

APPLICATION NUMBER: 23/00864/VRCON

## DELEGATED DECISION CHECKLIST AND REPORT

| APPLICATION NO. | CASE OFFICER     | DATE           |
|-----------------|------------------|----------------|
| 23/00864/VRCON  | Rosalind Gralton | 8 January 2024 |

**Address:** 48 - 50 Ashworth Street Rochdale OL12 6TA

**Proposal:** Section 73 application to vary condition 2 of planning permission 22/00019/FUL (Demolition of 48-50 Ashworth Street and erection of two-storey building to adjoin into 47 Spotland Road to provide additional retail space) relating to the removal of windows

|           |                            |   |                       |     |
|-----------|----------------------------|---|-----------------------|-----|
| PUBLICITY | Weekly list expired?       | Y | Site notice expired?  | Y   |
|           | Neighbour letters expired? | Y | Press Notice expired? | N/A |

|            |                                                             |   |                                        |   |
|------------|-------------------------------------------------------------|---|----------------------------------------|---|
| DELEGATION | Significant departure from local plan?                      | N | Contrary to national policy?           | N |
|            | Applicant a Council Member or officer?                      | N | Contrary to previous decision?         | N |
|            | Major with 10 or more objections and recommending approval? | N | Called in or Planning Panel objection? | N |

|          |                                   |   |
|----------|-----------------------------------|---|
| COMMENTS | Planning Panel comments received? | Y |
|          | Neighbour comments received?      | Y |

|     |                                                  |     |
|-----|--------------------------------------------------|-----|
| EIA | Screening opinion completed and saved to Onbase? | N/A |
|-----|--------------------------------------------------|-----|

|            |                                                                      |   |
|------------|----------------------------------------------------------------------|---|
| CONDITIONS | Pre-commencement conditions proposed?                                | N |
|            | Pre-commencement conditions agreed (or notification period expired)? | N |

|                |        |
|----------------|--------|
| RECOMMENDATION | REFUSE |
|----------------|--------|

CHECKED AND SIGNED OFF BY: LA DATE: 01.02.24

## **SITE**

The application site encompasses 48-50 Ashworth Street and 47 Spotland Road. To Spotland Road the property comprises a shop unit to the ground floor with a residential flat above. The neighbouring property at no. 49 Spotland Road is also a retail unit but the remainder of the terraced row (apart from no. 35 which is a chiropodist/podiatrist) is under residential use. No. 47 Spotland Rd has been extended with a single storey rear addition.

A large part of no. 48-50 Ashworth Street was formally a part single storey, part two storey building that was last under industrial use (dental laboratory). The demolition of this made way for the erection of the recently approved application, 22/00019/FUL, which this planning application being considered seeks to vary.

The erection of the building has begun and appears substantially complete, with no clear ongoing works to the exterior.

Along Ashworth Road the character, in the immediate area of the application site, is predominantly residential. There is a GP surgery located to the opposite side of Lower Sherriff Street and which fronts onto Spotland Road. The adjacent property at no. 52 Ashworth Street is a attractive stone built property that sits within a predominantly red brick area.

## **PROPOSAL**

The application seeks retrospective planning permission to vary the previously approved application for the demolition of 48-50 Ashworth Street and the erection of a two storey building to adjoin into 47 Spotland Road to provide additional retail space.

This variation of 22/00019/FUL relates to the carrying out of the development without complying with Condition 2 of the permission i.e. the approved plans. In summary, this is the construction of the building with a reduced number of windows and those that have been installed are in different locations and of a different design to that approved. More specifically, the building has been constructed in breach of this condition, for the reason that the windows (number, design and location) have not been constructed as approved. The proposal seeks to vary the arrangement of windows on the extension from four first floor windows to its side (east) elevation and two ground floor and two first floor windows to the other side (west) elevation, to one single top-hung window opening on the south, eastern and western elevations. No drawings are presented of the front (northern) elevation which would back onto the property at No 47 Spotland Road.

It is noted the plans also show a first floor air conditioning unit on the side of the building and this element has been installed and therefore is also retrospective.

## **RELEVANT PLANNING POLICY**

### **National Guidance**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

**Adopted Rochdale Core Strategy (CS):**

E1 – Establishing thriving town, district and local centres  
E2 – Increasing jobs and prosperity  
P1 – Improving image  
P3 – Improving design of new development  
G9 – Reducing the impact of pollution, contamination and land instability  
DM1 – General development requirements

#### Unitary Development Plan (UDP):

G/D/1 – Defined Urban Area

#### Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

### **RELEVANT SITE HISTORY**

14/00099/FUL – Alterations to front elevation to form shop front, demolition of single storey rear elevation and erection of new single storey rear extension – Approved

18/00886/FUL - Change of use of ground floor from B1 (Light Industrial) to A1 (Retail) and erection of a link extension to existing retail at 47 Spotland Road and alterations to roof on side elevation - Approved

20/00294/FUL - Demolition of 48-50 Ashworth Street and erection of new single and two storey buildings to adjoin into 47 Spotland Road and provide additional retail space - Approved

22/00019/FUL - Demolition of 48-50 Ashworth Street and erection of two-storey building to adjoin into 47 Spotland Road to provide additional retail space – Approved subject to conditions

### **CONSULTATION RESPONSES**

#### Env Health - Noise/Odours

This section has no objections to the proposals

### **REPRESENTATIONS**

One letter of representation was received objecting to the application. Concerns were raised regarding noise and distractions caused from previous building work as early as 7am in the morning.

Officer response: The scope of the officer's assessment is around the acceptability of the retrospective changes in regards to windows. Hours of construction were not controlled via condition on the previous permission. In the event that such a nuisance occurs, this is a matter to be reported to RBC Environmental Health. The Environmental Health officer has been consulted on this application.

### **ANALYSIS**

#### Acceptability of proposed changes

*Visual amenity*

The National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development and that planning policies and decisions should ensure that developments function well and add to the overall quality of the area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. This is largely reflected within Policies DM1, P1 and P3 of the Council's adopted Core Strategy, which requires development proposals to demonstrate high quality design.

The National Design Guide (published 2021), states the detailing of a building 'affects the appearance of a building or space and how it is experienced. It also affects how well it weathers and lasts over time.'

Policy P3 of the Rochdale CS 'Improving design of new development' requires all new development, regardless of location to adhere to high standards of design and the design principles, of ensuring buildings contribute positively to the townscape, incorporating design measures which design out crime, ensure buildings can be easily adapted to meet future/alternative needs, design buildings and spaces so that quality and appearance can be maintained over time.

No design and access statement has been submitted with this application and no other justification is provided in relation to the changes to fenestration.

The two storey bulk of the structure is approved as per reference 22/00019/FUL. The proposals in this application alter the arrangement of the windows from four first floor windows to the eastern side and southern rear elevations, and two ground floor and two first floor windows to the western side elevation, to one single top-hung window opening on the south, eastern and western elevations.

The proposals, as amended within this application, would materially impact the proposal and remove key aspects of the fenestration which provide visual interest when travelling along Ashworth Street and Lower Sheriff Street. The property is a prominent feature within the streetscene and is in close proximity of multiple residential properties. Only one window breaks up the large expanse of red brick on the rear and side elevation, and the resulting blank gable appears monotonous and flat in appearance, lacks any detail reflective of the adjacent properties, and is not in keeping with the existing pattern and of development in the street scene. At pedestrian level, the proposal is an imposing and bland two storey gable end. The omission of the previously approved windows are of a detriment to the streetscene and incongruous with the surrounding area. The proposals represent a significant change to the approved plans.

Policy P1 of the Rochdale CS 'Improving Image' states it will ensure new development improves the image of the borough by requiring design which is of a high standard, demonstrating innovation and originality. Additionally, Policy P1 requires new development improve image by creating 'people-friendly, safe, vibrant, uncluttered, public areas'. Conversely, Policy DM1 states all development proposals, including extensions and alterations, are expected to demonstrate that they are of a high quality design and take the opportunity to enhance the quality of the area; and minimise opportunities for crime against people or property. The National Design Guide notes passive surveillance in relation to public spaces, and notes how well designed spaces careful planning can encourage people to feel safe and secure without need for additional security measures; this includes active frontages along its edges, including windows overlooking public spaces, and natural surveillance provided by the inclusion of windows on buildings.

Paragraph 96 of the NPPF states '*Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings*'. In addition,

paragraph 140 of the NPPF states '*Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).*'

The omission of the windows directly adjacent to the highway and footway would be of a detriment to the streetscene and the sense of safety as experienced by pedestrians travelling along Ashworth Street. This is in direct contrast to the aims of Paragraph 96 of the NPPF, and conflicts with guidance in relation to passive surveillance within the National Design Guide. The resulting brick wall would appear overbearing to pedestrians, and would fail to result in a beautiful building, as planning decisions must aim to achieve. In the instance the Council approved the revised elevations, this would be in direct conflict with paragraph 140 of the NPPF, and would materially diminish the quality of the development originally permitted.

### *Residential amenity*

The Council's Environmental Health officer was consulted and did not raise any objections to the scheme.

The removal of windows on the eastern side elevation would not result in an unacceptable amenity for the adjacent neighbouring properties.

In relation to residential amenity, the proposed window arrangement would have no unacceptable impact and would be compliant with policy DM1 of the Rochdale Core Strategy and the NPPF.

### Other conditions

Planning permission 22/00019/FUL was granted subject to 8 planning conditions:

1. Time limit – compliance condition.
2. List of approved plans – compliance condition and the subject of this application.
3. Material samples (no above ground construction)  
*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 building 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.*  
  
*Reason: In order to ensure a satisfactory appearance in the interests of visual amenity having regard to the adjacent listed building in accordance with policies DM1, P1 and P3 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.*
4. Opening hours – compliance condition
5. Obscure glazing – compliance condition
6. Customer access – compliance condition
7. Road condition survey – pre commencement condition

*No development shall commence until a dilapidation survey of Ashworth Street has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until a post development condition survey of the highway, to include a scheme of remedial work to repair any*

*damage cause during demolition and construction works, has been submitted to and approved in writing by the Local Planning Authority. The scheme of remedial works shall be implement in complete accordance with the approved details before the development is occupied.*

*Reason: In the interests of highway and pedestrian safety in accordance with policies DM1, DM2 and T2 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.*

*Reason for pre-commencement condition: It is important that the condition of the highway is surveyed prior to any development to assess any damage caused and ensure that remedial works required are appropriate.*

#### **8. Contaminated land report – pre commencement condition**

*Prior to commencement of the development a Phase I Report (Preliminary Risk Assessment) must be completed to assess the actual and/or potential contamination risks at the site. The Phase 1 Report must be submitted to, and approved in writing by, the Local Planning Authority and shall include a desk top study, site walk over, conceptual model, basic hazard assessment and recommendation regarding the need or otherwise for further investigation and risk assessment.*

*Where the Phase 1 Report has identified potential unacceptable risks, a suitable investigation, risk assessment and remedial action shall be carried out in accordance with details and within a timescale to have first been submitted to and approved in writing by the Local Planning Authority.*

*In the event that contamination is suspected or found at any time when carrying out the approved development that was not previously identified, or contamination is caused, the Local Planning Authority shall be notified immediately and development affected and potentially affected by the contamination must stop. An investigation and/or risk assessment and/or remediation shall be carried out in accordance with an agreed process and within agreed timescales to have first been submitted to and approved in writing by the Local Planning Authority. If contamination is not suspected, found or caused during development, this must be confirmed in a completion letter which is subject to the approval in writing of the Local Planning Authority*

*Reason: To ensure that any contamination on the site is appropriately identified and managed and to accord with policy G9 of the adopted Rochdale Core Strategy and policy in the National Planning Policy Framework.*

*Reason for pre-commencement condition: To ensure that any contamination of the site and ground is appropriate identified and managed.*

None of the pre-commencement conditions on planning permission 22/00019/FUL have been discharged, nor are there any discharge of condition applications pending determination. The development constructed is in breach of conditions 3, 7, 8 as a result of the conditions requiring details pre-commencement. In relation to the compliance conditions 4, 5, 6, there is no details required for the applicant to submit, and the application does not seek to change, nor remove these conditions.

#### **RECOMMENDATION: Refuse**

1. The retrospective changes to the fenestration of the development cause unacceptable harm to the street scene, and are out of keeping and incongruous with the adjacent properties. Overall the changes constitute an erosion of the quality of the approved development. The proposal is therefore contrary to policies P1, P3 and DM1 of the adopted Rochdale Core Strategy, policies contained within the National Planning Policy Framework and policies provided within the National Design Guide.

**Procedure Statement**

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application.

**Notes for Applicant:**

1. The proposed air conditioning unit exceeds the description of development as under 22/00019/FUL, and not considered within this variation of condition application and requires full planning permission.

Report Author Rosalind Gralton