car park to the rear serving the occupiers and visitors to the site. However, it retains its historical and architectural features from its industrial heritage and is a significant and prominent building of some 5 storeys within the CA and along the setting of the canal.
13. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated from its architectural and historic interest as a well-preserved and fine example of a mid-19C Mill building with links to the industrial heritage of spinning and weaving cotton in Bollington.
14. The CA was designated in 1975 and was amongst the first linear conservation areas to be designated in the UK. The CA encompasses the Mill building, its landscaped setting and along the Macclesfield canal including canal bridges that fall within the Macclesfield and Congleton Boroughs. The Macclesfield Canal is of considerable architectural, historic, and scenic interests from 1831 with it revolutionising industrial transportation from canal to rail and has special interests of significance from the 19<sup>th</sup> century as well as being an important recreational resource.
15. The Macclesfield Canal Conservation Area Appraisal and Management Proposals, 2009 identifies Clarence Mill as one of the iconic built buildings that directly fronts the canal. It is identified in Character Area 2, where there are several listed buildings and key characteristics include the use of locally quarried materials, green corridors, vegetation and wider landscape views. This area of the CA largely relates to the former railway line which followed a route adjoining the canal. The appraisal requires that the Council will only encourage the highest quality schemes that respond positively to their historic setting. As such, Clarence Mill is a building of historic and architectural interests that makes a significant positive contribution to the character and appearance of the CA.
16. The proposal would involve the installation of 2 air handling units (heat pumps) which would be stacked and served by chiller pipes. These units would be positioned within an alcove in the passageway through the building. The units would be fixed to a rack with the chiller pipes fixed to the block wall. The associated pipes and wiring would be taken through the building to an existing server area either from existing openings or above ceiling panels. The proposal would serve the internal offices of the unit occupied by Synergist Ltd located on the third floor to facilitate the existing use.
17. Despite that the units would be sited within the passageway and partly hidden within the alcove area. The units would still be fixed and attached to the building. The chiller pipes would be fixed to the existing blockwork which at

present has no openings in the alcove and through timber soffits along the ceiling with the intention to join existing service openings in the building. This would cause some damage to the historic building fabric and there is limited evidence on the exact positioning of fixings or conduits from the ground floor up to the third-floor offices. In addition, the units would appear bulky, alien and conspicuous given that the passageway has limited paraphernalia. Taken cumulatively the works would add and detract from the historic tunnel, now public passageway and the building.

18. The appellant has suggested that the proposal would not harm the listed building because it would not be more widely visible in the public domain and the chiller pipes would not be exposed to views externally. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
19. Given the above, I find that the proposal would fail to preserve the special architectural and historic interest of the listed building. This listed building is an important element in the CA and a positive contributor to its character and appearance. It must follow that if the listed building would be harmed by the proposal, then there would be a similarly harmful impact on the character and the appearance, and significance of the CA. Moreover, as I saw the proposal would be clearly discernible in views from within the passageway, the units would not be hidden or screened in the public realm of the passageway and the CA which the building and passageway is sited within. Consequently, I give this harm considerable importance and weight in the planning balance of the appeal.
20. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the proposal would result in a negative impact on the historic and architectural interests of the building, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
21. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.
22. The appellant is of the opinion that the proposal would be beneficial because it would result in the improved working environment within one of the mill units for the comfort of the occupants and to prevent the tenant from relocating the operations. However, the weight I give to this is lessened by the lack of evidence, including whether the less harmful alternatives for occupant comfort have been considered which would have less harm upon the buildings significance and may still deliver the benefits of minimising the south facing location, and there is limited evidence on the source of heat from the computer servers.
23. I also saw that there were existing wall mounted units within the offices and there is nothing to suggest these are inappropriate for comfort. The existence of other units in the wider building, does not justify further harmful proposals.

Therefore, these are private benefits that would only serve the occupants of the unit at the present time and not the wider building.

24. The appellant also suggests it would retain some 28 jobs and continued use of the unit in the wider site and the likely climate change will increasingly necessitate cooling of office environments. I agree that any reduction in emissions or towards climate change would represent a public benefit, and the economic and social aspects of the proposal attracts considerable weight.
25. However, the application form indicates that the proposal would not increase or decrease the number of employees, and there is no substantive evidence that the continued viable use of the offices and appeal site as a whole is dependent on the proposal as the building has an ongoing mixed use and provision that would not cease in its absence.
26. Regarding the appellant's suggestion that a benefit of the scheme would allow the reinstatement of 6 windows to their original appearance. I have already set out the reasons above on this matter and that it does not relate to the correct floor where the proposal would serve. Therefore, the weight I give to this is limited. Even if, I considered this as a public benefit to the building, there is insufficient evidence of how the 1 window currently serving the offices would be altered. Moreover, it appears that alterations that have already been carried out to windows are unauthorised.
27. Therefore, these public benefits are not sufficient to outweigh the harm that I have identified. In the absence of any substantiated evidence to the contrary neither would any public benefits accrue in relation to the CA.
28. I have also considered the arguments made by the Council and interested parties that the current proposal would set a precedent for similar development at Clarence Mill. Whilst each application and appeal must be treated on its individual circumstances, I can appreciate the concerns that approval of this proposal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern to preserving the special architectural and historic interest of the listed building. Allowing this appeal would make it more difficult to resist further applications for planning permission and/or listed building consent for similar developments and works, and I consider that their cumulative effect would exacerbate the harm which I have described above.
29. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the grade II listed building and the character or appearance of the CA would be neither conserved nor enhanced. Therefore, it would fail to satisfy the requirements of the Act, paragraph 205 and 206 of the Framework and Policies SE1, SE7 and SD2 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017, and Policies HER1, HER2 and HER3 of the Cheshire East Local Plan, Site Allocations and Development Policies Document, 2022, which together the policies amongst other matters, require development proposals to make sustainable and positive contributions to their surroundings; and requires development that causes harm to, or loss of, a designated heritage asset to provide a clear and convincing justification as to why the harm is considered acceptable; and developments within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

30. In addition, it would fail to satisfy Policy BEP.1 and BEP.2 of the BNP, these policies set out that proposals will only be supported if the conserve and enhance the conservation area, Bollington's historical assets and their settings, and do not support alteration or development which adversely affects architectural or historic character of the building or its setting considering the level of harm in relation to the public benefits that may be gained by the proposal.

### **Other Matters**

31. I have had regard to the technical evidence<sup>1</sup> relating to noise and vibration which has been submitted in support of the appeal. This acknowledges that there are noise sensitive premises within the vicinity of the appeal site and sets out that the plant would only operate on weekdays during daytime hours (08:00-18:00). I note that the Council have accepted the methodology, conclusions, and recommendations of this report assessed against BS4142:2014. I have no substantive technical evidence to the contrary to disagree with these findings or there would be harm to the living conditions of residential occupiers with particular regard to noise or vibration. Suitably worded conditions could address the control of the units and the timings of operation. However, this is a neutral matter that weighs neither for nor against the proposal.
32. Interested parties have raised concerns regarding pollution, climate change and environmental harm. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those additional concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

### **Conclusion**

33. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

*KA Taylor*

INSPECTOR

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<sup>1</sup> Environmental noise survey and plan noise assessment, Sandy Brown dated 25 August 2022