

Application Number 19/00062/FUL

Proposal Variation of condition 3 (approved plans) of planning permission 17/00949/OUT to alter the layout of the proposed development.

Site Unit 14 Glover Centre Egmont Street Mossley

Applicant McKay Homes Ltd

Recommendation Grant planning permission subject to conditions

Reason for report A Speakers Panel decision is required because the application constitutes major development.

1. APPLICATION DESCRIPTION

- 1.1 The applicant seeks to vary the plans approved under outline planning permission (ref. 17/00949/OUT) to make some revisions to the layout of the scheme. Planning permission 17/00949/OUT granted outline planning permission for the erection of 14 dwellings on the site, in the form of 8 dwelling houses and 6 apartments in one block in the north western corner of the site. In addition to the principle of development, the means of access and the layout of the scheme were approved at the outline stage.
- 1.2 The amendments seek to increase the distance between the western elevation of the apartment building and the western boundary of the site. Alterations to the house types are proposed to introduce a detached unit at plot 1, with a pair of semi-detached units and plots 2 and 3, replacing the terrace of 3 units originally approved adjacent to the southern boundary of the site. The terrace of 5 units originally approved adjacent to the eastern boundary would be replaced by 2 pairs of semi-detached units and a single detached unit.
- 1.3 Other minor changes to the previously approved layout include a connection between the hardstanding along the western edge of the apartment development and the Canal tow path beyond the western boundary of the site and alterations to the car parking layout associated with the apartments. The number of car parking spaces immediately to the east (rear) of the apartment building would be reduced from 6 to 4, with 2 spaces provided on the opposite side of the access road. The end result would be a reduction in the number of parking spaces across the development, following the loss of the 3 visitor spaces included in the originally approved scheme.

2. SITE & SURROUNDINGS

- 2.1 The application site is occupied by buildings and hardstanding associated with the previous industrial use of the land. A brick building with a profile sheet roof fronts onto Egmont Street on the northern boundary, with smaller structures in the central and southern parts of the site. The Huddersfield Narrow Canal runs adjacent to the western boundary of the site, with a dense belt of trees running the length of the eastern boundary.

2. RELEVANT PLANNING HISTORY

- 3.1 18/01091/REM - Reserved matters approval for the appearance, scale and landscaping of the development following the granting of outline planning permission 17/00949/OUT. – recommended for approval (a separate item on this agenda).
- 3.2 16/01163/OUT - Outline Application (access only) attached to 0.63Ha of land for proposed residential development including access from Cheshire Street (the application site included the land that is the subject of 17/00949/OUT and additional land to the south) –

resolution to approve at June 2017 meeting of Speakers Panel – application subsequently withdrawn.

3.3 13/00169/OUT – Proposed Residential Development - approved

3.4 07/00050/OUT - Proposed Residential Development - approved

4. RELEVANT PLANNING POLICIES

4.1 National Planning Policy Framework (NPPF)

4.2 Planning Practice Guidance (PPG)

4.3 **Tameside Unitary Development Plan (UDP) Allocation**
Unallocated, within the settlement of Mossley.

4.4 Part 1 Policies

1.3: Creating a Cleaner and Greener Environment.

1.4: Providing More Choice and Quality Homes.

1.5: Following the Principles of Sustainable Development

1.6: Securing Urban Regeneration

1.10 Protecting and Enhancing the Natural Environment

1.12: Ensuring an Accessible, Safe and Healthy Environment

4.5 Part 2 Policies

H1: Housing Land Provision

H2: Unallocated Sites.

H4: Type, size and affordability of dwellings

H5: Open Space Provision

H7: Mixed Use and Density (Density being relevant to this proposal)

H10: Detailed Design of Housing Developments

OL4: Protected Green Space

OL7: Potential of Water Areas

OL10: Landscape Quality and Character

T1: Highway Improvement and Traffic Management.

T10: Parking

T11 Travel Plans

T13: Transport Investment

C1: Townscape and Urban Form

N1b: National Nature Conservation Sites

N2: Locally Designated Nature Conservation Sites

N3: Nature Conservation Factors

N4: Trees and Woodland

N5: Trees Within Development Sites.

N6: Protection and Enhancement of Waterside Areas

N7: Protected Species

MW11: Contaminated Land

MW14 Air Quality

U3: Water Services for Developments

U4 Flood Prevention

U5 Energy Efficiency

4.6 Other Policies

Greater Manchester Spatial Framework - Publication Draft October 2019;

The Greater Manchester Combined Authority (GMCA) has consulted on the draft Greater Manchester Spatial Framework Draft 2019 ("GMSF") which shows possible land use allocations and decision making policies across the region up to 2038. The document is a material consideration but the weight afforded to it is limited by the fact it is at an early stage in its preparation which is subject to unresolved objections.

Residential Design Supplementary Planning Document; and,
Trees and Landscaping on Development Sites SPD adopted in March 2007.

4.7 National Planning Policy Framework (NPPF)

Section 2: Achieving sustainable development
Section 5: Delivering a sufficient supply of homes
Section 8 Promoting healthy and safe communities
Section 11: Making efficient use of land
Section 12: Achieving well designed places
Section 15: Conserving and enhancing the Natural Environment

Planning Practice Guidance (PPG)

- 4.8 This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5. PUBLICITY CARRIED OUT

- 5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement. This is in addition to a site notice and press notice.

6. RESPONSES FROM CONSULTÉES

- 6.1 Borough Tree Officer: Raises no objections to the proposals. Details of the proposed landscaping scheme should be secured by condition.
- 6.2 United Utilities: No objection to the proposed development subject to conditions relating to the details of foul and surface water drainage (including management of maintenance of sustainable drainage systems to be installed) being attached to any approval.
- 6.3 Greater Manchester Ecological Unit (GMEU): No objections to the proposals subject to the imposition of a condition requiring the submission and approval of an Environmental Construction Method Statement, including details of how pollution of the Canal waters is to be avoided during the construction phase of the development.
- 6.4 Borough Contaminated Land Officer: Recommends that a standard contaminated land condition is attached to any planning approval granted for development at the site, requiring the submission and approval of an assessment into potential sources of contamination and a remediation strategy.
- 6.5 Borough Environment Health Officer: Raises no objections to the proposed development subject to the imposition of conditions limiting the hours of works and deliveries during the construction process, requiring the submission and approval of bin storage arrangements serving the development and the approval of a soundproofing scheme to mitigate the impact of noise associated with adjacent uses on the residential amenity of the future occupants of the development.

- 6.6 Local Highway Authority: Raises no objections to the proposals subject to the imposition of conditions requiring the laying out (and retention free from obstruction thereafter) of the car parking spaces prior to the first occupation of the development, the retention of pedestrian visibility splays on either side of the proposed access arrangements, the submission of a survey of the condition of the highway and the submission of a Construction Environment Management Plan prior to the commencement of development.
- 6.7 Greater Manchester Police (Design Out Crime Officer): (comments on the Impact Statement submitted with the application) – no objection in principle subject to further details being provided at the reserved matters stage.
- 6.8 Environment Agency: No objections to the proposals subject to a condition securing compliance with the mitigation measures detailed in the Flood Risk Assessment submitted with the planning application.
- 6.9 Mossley Town Council: No comments received. The Town Council did consider the originally approved outline planning application and declared that they had no comments to make.
- 6.10 Natural England – no objections to the application following the submission of indicative drainage proposals which suggest that the site is capable of being drained in a manner that would not result in an adverse impact on the ecological value of the Canal, which is a designated Site of Special Scientific Interest.
- 6.11 Canal and Rivers Trust (C&RT) – following amendments to the layout of the proposed development, including the relocation of the bin store and the revision to the proposed boundary treatment along the boundary with the Canal, the C&RT acknowledge that the scheme has improved from the original submission. Some concerns remain regarding the management of the land between the western edge of the apartment building and the Canal towpath, some of which is within the red line boundary, some is not. The C&RT do acknowledge that this matter could be covered by a planning condition for land within the red line site area.

7. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 No third party representations have been received.

8. ANALYSIS

- 8.1 National Planning Practice Guidance promotes flexible options for planning permissions. Section 73 of the Town and Country Planning Act 1990 allows for applicants to apply to the Local Planning Authority to amend or vary conditions placed on a planning consent. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. The only restriction under section 73 is that planning permission cannot be granted to extend the time limit within which a development must be started.
- 8.2 NPPG advises that; 'In deciding an application under section 73, the local planning authority must only consider the disputed condition's that are the subject of the application – it is not a complete re-consideration of the application.' The original planning permission will continue to exist.
- 8.3 The principle of development was established through the granting of outline planning permission. That consent also approved the layout and the means of accessing the development. The proposed amendments to the plans do not affect the access to the

development as previously approved but do propose revisions to the layout and parking arrangements.

8.4 The outline permission is subject to a Section 106 Agreement which secures financial contributions towards highway safety and off site green space enhancement schemes. The issue of contributions is therefore not to be revisited in this application. There is a clause in the Agreement which allows variation applications such as this to be approved without affecting the obligations that the developer has committed to as part of the original planning permission. As such, no deed of variation to the Section 106 Agreement would be required to ensure that the obligations are still legally binding.

8.5 The issues to be assessed in the determination of this planning application are:

- The impact of the revisions to the previously approved layout on the character of the surrounding area.
- The impact of the revisions to the previously approved layout on the residential amenity of neighbouring properties
- The impact of the revisions to the previously approved layout on highway safety.

9. CHARACTER AND APPEARANCE

9.1 The proposed revisions to the layout of the scheme would not result in changes that would significantly alter the impact of the proposed development on the character of the surrounding area. The scheme would remain outward facing, with buildings fronting the Canal and Egmont Street. The revised layout would still have the potential to create a positive impact on the environment along the Canal towpath and contribute to the regeneration of the wider area, subject to the development being of appropriate scale and appearance, which are matters to be determined at the reserved matters stage.

10. RESIDENTIAL AMENITY

10.1 The separation distance between the south western boundary of the site and the corresponding boundary of the site on the opposite side of the Canal would be approximately 24 metres. The current planning application for development on that neighbouring site (Ref. 18/01069/FUL) proposes a 2 storey development which would face the boundary with the Canal. The separation distance in this relationship would increase slightly from the previously approved position. Given the height of the two proposals, it is considered that the separation distance to be retained would exceed the requirements of the Residential Design Guide (RDG) where elevations with habitable room windows face each other.

10.2 Given the oblique relationship and the extent of the separation distance to be retained, it is considered that the scale and appearance of the proposed apartment building would not result in an adverse impact on the amenity of the properties on the opposite side of Egmont Street to the north east of the site.

10.3 The revision to the layout as originally approved at the outline stage has resulted in plot 1 being positioned closer to the southern gable elevation of the apartment building. To ensure that there would be no adverse impact on the amenity of the future occupiers of that property, the internal layout could be designed to ensure that unreasonable overshadowing of habitable room windows could be avoided. This matter is ultimately to be resolved at the reserved matters stage as part of the appearance of the development but in principle is considered to be acceptable.

- 10.4 Whilst the position of the apartment building has also been slightly revised, 21 metres would be retained between the north eastern elevation of the apartments and the corresponding front elevations of units 4-8 on the eastern edge of the development. On that basis and given that the main access area and parking for the apartment building would be located within the intervening distance, it is considered that the amenity of the future occupiers of the affected units in that relationship would be adequately preserved.
- 10.5 The proposed amendments would not result in any changes to the separation distances between the properties at plots 4 to 8 and the properties on Cheshire Street to the east of the site or no. 60 Egmont Street to the north east of the site. The proposed amendments to the layout would not result on a materially greater impact on the residential amenity of those neighbouring properties than the extant scheme therefore.
- 10.6 Following the above assessment, it is considered that the proposed changes to the layout of the development would not result in an adverse impact on the residential amenity of any of the neighbouring properties or the future occupants of the development.

11. HIGHWAY SAFETY

- 11.1 The proposed amendment to the location of the apartment building has resulted in an alteration to the parking layout associated with the apartment building. The proposal would result in the loss of 3 visitor spaces originally proposed but the scheme still proposes 1 car parking space per property.
- 11.2 Given that the apartments would be 2 bedroom units, it is considered that 1 space per unit would not result in a detrimental impact on highway safety. As identified in assessing the original outline application, the site is considered to be in a sustainable location, within walking distance of regular bus services and Mossley train station. The proposed plans indicate that each of the 6 apartments would include a cupboard which would be at least 0.6m deep x 2m wide, which would be sufficient to provide 1 cycle parking space per apartment.
- 11.3 A condition specifying that each apartment will have a dedicated internal cycle parking space can be added to the decision notice. Given this situation, the scale of the development is considered not to result in harm to highway safety and should therefore not be refused on that basis, in accordance with the guidance contained within paragraph 109 of the NPPF.

12. OTHER MATTERS

- 12.1 The Canal and Rivers Trust raised concerns regarding the use and maintenance of the strip of land between the western elevation of the apartments and the Canal towpath beyond the western boundary of the site. The amended layout provides for a direct pedestrian link from the development to the Canal tow path and the Section 106 Agreement attached to the outline planning permission requires details of the management of all areas of public realm within the scheme to be approved. This would include all land within the red line boundary, inclusive of the strip of land within the applicant's ownership to the west of the apartment building. Land further west of the red line boundary is not within the control of the applicant (as confirmed by the agent) and it is therefore considered not to be reasonable to require the provisions of the maintenance scheme in the Section 106 to extend to this area.
- 12.2 Natural England requested that further information be provided in relation to how surface and foul water are to be drained from the development, to ensure that there is no adverse impact on the ecological value of the Canal, which is designated nationally as a Site of Special Scientific Interest (SSSI) and locally as a Site of Biological Importance (SBI).

- 12.3 The applicant has provided indicative details of these proposals which demonstrate that, in principle, surface and foul water connections can be made to the main sewerage network without requiring attenuation measures that would affect the Canal. Condition 11 of the original outline planning permission requires the submission and approval of a detailed drainage strategy to serve the development and that condition can be re-imposed. The indicative scheme is considered sufficient to address Natural England's concern that drainage from the site should not impinge on the biodiversity value of the Canal.
- 12.4 The unaffected conditions that were attached to the original planning permission are all considered to remain relevant and necessary to make the scheme acceptable in planning terms and are therefore proposed to be re-imposed should this variation of condition application be approved.

13. CONCLUSION

- 13.1 It is considered that the proposed amendments to the layout would be relatively minor in nature and would not result in an adverse impact on the character of the surrounding area, the residential amenity of neighbouring properties or highway safety.
- 13.2 There are no objections to the proposals from the statutory consultees in relation to the revised layout of the scheme.
- 13.3 The application is therefore considered to accord with the relevant national and local planning policies listed earlier in this report.

14. RECOMMENDATION

Grant planning permission, subject to the following conditions:

1. Application for approval of reserved matters must be made not later than the expiry of three years from 24.09.2018 (i.e. the date on which planning application ref. 17/00949/OUT was approved) and the development must be begun not later than the expiry of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Before any development is commenced approval shall first be obtained from the Local Planning Authority with respect to the reserved matters, namely the landscaping, scale and appearance of the development.
3. The development hereby approved shall be carried out in accordance with the following approved plans:
 - 1:1250 Site location plan (Drawing no. 3134/15A)
 - Proposed site plan (Drawing no. 3134/17N) (insofar as it relates to the means of access and layout of the development only)
4. Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples and/or full specification of materials to be used: externally on the buildings; in the construction of all boundary walls, fences and railings; and, in the finishes to all external hard-surfaces have been submitted to, and approved in writing by, the local planning authority. Such details shall include the type, colour and texture of the materials. Development shall be carried out in accordance with the approved details.
5. The car parking spaces to serve the development hereby approved shall be laid out as shown on the approved proposed site plan (Drawing no. 3134/17M), prior to the

occupation of any of the dwellings and shall be retained free from obstruction for their intended use at all times thereafter.

6. Notwithstanding the details shown on the approved plans, no development shall commence until scaled plans detailing the construction of the access, including vehicular swept paths and visibility splays to be maintained free from obstruction on both sides of the access to serve the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
7. No development shall commence until details of tree protection measures to meet the requirements of BS5837:2012 have been installed around the trees on the eastern boundary of the site. The protection measures shall be installed in accordance with the approved details prior to the commencement of development and shall be retained in situ for the duration of the construction works. The construction works shall be carried out in accordance with the approved details.
8. During demolition/construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.
9. No development shall commence until such time as a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:
 - Wheel wash facilities for construction vehicles;
 - Arrangements for temporary construction access;
 - Contractor and construction worker car parking;
 - Turning facilities during the remediation and construction phases;
 - Details of on-site storage facilities;

The development shall be carried out in accordance with the approved Construction Environmental Management Plan.

10. No part of the development hereby approved shall be occupied until details of the means of storage and collection of refuse generated by the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include scaled plans showing the location of storage and the means of enclosure. The bin storage arrangements for each dwelling shall be implemented in accordance with the approved details prior to the occupation of that dwelling and shall be retained as such thereafter.
11. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Foul and surface water shall be drained on separate systems and in the event of surface water draining to the public surface water sewer, details of the flow rate and means of control shall be submitted. The scheme shall include details of on-going management and maintenance of the surface water drainage system to be installed. The development shall be completed in accordance with the approved details and retained and maintained as such thereafter.

12. None of the dwellings hereby approved shall be occupied until details indicating that the development shall achieve Secured By Design status have been submitted to and approved in writing by the Local Planning Authority. The crime prevention measures shall be implemented in accordance with the approved details, prior to the first occupation of any of the dwellings and the development shall be retained as such thereafter.
13. No tree felling or vegetation removal shall take place during the optimum period for bird nesting (March to July inclusive) unless otherwise agreed in writing with the Local Planning Authority.
14. No development, other than site clearance and site compound set up, shall commence until such time as the following information has been submitted in writing and written permission at each stage has been granted by the Local Planning Authority.

i) A preliminary risk assessment to determine the potential for the site to be contaminated shall be undertaken and approved by the Local Planning Authority. Prior to any physical site investigation, a methodology shall be approved by the Local Planning Authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration.

ii) Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment (including controlled waters) shall be approved by the Local Planning Authority prior to implementation.

iii) Any additional or unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as practicably possible and a remedial scheme to deal with this approved by the Local Planning Authority.

iv) Upon completion of any approved remediation schemes, and prior to occupation, a completion report demonstrating that the scheme has been appropriately implemented and the site is suitable for its intended end use shall be approved in writing by the Local Planning Authority.

The discharge of this planning condition will be given in writing by the Local Planning Authority on completion of the development and once all information specified within this condition and other requested information have been provided to the satisfaction of the Local Planning Authority and occupation/use of the development shall not commence until this time.

15. Any windows above ground level in any of the following elevations of the development hereby approved (as identified on the approved proposed site plan) shall be fitted with obscured glazing (to meet the requirements of Pilkington Level 3 as a minimum) and shall be fixed shut below a height of 1.7 metres above the internal floor level of the rooms that they serve:
 - first floor windows in the north eastern elevation of plot 8
 - first floor windows in the southern elevation of the apartment building

The development shall be retained as such thereafter.

16. No development shall commence until an Environmental Construction Method Statement detailing how pollution of the Canal adjacent to the western boundary of the site is to be avoided during the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

17. No development shall commence until an acoustic assessment has been undertaken on the development site and has been submitted to and approved in writing by the Local Planning Authority. The assessment shall take account of all local noise sources that may affect the development, including noise from deliveries to and from adjacent commercial uses (including the wood recycling plant), activity in the service yards and any plant and machinery associated with those uses. The assessment shall detail the measures considered necessary to mitigate the impact of the identified noise sources and shall include manufacturer's specifications and scaled plans of the measures to be installed. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
18. Prior to the occupation of any part of the development hereby approved, visibility splays shall be provided on both sides of the site access where it meets the footway. The visibility splays shall measure 2.4metres along the edge of the site access and 2.4 metres along the footway. It must be clear of anything higher than 600mm above ground level. The visibility splays shall be retained as such thereafter.
19. No development shall commence until scaled plans detailing the existing and proposed ground levels on the site and the finished floor and ridge levels of the dwellings (with reference to a fixed datum point) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
20. Prior to the first occupation of any of the dwellings hereby approved, details of a scheme for external lighting to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a scale plan indicating the location of the lighting to be installed, a LUX contour plan indicating the levels of light spillage and scaled elevations of lighting columns/supporting structures. The external lighting scheme shall be implemented in accordance with the approved details prior to the first occupation of any of the dwellings and shall be retained as such thereafter.
21. The development shall be carried out in accordance with the mitigation measures detailed in the Flood Risk Assessment submitted with the planning application and shall be retained as such thereafter.
22. No development above ground level shall commence until details of secured cycle storage to serve the dwellings hereby approved has been submitted to and approved in writing by the Local Planning Authority. The details shall indicate that space for 1 bicycle to be stored within each apartment and that space shall be provided for secured cycle storage within each of the dwellings. The cycle storage shall be implemented in accordance with the approved details and retained as such thereafter.