

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00147/ANM

CASE OFFICER

Ryan Killeen

DETERMINATION DATE 12.03.2024 **EXT OF TIME** 10.05.2024

Address: Former Minky Works, Royle Road, Rochdale, OL11 3EH

Proposal: Application for non-Material Amendment to planning permission 20/01401/AM to allow for amendments to approved plans under Condition 2 (Approved Plans) for the reconfiguration of the POS, relocation of the LEAP, loss of three plots and amendments to the design of the apartment building in relation to Calico Grove, Former Minky Works, Royle Road, Rochdale OL11 3EH

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

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

COMMENTS	Planning Panel comments received?	N/A
	Neighbour comments received?	N/A

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION

GRANT SUBJECT TO CONDITIONS

CHECKED AND SIGNED OFF BY: RG

DATE: 10 May 2024

SITE

The application site is a large, vacant and cleared former employment site which has planning permission for 222 dwellings. It once housed the Royle Works and associated buildings. The main entrance of the former works is located on Royle Road, and a lower entrance is off Silk Street shared with the Tesco service access, overspill parking and petrol forecourt access.

To the north of the application site is Edinburgh Way and the associated retail units on the opposite side of that road, to the east is the railway line and a large industrial estate. To the south are further employment units and to the west is a residential area.

The Edinburgh Way and Royle Road frontages of the site are relatively level, with a steep slope leading to the main site plateau, which is an average of 10 metres higher than the surrounding levels. The slope is predominantly heavily wooded, giving parts of the site a semi-natural and attractive appearance.

To Edinburgh Way, this wooded slope gives way to a largely grassed retaining slope which reduces in gradient and height difference in the most northerly corner point adjacent to the rail bridge and the Sandbrook junction.

At the southern corner of the site the remains of a former building are evident in the form of high brick walls, with a larger retaining wall element that steps back up to the main plateau.

The site is within a Primary Employment Zone, and there is a group Tree Preservation Order on the trees growing within the site.

PROPOSAL

The application seeks a non-material amendment to Planning Permission 20/01401/AM (itself a variation pursuant to planning permission 18/01399/FUL) for the relocation of the LEAP, re-routing of the woodland trail through the POS, the loss of three residential plots and amendments to the window design on the apartment block.

RELEVANT PLANNING POLICY

Legislation

Town and Country Planning Act 1990 – Part III Section 96A

Local Planning Authorities are enabled to make changes to planning permission; 1990 Planning Act (as amended), section 96A provides:

96A Power to make non-material changes to planning permission

(1) A local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions.

It is clear that provided *they are satisfied* that the change is not material Rochdale BC can *make a change* to the original permission.

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

The Section 96A application relates to the permission 20/01401/AM granted as a Section 73 variation to 18/01399/FUL in December 2020 permitting the erection of 198 dwellings and a block of 24 apartments including the demolition of existing structures together with associated ground works to the north of the site, public open space, landscaping and vehicular access from Royle Road. A previous S96a non-material amendment was approved under 22/01107/ANM for the relocation of the substation onsite.

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

N/A

ANALYSIS

Reduction in the number of units

The application seeks the removal of 3 units which are set near to the on-site POS which is set along the western boundary of the site. The plots are to be removed due to slope risk and levels changes which have prevented reasonable buildability for this small section of the site.

The Court of Appeal decision in the case of *Finney v Welsh Ministers & Ors [2019] EWCA Civ 1868*, confirmed that an application made under S.73 limits the Council to only considering the question of conditions, and not the description of development to which the conditions are attached to. Within the same decision the Court expressly clarified that it would be possible to amend the description of development by way of an application under S.96A of the 1990 Act where this change was determined to be non-material.

The loss of 3 units would result in the development differing from the description of development approved under the original consent. In turning to whether the loss of the units would be material, in respect of the impacts arising from the development, it is considered that the loss of 3 of the 225 dwellings would represent a circa 1% reduction in the total number of homes provided. This is clearly and demonstrably non-material with regards to the principle of the development approved. The reduction would have a negligible impact on the overall intensity of the proposed use and in respect of the impacts arising from the development such as vehicle movements and environmental effects.

Views of the dwellings proposed to be removed within the on-site POS would instead be replaced with views of boundary treatments of nearby units and landscaping from select vantage points. Views from medium and long ranges of the development

would be unaffected by virtue of the limited contextual scale of the change and the arrangement of nearby plots and the dense vegetation buffer which lines the rears of dwellings along Royle Road.

Accordingly, the change to the description and the loss of 3 units is considered to comprise a non-material amendment to the original planning permission.

POS and Woodland Trail

Similar to the above, the position of the POS and Woodland Trail are required to be amended due to the topography of the site, which is unfeasible to deliver as shown on the approved site plans.

The revised proposals would deliver a similar overall quantum of woodland trail and a similar sized LEAP in a similar location. The revised woodland trail would now only link to Royle Road instead of the private access road serving two of the aforementioned plots to be removed.

It is not considered that the amendments proposed would give rise to any significant material change in the appearance or functionality of the site and the environment across the approved development would appear near identical across a range of views.

On the basis of the above considerations, the effects of the proposed amendment within this application would not materially alter the development's impact and therefore it constitutes a non-material amendment to the original planning permission for the purposes of Section 96A of the Town and Country Planning Act 1990.

Alterations to windows

The approved elevation drawings for the apartment block included a glazed stack above the entrance transcending all floors and between some front facing windows. The applicant has suggested that the design is in parts technically unfeasible and prone to overheating.

As a result it is proposed to amend this feature by including alternating bands of projecting stretcher bonds in a contrasting engineering brick where glazing is to be removed. Given that this feature would maintain the general arrangement of detailing which sought to align vertical features, providing visual interest and a degree of architectural merit, it is considered that the changes constitute a non-material amendment to the original planning permission for the purposes of Section 96A of the Town and Country Planning Act 1990.

RECOMMENDATION

Grant, subject to the following condition:

1. This decision relates to the following plans:-

- ☐ SK537-PL-01 Rev BF - Planning Layout
- ☐ SK537-APT-07 Rev A - Apartment Block Elevations
- ☐ APMD(21)-4305 - Communal Window Section Between Floors Brick Infill

and the development shall be carried out in complete accordance with these drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the adopted Rochdale Core Strategy, the saved Rochdale Unitary Development Plan and the National Planning Policy Framework.

Notes for Applicant:

This decision notice is to be read alongside that issued with planning permission 20/01401/AM and all conditions that were imposed on all previous applications and amendments, with the exception of those conditions which are explicitly varied in accordance with the provisions of this decision or which have been explicitly varied by way of other S96A non-material amendments.