

Application Number 19/00614/FUL

Proposal	To vary condition 2 (specifying approved plans to allow for changes to elevations) of planning permission ref. 15/01038/FUL - Demolition of existing fire damaged care home to allow for the redevelopment of the site to form a new build block of 16, two bed self-contained apartments
Site	Charlotte House Residential Home, Albert Road, Hyde.
Applicant	Mr J Bromfield
Recommendation	Approve subject to conditions
Reason for report	A Speakers Panel decision is required in accordance with the Council's Constitution because this is a major application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015

1.0 APPLICATION DESCRIPTION

- 1.1 Planning permission (ref. 15/01038/FUL), granted with conditions in June 2016, allows for the demolition of what was a fire damaged care home to allow for the redevelopment of the site to form a new build block of 16, two-bed, self-contained apartments. A condition (no. 2) of that permission specifies the approved drawings in accordance with which the development shall be carried out.
- 1.2 Where there is an extant planning permission Section 73 (S73) of the Town and Country Planning Act 1990 allows for application to be made to vary or remove conditions associated with that planning permission. One of the uses of a section 73 application is to seek what is often called a minor material amendment to an extant planning permission.
- 1.3 The provisions of Section 73 do not apply if the planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun. In this case permission 15/01038/FUL was subject to a condition the effect of which was to require the development to be begun before 23 June 2019. The permission included the demolition of the existing care home and this took place some while ago and so the development has clearly begun, however the permission was subject to other conditions that required things to happen before commencement, so the question is whether the development has been lawfully begun.
- 1.4 Whether the development can be considered lawfully begun then depends upon if the intended functions of these other conditions was to prevent the commencement of work (or render it unlawful) before the conditions had been fulfilled. That will be the case if the condition goes to the heart of the planning permission and this is a matter of planning judgement. In this instance it was not the intended function of any of these other conditions to prevent the demolition of the building, which will constitute the commencement of the development, and so it is considered that the development has lawfully begun and the permission remains extant.
- 1.5 In order to facilitate proposed amendments to the approved development this application seeks to vary condition 2 of the extant planning permission, so that it would specify that the development must be carried out in accordance with the drawings that illustrate the amendments.

2.0 SITE & SURROUNDINGS

- 2.1 Situated on the western side of Market Street in the built-up area to the south of Hyde town centre, Charlotte House formed part of an enclave of substantial buildings close to the parish church of St George's. The area northwards towards the town centre is characterised by terraced houses built in a grid-iron formation.
- 2.2 The site of the former building is situated less than 500m from the heart of the town centre and less than 400m from the bus corridor along Market Street.
- 2.3 When in the process of being vacated, Charlotte House, which was a two-storey, detached building and having accommodated a twenty-bedroom care home, was damaged by fire in December 2010. The original building had been previously unsympathetically extended to the side and rear with a poor brick and window match.

3.0 PROPOSAL

- 3.1 As approved originally, the proposed new building is detached and rises to 4 storeys with the top, or fourth storey, being accommodated in the roof space with dormer windows. The new building was to be brick-built with a slate roof. The front and rear elevations were to be in three sections; a full-height, glazed central section, containing a stairwell, would connect the two brick-built sides of the elevations which would mirror each other's appearance with projecting bays.
- 3.2 The proposed amendment is the omission of the full-height, glazed central section so that at the front the walls of elevation would be entirely brickwork whilst at the rear the central section would be glazed above a doorway up to eaves level.

4.0 RELEVANT PLANNING POLICIES

- 4.1 **Tameside Unitary Development Plan (UDP) Allocation**
Unallocated

4.2 Part 1 Policies

- 1.3 Creating a Cleaner Greener Environment
- 1.4: Providing More Choice and Quality Homes.
- 1.5: Following the Principles of Sustainable Development.
- 1.11: Conserving Built Heritage and Retaining Local Identity.
- 1.12: Ensuring an Accessible, Safe and Healthy Environment.
- 1.13: Meeting Obligations on Minerals, Waste and Energy.

4.3 Part 2 Policies

- H2: Unallocated Sites.
- H4: Type, Size and Affordability of Dwellings.
- H6: Education and Community Facilities.
- H10: Detailed Design of Housing Developments.
- T10: Parking.
- C1: Townscape and Urban Form.
- N4: Trees and Woodland.
- N5: Trees Within Development Sites.
- MW11: Contaminated Land.

- 4.4 **National Planning Policy Framework (NPPF)**
Section 2. Achieving sustainable development
Section 5. Delivering a sufficient supply of homes

Section 9. Promoting sustainable transport
Section 11. Making effective use of land
Section 12. Achieving well-designed places

4.5 Other Policies

Residential Design Supplementary Planning Document.

It is not considered there are any local finance considerations that are material to the application.

4.6 Planning Practice Guidance (PPG)

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.

5.0 PUBLICITY CARRIED OUT

5.1 As part of the planning application process a notice was posted at the site on 7th August 2019 and was published in a local newspaper on 15th August 2019, and notification letters were sent out to 15 neighbouring properties site on 28th August 2019.

6.0 RESPONSES FROM CONSULTEES

6.1 Because the application seeks only approval for amendments to the appearance of the building no consultations were carried out.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 None received.

8.0 ANALYSIS

8.1 The principle of the development having been established by the grant of planning permission and, the proposed amendments being considered of a minor nature, the general arrangement remaining the same, the issues to be assessed in the determination of this planning application are the impacts on

the design and appearance of the development, and

any existing amenities.

9.0 DESIGN AND APPEARANCE

9.1 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve." The NPPF confirms that any decision should ensure that developments are sympathetic to local character and history while not discouraging innovation or change.

- 9.2 A consistent palette of external finishes would be used throughout the development so as to achieve a cohesive scheme that, whilst remaining identifiably contemporary, acknowledges the character of the locality within which it is set, including such features as artstone window sills and headers, and projecting bays.
- 9.3 It is therefore considered that the proposed amendments respect the vernacular and achieve the quality of design and appearance required by policies 1.3, 1.11, H10(a) and C1 of the UDP and Section 12 the NPPF.

10.0 EXISTING AMENITIES

- 10.1 The maintenance of the building line in the road from that of the original building to that now proposed would integrate the development comfortably with the existing urban grain. The footprint of, and fenestration in, the proposed building would remain as approved and so therefore would be the relationship with neighbours.
- 10.2 When granting the extant permission it was acknowledged that there would be a shortfall in the spacing required normally between habitable room windows in the new building and habitable room windows in a neighbouring building at Limefield House, to the north. The new building would be approximately only 2m closer to Limefield House than was the original building and so the increased incidence of over-looking and over-shadowing would also be only marginal, and no objection was, or has been, received from the occupiers of the neighbouring house. In these circumstances, due to the environmental benefits that would accrue from the site's redevelopment, the sub-standard spacing was accepted previously and, the permission being extant, is considered acceptable and compliant with policy H10(d) of the UDP and Section 12 of the NPPF.

11.0 OTHER ISSUES

- 11.1 Following the grant of the original permission the then prospective developer entered in to a binding agreement to provide a financial contribution to compensate for the impact of the development. Under that agreement the developer was to provide £6,400 towards green space. Where an application under section 73 is granted, the effect is the issue of a new planning permission and so a draft fresh agreement has been prepared relating to this permission, if granted, to provide the same contribution.

12.0 CONCLUSION

- 12.1 The proposed amendments being considered acceptable, according to Planning Practice Guidance the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Where an application under section 73 is granted, the effect being the issue of a new planning permission and that may be subject to conditions differing from those to which the original permission was subject.
- 12.2 Following the grant of the original planning permission application (ref. 19/00051/PLCOND) was made for approval of details reserved by various conditions. That application is not proceeding but various details submitted, in respect of the materials to be used in the external finishes to the building and site drainage were found to be acceptable. The same details are resubmitted in respect of the current application. It is therefore recommended that the approval be subject not only to condition 2, to which the original permission was subject, as proposed in the application, but also, in certain instances, to conditions differing from those to which the original permission was subject where additional information has been included in the current application and found to be acceptable.

RECOMMENDATION

That Members resolve that they would be MINDED TO GRANT planning permission for the development subject to the following:

- (i) The completion of a suitable legal agreement under S106 of the Town and Country Planning Act 1990 (as amended) for a £6,400 contribution towards open space to support the development;
- (ii) The discretion to refuse the application appropriately in the circumstances where a S106 agreement has not been completed within six months of the resolution to grant planning permission; and,
- (iii) That upon satisfactory completion of the above legal agreement that planning permission be GRANTED subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, ref. 200 a, received on 25.11.2015;

Planting Specification, received on 11.03.2019;

Proposed Site Plan, ref. M4570 (PL) 01 C,
Proposed Floor Plans, ref. M4570 (PL) 05 D,
Proposed Elevations, ref. M4570 (PL) 06 D, received on 10.07.2019; and,

Proposed Facing Materials schedule, ref. M4570,
Drainage Layout drawing ref. 17-2446-500, Rev P1, received on 25.09.2019.

WML Consulting's letter dated 1st October 2019 (Ref: 8795G/SCS)
Remediation Strategy dated October 2019 (Ref: 8795G-WML-00-XX-RP-G0003)]
 2. The materials to be used in the construction of the external finishes to the building hereby approved shall be those specified in the Proposed Facing Materials schedule, ref. M4570 Albert Road, Hyde, dated May 2019, in accordance with the details illustrated on the approved Proposed Elevations plan, ref. M4570 (PL) 06 D.
 3. All windows shall be constructed with reveals (or recesses) to the depth of one brick width.
 4. Prior to first occupation of the development, a scheme for any television/radio aerial/satellite dish or other form of antenna shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented with such approved details.
 5. Notwithstanding the provisions within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no television or radio aerial, satellite dish or other form of antenna shall be installed on the exterior of the building, other than those approved through the discharge of condition no.4.
 6. No external lighting shall be installed on the buildings or elsewhere on the site unless a scheme for such lighting has first been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be fully implemented.

7. All hard and soft landscape works shall be carried out in accordance with the approved details illustrated on the approved Proposed Site Plan, ref. M4570 (PL) 01 C and Planting Specification. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed previously with the local planning authority. Any newly planted trees or plants forming part of the approved landscaping scheme which, within a period of 5 years from the completion of the planting, are removed, damaged, destroyed or die shall be replaced in the next appropriate planting season with others of similar size and species by the developer unless the local planning authority gives written consent to any variation.
8. No part of the development hereby approved shall be occupied until a landscaping maintenance management plan for the development has been submitted to, and approved in writing by, the local planning authority. Following occupation, the management plan shall be implemented in accordance with the approved details.
9. The development hereby approved shall be drained of foul and surface water in accordance with the details illustrated on the Drainage Layout drawing ref. 17-2446-500, Rev P1.
10. No development shall take place until a site investigation of the nature and extent of any land instability due to historic mining operations has been carried out in accordance with a methodology which shall have first been submitted to and approved in writing by the local planning authority. The site investigations shall be undertaken in accordance with those details approved and the results of the site investigation shall be made available to the local planning authority before any development begins. In the event that any land instability issues are found resulting from, for example past mining activity, during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for development to be submitted to and approved by the local planning authority. Thereafter the remediation of the site shall be carried out in accordance with those details approved.
11. No above ground construction works shall take place until a report detailing the measures to be incorporated to minimising energy consumption and carbon dioxide emissions has been submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the measures included in the approved report.
12. The proposed development should be designed and constructed in accordance Secured by Design standards and shall seek to secure the 'Secure by Design' accreditation awarded by the Greater Manchester Police.
13. During construction no work shall take place on Sundays and Bank Holidays and outside the hours of 07.30 and 18.00 Monday to Friday and 08.00 and 13.00 on Saturdays.
14. The development hereby approved shall not be occupied until full details of the bin store, as indicated on the approved Proposed Site Plan, ref. M4570 (PL) 01 C, have been submitted to, and approved in writing by, the local planning authority. The bin store, which shall be fully enclosed and lockable, shall be provided prior to the occupation of any part of the development and thereafter maintained for its intended purpose at all times.
15. Prior to the first occupation of the development hereby approved, the car parking indicated on the approved Proposed Site Plan, ref. M4570 (PL) 01 C shall be provided and thereafter kept unobstructed and available for its intended purpose at all times.
16. A clear view shall be provided on both sides of the site access where it meets the footway in Albert Road. . It 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 the access, except for vertical iron railings to a design that includes rails of not greater than 15mm diameter spaced at not less than 100mm intervals

17. Prior to the first occupation of the development hereby approved, a Validation/Completion Report demonstrating all works and measures detailed in WML Consulting's letter dated 1st October 2019 (Ref: 8795G/SCS) and Remediation Strategy dated October 2019 (Ref: 8795G-WML-00-XX-RP-G0003) have been fully implemented shall be submitted to, and approved in writing by, the Local Planning Authority (LPA).

If, during development, contamination not previously identified is encountered, then no further development (unless otherwise agreed in writing with the Local Planning Authority (LPA)), shall be undertaken at the site until a remediation strategy detailing how this contamination will be appropriately addressed and the remedial works verified has been submitted to, and approved in writing by the LPA. The remediation strategy shall be fully implemented and verified as approved.

The discharge of this planning condition will be given in writing by the LPA on completion of the development and once all information specified within this condition and any other requested information has been provided to the satisfaction of the LPA and occupation of the development shall not commence until this time unless otherwise agreed in writing by the LPA.