

8. S.73 APPLICATION – REMOVAL OR VARIATION OF CONDITIONS 2, 3, 9 AND 40 ON PLANNING APPLICATION NP/DDD/0713/0582 AT ROCKMILL BUSINESS PARK, THE DALE, STONEY MIDDLETON (NP/DDD/0616/0564, P.3289, 22.08.2016, 422427 375647/AM)

APPLICANT: MR COLIN AND DAVID HALL

Site and Surroundings

The Rockmill Business Park complex forms part of the small group of industrial premises along the southern side of The Dale, some 390m beyond the confines of Stoney Middleton village. It is situated immediately adjacent to the south side of the A623, the main Chesterfield/Baslow/Chapel-en-le Frith Road. The existing buildings are at the foot of the steep sided valley, 'The Dale' which runs westwards from Stoney Middleton village with the A623 running along the valley floor. The existing buildings at Rockmill are mainly single-storey, with a small two-storey section at the eastern end.

A narrow brook runs eastwards between the site and the road. This land immediately adjacent to the brook is situated within Flood Risk Zone 3. Vehicular access into the site is via a small bridge over the brook. To the south of the building complex the land rises steeply. This land has now largely re-vegetated with young trees and vegetation. Within this area of steeply sloping valley side there is a small cave entrance which is situated 51m south-west of the building complex and outside of the application site boundary.

The second 'Cupola' site is situated 45m to the east of the main site and separated from it by an intervening lorry business, which is in separate ownership. The second site is presently occupied by a flat-roofed two-storey office building with its own separate narrow bridge access over the brook to the A623. There is also a detached prefabricated garage / store building to the east of the main office building. For the purposes of this report, the main building site will be described as the Rockmill site and the neighbouring site will be described as the Cupola site.

Proposal

This application has been submitted under section 73 of the Town and Country Planning Act 1990. The application seeks the variation or removal of planning condition numbers 2, 3, 9 and 40 imposed upon planning permission NP/DDD/0713/0582 which granted planning permission for the re-development of the Rock Mill business park to create a 'Mill building' housing tourist accommodation space, training room/community facility, café and office space. On the 'Cupola' site the approval was for a 'Cupola Building' housing a heritage centre with craft shop/café and associated retailing together with two tied worker accommodation units.

Planning condition 2 specifies the approved plans for the development. Similarly condition 3 specifies the approved amended drawing for the car parking layouts.

Planning condition 9 relates to the dormer windows which were shown on the approved plans. This condition has the effect of omitting the dormer windows from both buildings and requires these to be replaced with flush fitting roof lights in accordance with details to be submitted and approved by the Authority.

Planning condition 40 requires the development to be carried out in accordance with the submitted flood evacuation plan which shall be implemented and maintained throughout the lifetime of the development.

This application is supported by an amended set of drawings which show various proposed changes to the design and layout of the buildings, access and parking areas which are described below.

Mill building

- Alteration of the roof of proposed Mill building to provide gabled windows to the third floor accommodation. To facilitate this alteration it is proposed to increase the eaves height of the building by 1.8m and reduce the roof pitch from 40 to 35 degrees.
- Addition of two windows to each side facing elevation at third floor level.
- Re-location of external fire escape from the side elevation facing the car park to the rear elevation of the building.
- Increase the floor space of the building at ground floor level to provide space to re-locate ancillary storage, toilets and staff accommodation and to allow re-location of stairwell, lift, community / meeting room, reception and to provide two accessible bedrooms at ground floor level. The increase in floor space would be formed below ground by cutting into the level of the bank to the rear of the building and re-instating the ground levels on top.
- Alteration of bedroom and stairwell layout at first, second and third floor, to provide a total number of 71 bedrooms (which is in accordance with the maximum limit imposed by condition 4 imposed upon the planning permission).

Cupola building

- Omission of glazed dormer windows from the front elevation of the building and replacement with roof lights.
- Retention of glazed dormer windows on the rear elevation of the building.
- Increase the floor space of the building at ground floor level to provide larger space for the kitchen and heritage centre. The increase in floor space would be formed below ground by cutting into the level of the bank to the rear of the building and re-instating the ground levels on top.

Access and parking layout

- Widening of the existing vehicular access to the site to a total width of 12.25m to provide access for coaches. Officer note - the land required by the widened access falls outside of the red-edged application site and therefore a separate planning application has been submitted for the works to the access.
- Alterations to the layout of the car park to the Mill building to provide for coach drop off in front of the building. The total number of parking spaces are unchanged.
- New pedestrian footbridge to front of the building.

RECOMMENDATION:

That the application be DEFERRED to allow Officers and the applicant to continue design negotiations and to secure amended plans to increase the height of the Mill building to four storeys and to allow for public re-consultation on the amended plans.

Key Issues

- Whether the proposed alterations to the roof of the Mill building and introduction of the proposed gabled windows are an appropriate design solution.

- Whether the other proposed design alterations to the Mill building and Cupola building are appropriate.
- Whether the proposed changes to access and parking layout would harm the amenity of road users or harm highway safety.

Relevant Planning History

2016: Full planning permission granted following signing of the section 106 agreement for re-development of business park to create - heritage centre with craft shop / café, with associated retailing, two tied worker accommodation units, tourist accommodation space, training room/community facility, café and office space.

Planning permission was granted subject to 61 planning conditions relating to approved plans, extent of approved uses, design amendments and architectural specifications, slope stability, landscaping, lighting and contaminated land.

The Planning permission is also subject to a S.106 legal agreement requiring the accommodation centre and heritage centre to be developed concurrently, provision of community space, highway works and control of occupancy of the worker accommodation units.

2016: Full planning application submitted for bridge widening to accommodate coach drop off. Application currently undetermined awaiting outcome of this application.

Consultations

Highway Authority – Are satisfied that the widening of the access as proposed will enable the site to be accessed by coaches, whilst maintaining space at the access for other vehicles to enter or leave the site. Therefore there are no objections provided that amended plans are submitted to provide for a waiting area for coaches (in the event that two coaches are on site at a time) and re-location of displaced parking spaces within the site.

District Council – No response to date.

Parish Council – The parish council is extremely supportive of the application.

Environment Agency – Raise no objections to the application.

The Environment Agency draws attention to the need for a permit from the Environment Agency in relation to the design of new culverts.

Representations

No representations have been received to date.

Main Policies

Relevant Core Strategy policies: GSP3, DS1, L1, RT1, CC1 and CC5

Relevant Local Plan policies: LC4, LT10 and LT18

Assessment

Variation of Conditions

Section 73 of the Town and Country Planning Act 1990 provides that an application may be made for planning permission without complying with conditions applied to a previous permission. It is stated that local authorities may decide whether to grant permission subject to differing conditions (this can include imposing new conditions), remove the conditions altogether or refuse to alter conditions. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear that in considering such an application a Local Planning Authority may only consider the question of the conditions and not revisit the principle of the development.

Therefore, only the acceptability of the proposal in the context of the reasons for the imposition of the conditions falls to be considered in the determination of the current application. However, in terms of decision making, a section 73 application should be treated just like any other application, and due regard paid to the Development Plan and other material considerations.

Proposed gabled windows

In granting planning permission for the development the Authority specifically imposed planning condition 9 which omitted the dormer windows which were proposed and required their replacement with flush-fitting roof lights. The reason for condition 9 stated on the decision notice is to ensure a satisfactory detailed design which is in keeping with the character and appearance of the mill-style concept advanced for the scheme.

This application proposes to remove condition 9 and to amend the approved plans to include the proposed gabled windows to the third floor bedrooms.

The current application is supported by a design and access statement which says that it is essential to provide useable accommodation space in terms of head height, spatial ambience, light and external view to the third floor accommodation and that without windows the accommodation would not be viable at third floor and this would undermine the viability of the proposed development. The statement also includes photographs of domestic properties within the National Park with similar types of gabled windows.

During pre-application meetings Officers have given without prejudice advice that if windows in the roof are proposed then the gabled windows as proposed would be the best option, compared to other dormer windows installed up on the roof slope. However Officers have strongly and consistently advised that gabled windows would not be an appropriate design solution because the design of the Mill building has been based upon the industrial character and appearance of a mill and the gabled windows would add an inappropriate feature which would conflict with the general design approach and the Authority's adopted design guide.

Officers are however sympathetic to the concerns raised by the applicant with regard to the third floor accommodation and have had positive discussions with the applicant about an alternative design option. This would be to increase the height of the building further to provide traditional windows to the third floor within the walls of the building, effectively increasing the height of the building to four storeys. Having considered this potential alternative design solution, both Officers and the applicant are in agreement that this would be the preferred approach in terms of design.

Increasing the height of the building would be a material change to the design of the building as it would increase the visual impact of the Mill building. Therefore if amended plans were to be submitted by the applicant then these would need to be subject to public re-consultation. However before seeking amended plans from the applicant, Officers consider it necessary for Members to determine whether or not increasing the height of the building to four storeys could be an appropriate way forward or not, particularly given the fact that when approving the original scheme in 2012 Members specifically chose the option of a three storey building with rooms in roof space, together with a specific maximum ridge height for the building.

Therefore Officers recommend that the current application is deferred to allow Officers and the applicants to negotiate amended plans, and to arrange public re-consultation to increase the height of the Mill building to a four storey building rather than the approved three storey building with fourth storey within the roof space.

Alternatively, if Members consider that increasing the height of the building to four storeys would not be appropriate then Officers advise that the current application should be determined as submitted. In that case Officers would recommend that the proposed gabled windows are an inappropriate design approach and that the design should revert to a three storey building with light provided into the roof space with roof lights. The current application would therefore be recommended for refusal, unless it is amended by the applicant to remove the dormer windows.

Other design changes

Various other amendments to the external appearance and internal layout of the Mill and Cupola buildings have also come forward following meetings between Officers and the applicants.

There are no objections to the proposed ground floor extensions to the buildings as these have been carefully designed to essentially be beneath ground level and therefore providing additional floor space at ground floor without any additional visual or landscape impact. The proposed ground floor extensions would also allow for alterations to the internal layout of the buildings which would result in a larger area for the heritage centre within the Cupola building and allow space for two accessible bedrooms on the ground floor of the Mill building.

The external footprint of the buildings would be otherwise unchanged as would the size of the two proposed workers flats within the Cupola building. The amount of guest bedrooms within the Mill building would also remain within the upper limit of 71 imposed by the Authority.

There are also no concerns in regard to re-locating external fire escape to the rear of the Mill building. The proposed design is formed with staircases which loop back and up towards the level of the land to the rear of the Mill, extending significantly out behind the rear wall of the Mill building. On balance, the proposed design is considered to be acceptable, taking into account that it would be located on the rear in the least prominent location on the building.

There are therefore no objections to the other revised window arrangements which reflect the design approach of the buildings.

Access and parking changes

The layout of the access and parking area has been amended to reflect the proposed widening of the access to the Mill building to allow access by coaches. There is a separate planning application for the widening of the access itself as this falls outside of the red-edge application site area for this application.

The proposed changes to the access and parking arrangement in relation to this application are relatively minor and primarily relate to the provision of space to the front of the Mill building for a coach to stop and drop off / pick up passengers. There are no objections to widening the access as proposed subject to appropriate boundary treatments and surfacing. The Environment Agency has also raised no objections but notes that a separate permit will be required in relation to the additional culverting of the stream.

The Highway Authority initially raised concerns in regard to whether the proposed access would provide enough space for coaches to enter and exit the site without blocking use of the access and highway for other vehicles. Potential conflicts with users of the pedestrian access points were also raised.

The applicant has been in discussions with the Highway Authority in regard to the provision of additional information and amended plans. Subject to amended plans to re-organise the parking layout and to provide a waiting area for a second coach, the Highway Authority has advised that it is satisfied that the widening of the access as proposed will enable the site to be accessed by coaches, whilst maintaining space at the access for other vehicles to enter or leave the site.

Therefore subject to the submission of amended plans to cover the above, Officers consider that in combination with the widened access, the revised layout would provide safe access for all vehicles and pedestrians and that a satisfactory level of parking would be provided within the site in accordance with policies LT11 and LT18. The deferral of the application would provide the applicant the opportunity to submit the revised plans required by the Highway Authority, but in the event that this application is determined as currently submitted it is considered that the submission of the revised layout plan could be secured by planning condition.

Other Issues

The application refers to planning condition 40 which relates to the approved flood evacuation plan. Condition 40 requires the submitted plan to be implemented and maintained and no amended or updated plan has been submitted with the current application. It is therefore considered that condition 40 remains reasonable and necessary to make the development acceptable and therefore it is recommended that no changes are made to condition 40.

Conclusion

It is considered that the proposed gabled dormer windows are not an appropriate design solution because the design of the Mill building has been based upon the industrial character and appearance of a mill and the gabled windows would add a domestic element which would conflict with the general design approach and the Authority's adopted design guide.

Officers have however maintained positive discussions with the applicants about an alternative design option which would be to increase the height of the building to provide traditional windows to the third floor, effectively increasing the height of the building to four storeys. Having considered this potential alternative design solution, Officers and the applicants are in agreement that this would be the preferred approach in terms of design.

There are no objections to the other proposed design changes or access and parking revisions subject to the submission of amended plans to overcome the concerns raised by the Highway Authority.

Therefore Officers recommend that Members consider whether increasing the height of the Mill building to four storeys could be an acceptable alternative design approach and, if so, recommend deferral of the application to allow for further negotiations and the submission / re-consultation on amended plans.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil