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## Appeal Decisions

Hearing Held on 16 August 2017

Site visit made on 16 August 2017

**by Roger Catchpole DipHort BSc(hons) PhD MCIEEM**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29<sup>th</sup> September 2017.**

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### **Appeal A: APP/Z4718/W/17/3169043**

#### **Washpit Mills, Choppards Lane, Cartworth Moor, Holmfirth HD9 2RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Rob Cooke (Prospect Estates) against Kirklees Metropolitan Borough Council.
  - The application Ref: 2016/93428, is dated 7 October 2016.
  - The development proposed is the mixed use redevelopment of Washpit Mills.
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### **Appeal B: APP/Z4718/Y/17/3174173**

#### **Washpit Mills, Choppards Lane, Cartworth Moor, Holmfirth HD9 2RD**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
  - The appeal is made by Mr Rob Cooke (Prospect Estates) against Kirklees Metropolitan Borough Council.
  - The application Ref: 2016/93429 is dated 7 October 2016.
  - The works proposed are associated with the mixed use redevelopment of Washpit Mills.
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## **Decisions**

### *Appeal A*

1. The appeal is dismissed.

### *Appeal B*

2. The appeal is dismissed and listed building consent is refused for the mixed use redevelopment of Washpit Mills.

## **Preliminary Matters**

3. As the proposal relates to a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The Council has an emerging plan that is yet to be adopted. Consequently, these appeals will be determined in accordance with the extant development plan having regard to the emerging policies, insofar as they may be relevant, and the National Planning Policy Framework 2012 (the Framework).

5. The proposal was amended following its submission to the Council. The changes are reflected in the following plans beginning with the suffix 3068 (0-): 200 Rev H, 201, 202, 203 Rev A, 204 Rev B, 205 Rev B, 206 Rev A, 207 Rev A, 208 Rev B, 209 Rev A, 210 Rev A, 211 Rev A, 212, 213 Rev B, 215, 214 Rev A, 216, 217 Rev A, 218 Rev B, 219 Rev A, 220 Rev A, 221 Rev A, 222, 223, 224 Rev A, 225 Rev A, 226 Rev A, 227, 228 Rev A, 229, 230, 231, 232 and 233 Rev B. It was confirmed at the Hearing that all interested parties had been made aware of these amendments through the publication of the revised plans on the Council website. It was also confirmed at the Hearing that the function room and restaurant associated with Block E, as shown in drawing 3068 (0-) 200 Rev G, are no longer part of the proposed scheme. As a result, I am satisfied that these changes would not prejudice any interested parties and this is the basis upon which these appeals have been determined.
6. Whilst I considered changes to the description of the scheme, as set out in the Statement of Common Ground, I am satisfied that the original description adequately reflects the nature of the proposal. Consequently, I have relied upon the description, as set out in the original application forms, for the purposes of these appeals.
7. A certificate of lawfulness (Ref: 2017/CL/92061/W) has been issued that establishes a general industrial use (Class B2) and a storage/distribution use (Class B8) for the majority of the floorspace in one of the retained industrial buildings (Ref: 3068 (0-) 200 Rev G Block E). The remaining buildings, whilst vacant, also benefit from an established general industrial use (Class B2). This is the basis upon which these appeals have been determined.
8. The appellant has highlighted two appeal decisions<sup>1</sup>. Whilst I have paid careful attention to these decisions the circumstances are not similar in all respects because they do not deal with the specific configuration of the road network around the appeal site. Consequently, these appeals has been determined on its individual merits and the evidence before me.

## **Main Issues**

9. The Council failed to give notice within the statutory time period but has set out its putative reasons for refusal in its statement of case. Consequently, I find the main issues to be:
  - the effect of the proposal on the safe and efficient operation of the highway;
  - the availability of alternative modes of transport; and
  - whether the proposal would preserve a Grade II listed building, Wash Pit Mill (Ref: 1134754), and any of the features of special architectural or historic interest that it possesses.

## **Reasons**

10. The appeal site is situated in a steep-sided valley in the open countryside. It lies approximately 1.5 km to the south of Holmfirth. It covers an area of approximately 3.5 ha and comprises a former textile mill which ceased operating in December 2015. A culverted section of the River Ribble runs

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<sup>1</sup> APP/Z4718/A/08/2071373, APP/Z4718/A/14/2219016

through the centre of the site which is characterised by significant differences in ground level. The site comprises a range of industrial buildings, areas of hardstanding and a mill pond to the southwest. The buildings include a Grade II listed building with ancillary buildings of varying age. The site is bounded by Green Lane to the north and Choppards Lane to the south. The eastern boundary abuts open pasture that rises towards Choppards Bank Road. The western boundary abuts a narrow area of open land that rises towards the curtilages of a number of properties situated along Lamma Well Road. The site currently benefits from two vehicular access points from Green Lane and Choppards Lane.

11. The proposal is seeking to regenerate the site through a mixed use development comprising residential dwellings, a hotel, workshop, ancillary offices, a café and a classic car storage facility. More specifically, the amended scheme would create 45 dwellings that would replace existing buildings and a further 16 dwellings within one of the retained mill buildings. The hotel would be located in the listed building. It would comprise 23 bedrooms and contain a small health spa. A link would be created to a nearby, retained mill building which would be converted for ancillary office use. Another mill building would also be retained and converted to provide a mixed use development for an established business known as the Carding Shed. This use would comprise a classic car restoration/maintenance workshop, car storage area, café and ancillary shops selling vintage clothing and memorabilia. The first two uses have already been established through the certificate of lawfulness, as defined in paragraph 7 of my decision.

#### *Highway safety*

12. Saved policy T10 of the Kirklees Unitary Development Plan 1999 (UDP) seeks, among other things, to limit development when it would lead to highway safety issues either through new or cumulative impacts. It also seeks to restrict development that would not be adequately served by the existing highway network and public transport where there is potential to attract or generate a significant number of journeys. The TRICS database predicted a revised daily movement of 496 vehicles with a peak daily flow of 73 vehicles in the morning and 82 vehicles in the evening. The model incorporated comparator data for industrial units, privately owned houses, hotels and restaurants. In order to determine likely impacts on the wider road network, the predicted journeys for the proposed mixed use were compared to a scenario where a single industrial use for the site was assumed. As this indicated a significant reduction in traffic flow, no further analysis of the predicted impact on the wider road network was undertaken by the appellant.
13. The predicted reduction in traffic flow has been widely disputed by local residents and elected members who maintain that the actual movements associated with the mill have been significantly less for some considerable time even when the mill was still in active industrial use. It is a widely held view that the modelling approach has consequently been used to provide a misleading evaluation of the potential impact of the development on the wider road network. This view is supported by the daily traffic flow that was observed along Washpit New Road which amounted to an average of 232 movements over five days. This is less than half the predicted movements for the proposed uses. As the appellant accepts that the majority of traffic would use this route I find it reasonable to assume that there would be at least a

doubling in traffic volume, notwithstanding a full industrial use, along this road with resultant impacts on the wider road network.

14. The degree to which this increase in movement would lead to a severe, cumulative impact on the wider road network is equivocal at the current time. This because there has been no direct quantification of the effect of the predicted movements on existing road conditions at key locations where congestion occurs. To this end, I note the already high traffic flow along Dunford Road with a daily movement of 5,331 vehicles and congestion in Holmfirth which I observed on more than one occasion during my visits to the appeal site. I therefore find that insufficient information has been provided to enable a realistic evaluation of how the proposal would affect the wider road network and whether or not a severe, cumulative impact would result.
15. I accept that the B2 use of the site is lawfully available and that the condition of the buildings would readily support a recommissioned industrial use with a higher flow. However, I do not have any substantiated evidence before me regarding the availability of potential occupants of the wider site beyond the operator of the Carding Shed business. Whilst I accept that recommissioning could lead to greater impacts on the wider highway network, I do not find this likely given the absence of any alternative proposals, additional occupants or ready access to the wider motorway network. Furthermore, the Council indicated the presence of alternative sites which have been allocated in the development plan. Given the above, I find that the fallback position only consequently carries limited weight.
16. I have considered the potential routes to local schools and the high accident rate that has been highlighted by local residents. Turning to the first matter, I am satisfied that appropriate routes could be brought to the attention of new residents by the appointed Travel Plan Coordinator to minimise highway impacts and avoid potential congestion around local schools. I also accept that additional activities at the start and end of the school day often mean that not all children are necessarily collected or dropped off at the same time. Turning to the second matter, I note that the appellant has used a widely accepted database that records all road accidents that are reported to the police. I accept that not all incidents will be reported but in the absence of substantiated, robust evidence to the contrary, this represents the best available road safety evidence concerning accidents involving people rather than buildings and other fixed structures.
17. Given the above, I conclude that the appellant has submitted insufficient information and has therefore failed to demonstrate that the proposal would not cause significant harm to the safe and efficient operation of the highway network, contrary to saved policy T10 of the UDP and the advice in paragraph 32 of the Framework. As a result, the proposal would not be in accordance with the development plan.

### *Sustainable travel*

18. Saved policy T16 of the UDP requires, among other things, adequate provision for safe, convenient and pleasant pedestrian routes for all new development that ensures attractive links between homes, places of employment, community facilities and public transport. This is explicitly linked to the crime prevention measures outlined in saved policy BE23 of the UDP. This requires, among other things, the visibility of any walkways to be maintained from

existing highways to ensure pedestrian safety. Furthermore, saved policy T1(ii) of the UDP stresses that priority will be given to proposals that promote a transport network on which it is safe to travel.

19. I observe from my site visit and the Framework Travel Plan (FTP) that there are a number of bus stops within walking distance of the site that have the potential to provide alternative modes of transport to able-bodied individuals. I observed that there is a regular service between Hepworth and Huddersfield that is available before 06:00 in the morning and after 18:00 in the evening with an interval of 30 mins during the daytime. This would not only allow future occupants access to a full range of services but would also support longer onward journeys and regular commuting for employment purposes. However, whilst they are within walking distance I am not satisfied that their use would be likely given the nature of the intervening roads and footpaths.
20. Three bus stops are situated at the crossroads of Dunford Road, Cross Gate Road and Rich Gate. The latter is the most direct route from the appeal site and is within what might be loosely considered a 'walkable neighbourhood' as set out in the Manual for Streets (MfS). However, this guidance stresses that such neighbourhoods should have a range of facilities, rather than just bus stops, within in a comfortable walking distance taking not more than 10 min. Whilst I accept that the site is within a 2 km walking distance of the centre of Holmfirth, this carries no weight because Planning Policy Statement 13 has been superseded by the Framework. In any event, the use of a simple geographical buffer, that ignores significant changes in topography and the suitability of specific routes, lacks credibility because it fails to provide a realistic reflection of local circumstances.
21. This is not only illustrated by the available routes into Holmfirth but also the most direct route to the nearest bus stops, via Rich Gate. This is a narrow road that rises steeply, lacks a pedestrian walkway and has limited forward visibility. Consequently, I find it would be neither a safe nor a comfortable pedestrian route. Even if additional bus stops to the north along Dunford Road are considered, the available pedestrian routes to these bus stops would be far from ideal. These comprise Washpit New Road and a footpath/track leading onto Dover Lane. Whilst I was able to walk the latter and arrive at a bus stop in about 10 mins, the initial part of the route was not suitable for use in all seasons and did not have a level surface that would permit the use of pushchairs or the passage of less able individuals. Furthermore, no lighting was present nor was it adequately drained. This was indicated by my own observations and evidence submitted at the Hearing. As the current width of the footpath is not adequate to accommodate lighting poles and the flanking land is not in the control of the appellant, the opportunities to upgrade this route are highly constrained at the current time.
22. The appellant suggested that access could be improved along Washpit New Road in conjunction with some works that were under consideration by the Council but not 'shovel ready'. The suggested improvements would comprise the extension of the metalled surface into the soft verges with French drains on either side. A continuous white line would run parallel to one of the flanking, stone boundary walls to provide a defined pedestrian area with the capacity for overrun by larger passing vehicles. Hazard signs would also be used to alert motorists of potential pedestrians. It was confirmed at the Hearing that the road width was insufficient to accommodate a raised walkway that would meet

the necessary standards, as set out in the MfS. I acknowledge that continuous white lining has been used elsewhere and that visibility along Washpit New Road is reasonable. However, the fact remains that there would be no refugia for pedestrians because there would be no physical structure, such as a kerbstone, to stop vehicles crossing into the pedestrian zone. Young families with pushchairs and small children would be particularly vulnerable in these circumstances. The width of the road is such that little additional space would be present at some locations when larger private motor vehicles or commercial vehicles are passing each other. Whilst local residents and future occupants would anticipate pedestrians at these pinch points, this would not be the case for the customers of the Carding Shed. As it attracts a significant number of customers at its current location and I find it reasonable to assume that this would remain the case.

23. Given the above, I find that the actual and perceived risk of conflict between pedestrians and vehicles along this route would pose a significant disincentive to regular pedestrian use. Future occupants would be heavily reliant on the use of private motor vehicles as a consequence. Whilst I am satisfied that the suggested improvements would enable use by cyclists, any realistic pedestrian access to sustainable travel options would not be present. This would not be overcome by the FTP because of the fundamental limitations posed by local infrastructure. I therefore conclude that the proposal would be contrary to saved policies T1(ii) and T16 of the UDP and therefore not in accordance with the development plan. I do not, however, find any conflict with saved policy BE23 of the UDP due to the fact that the defined pedestrian zone would be overlooked by passing cars.

#### *Listed building*

24. Wash Pit Mill was listed in 1991 and constructed around 1840 on the site of an earlier mill building. It is constructed from hammer-dressed stone with a stone slate roof. It has a rectangular plan form and an unornamented appearance with flush-dressed lintels and cills. The gables have square kneelers with the outer windows on the top floor having distinctive, angled lintels that follow the roof pitch. None of the window fittings are original and comprise large, six pane casements. The central bay of each gable apex has an arch-headed window. The original building has been subject to extensive alteration with the introduction of an internal steel frame that has reduced the number of floors from five to two. The roof has also been lowered, giving the appearance of a three storey building. Various original windows and doorways have also been blocked when the building was modernised. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with its industrial vernacular form and historic legibility of its former use.
25. The proposed link between the buildings would lead to a loss of definition of its simple rectangular form. Whilst I accept that it would be a lightweight structure with clearly differentiated materials, it would nevertheless erode the plan form of the building. The appellant is of the opinion that the structure would be a 'reversible' alteration that could be readily demolished. However, I am not satisfied that this would occur once the ongoing functional use of the structure is established. The link would, to all intents and purposes, become a permanent addition. Given the above, I find that the proposal would fail to



- preserve the special interest of the listed building and I give this harm considerable importance and weight in the planning balance of this appeal.
26. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the extensive modification of the building that has already occurred and the proportion of the southern elevation that would be obscured, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
27. The appellant is of the opinion that the proposal would be beneficial because it would reinstate lost floors, unblock windows and bring the stair towers on the northern side of the building back into use, thus returning it to a form closer to its original layout. The appellant has also suggested that the removal of later industrial buildings will improve the setting and strengthen the relationship of both buildings with the nearby mill pond. Given the above, I find that the benefits of the scheme balance the harm that would be caused by the link thus leading to an overall neutral effect, thus preserving its special interest. However, this is predicated on the grant of planning permission for a specific scheme which I have dismissed. Consequently, no such benefits would accrue in its absence.
28. Given the above, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building. This would fail to satisfy the requirements of the Act and paragraph 134 of the Framework.

### **Other Matters**

29. The parties agree that the proposal would not amount to inappropriate development in the Green Belt, affect its purposes or significantly reduce openness and I agree. This is because the proposal relates to the redevelopment of previously developed land which would not have a greater impact on openness or the purposes for including land within the Green Belt. I acknowledge the concerns over the proposed changes to the north-western part of the site. In particular, the effect of parking areas on openness.
30. However, I note that part of this area would be public open space, as indicated in the most recent plan (Ref: 3068(0-)200 Rev G). Furthermore, as previously developed land, I am satisfied that no encroachment into the countryside would in fact occur. Whilst I accept that parking areas can have an unacceptable effect on openness, any such impact should be considered against the degree of openness of the existing site. Bearing in mind the volume and footprint of the buildings to be demolished, as well as the extensive hardstanding already present, I am satisfied that the proposal would not lead to any significant loss of openness in this instance.
31. A completed unilateral undertaking (UU) was submitted by the appellant during the course of the appeal. This aims to secure financial contributions towards meeting the need for additional educational services and road infrastructure arising from the proposed scheme as well as the provision of travel cards for

use on public transport. It would also secure the management of the public open space, culverted watercourse and a mill pond in accordance with an agreed management plan. The Council were not satisfied that the contribution to road infrastructure was fairly and reasonably related to the necessary road improvements. However, as I intend to dismiss the appeal for other reasons I have not considered this matter further.

32. The Council has acknowledged that it is unable to demonstrate a deliverable 5-year housing land supply. I am satisfied that the resultant boost in the supply of housing would not significantly and demonstrably outweigh the adverse effects when the scheme is considered against the Framework as a whole, bearing in mind the limited access to alternative modes of transport that would be present as well as the potential impact on the wider road network.

### **Conclusion**

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

*Roger Catchpole*

INSPECTOR



## **APPEARANCES**

### **The Council**

Mr Walker	Planning Officer
Mr Firth MRTPI, MCILT	Construction Engineer, AECOM

### **The Appellant**

Mr Lee	Planning Consultant
Mr Greenwood	Highways Consultant

### **Interested Persons**

Cllr Sims	Holm Valley South
Cllr Firth	Holm Valley South
Cllr Patrick	Holm Valley South
Mr Martin	Local Resident
Mr Baylin	Local Resident
Mr Woodcock	Local Resident
Ms Weir	Local Resident
Mrs Martin	Local Resident
Mr Fraser	Local Resident
Ms Duddridge	Local Resident
Ms Dale MSc, DMA, MCIPD MAE, FRSA, QDR	Business Community Representative
Mrs Fraser	Local Resident
Mr Kellett	Owner, The Carding Shed

### **Documents Submitted**

Drawings: 3068(0-) 200 Rev H; 3068(0-)205 Rev B; 3068(0-)206 Rev A; 3068(0-)207 Rev A; 3068(0-)208 Rev B; 3068(0-)214 Rev A; 3068(0-)218 Rev B; 3068(0-)219 Rev A; 3068(0-)220 Rev A.