



Appeal Decision

Site visit made on 21 May 2024

by Beverley Wilders BA (Hons) Pg DURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/A4710/W/23/3333718

Land South of Farrar House, Haigh Lane, Salterhebble Halifax

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by C Turner against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 23/00656/FUL, dated 25 June 2023, was refused by notice dated 31 October 2023.
 - The development proposed is mixed use development Class C3/Class B8/Class E(g)(iii).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the heading above has been taken from the application form. However, it has been amended to remove reference to 'part retrospective' as this is not an act of development.
3. The application form states that the work or change of use started on 31 March 2020 but is not yet complete and that the existing use of the site is for residential/employment. At the time of my visit, there was some development on site in the form of various structures, storage and hard-surfacing, though it was unclear as to what the exact use of the site is. As I cannot be certain whether any of the existing development accords with the proposal, I have determined the appeal based on the submitted plans and supporting information.
4. An enforcement notice was issued by the Council in relation to the appeal site on 11 May 2022. Following appeals against the notice, it was quashed on 23 May 2023. I have had regard to the previous appeal decisions insofar as they are relevant to the proposal.
5. A revised National Planning Policy Framework (the Framework) was published in December 2023, after the appeal had been submitted. However, given the scale and nature of the proposal and the scope of the changes to the Framework, I do not consider them to be material to my decision. In any event, the parties have had the opportunity to comment on the revised Framework either within statements or final comments.

Main Issues

6. The main issues are:

- the effect of the proposal on an area designated as protected open space, sport and recreation facilities;
- whether future occupiers of the proposed dwelling would be provided with satisfactory living conditions having regard to noise and disturbance, odour and garden space;
- whether the proposal is acceptable in highway safety terms having regard to the local road network and access arrangements;
- whether the location of the site is acceptable having regard to access to services and facilities by means other than private motor vehicle;
- the effect of the proposal on the character and appearance of the area;
- whether sufficient information has been provided regarding drainage, landscape impact, parking and vehicle turning such that it has been demonstrated that the proposal is acceptable in this regard.

Reasons

Open space, sport and recreation facilities

7. The appeal site forms part of a larger area of land to the east of the railway line designated as an open space, sport and recreation facility. Policy GN6 of the Calderdale Local Plan 2018/19 – 2032/33 adopted March 2023 (CLP) states that such areas shall be safeguarded from development and that development will only be permitted where it meets the listed exceptions. No evidence is before me to demonstrate that the proposal meets any of the exceptions within Policy GN6.
8. The appellant has drawn my attention to the previous poor condition of the site, its previous use for anti-social behaviour, the supporting paragraphs to Policy GN6 and to the fact that in his view, the proposal would not harm the character, appearance or function of the open space.
9. Policy GN6 states that such designations shall be safeguarded from development to maintain local character and amenity of settlements and their communities and/or recreational function. In this case given the size, shape and nature of the appeal site and surrounding designated area and apparent restricted public access to it, it appears that its primary function is to maintain local character and amenity.
10. The proposal involves residential and commercial development on the appeal site and includes a number of buildings together with an access and turning circle. Whilst there is existing development on the site, the legal status of this is not known and, in any event, the proposed development appears to extend further northwards into the site onto an undeveloped area of woodland. The proposal would therefore involve a loss of woodland and result in a material change to the appeal site which would not maintain local character and amenity. In the absence of any evidence to demonstrate that any of the exceptions listed in the policy are met, the development on part of the designated area is contrary to Policy GN6 of the CLP. As stated, this policy

seeks, amongst other things, to safeguard open space from development to maintain local character and amenity.

Living conditions

Noise and odour

11. The appeal site and site of the proposed dwelling is located near to a railway line and to a number of commercial premises located on the opposite side of Haigh Lane and along Farrar Mill Lane. These premises appear to include vehicle engineers, a fabricator, a joinery and building workshop and a waste transfer facility. Concerns have been raised by the Council's environmental health department regarding the lack of/limited planning restrictions on these premises and the likely adverse effect that the noise and smells emanating from these premises would have on future occupiers of the dwelling. The Council express particular concerns regarding the waste transfer station which, it states has been the source of previous noise complaints.
12. A noise report¹ was submitted with the application together with comments from the author of the report dated 24 October 2023 in response to concerns raised by the environmental health department. The only criticism of the report made by the Council was that it only had regard to railway noise and not to other noise sources such as the commercial premises. This criticism was refuted by the author of the report in the comments dated 24 October 2023.
13. The noise report does have regard to potential noise sources other than the railway line and specifically makes reference to a waste transfer site to the east of the site. Taking account of the noise climate in the immediate vicinity of the proposed dwelling and having regard to the proposed construction of the dwelling including sound insulation measures, the noise report concludes that future occupiers of the dwelling and users of its garden, would not be subject to unacceptable and harmful levels of noise. No evidence has been submitted which refutes the appellant's noise evidence and in the absence of this, and having regard to the evidence before me, I conclude that future occupiers of the proposed dwelling would not be unduly affected by noise.
14. With regard to odour, it is not clear from the Council's evidence what odours it is concerned about and from which source. I did not observe any noticeable odours at the time of my visit and whilst I accept that this only provided a snapshot in time, given this and the lack of any evidence regarding odour, it has not been demonstrated that future occupiers of the dwelling are likely to be unduly affected by it. The proposal therefore accords with Policy EN1 of the CLP and paragraph 180 (formerly paragraph 174) of the Framework which seek, amongst other things, to ensure that new development is not exposed to or be put at unacceptable risk from pollution including noise and smell.

Garden area

15. The submitted plans do not indicate any garden area to serve the proposed dwelling. Whilst the appeal site area is relatively large and it appears that there would be space to accommodate a garden area, the land around the dwelling is steeply sloping meaning that unless land levels were altered, it would not provide a useable and practical garden. No such details regarding land

¹ Assessment of the existing noise climate in the vicinity of the proposed dwelling on Haigh Lane, Halifax Druk Limited 6 June 2022.

alterations have been provided so it has not been possible to assess whether this would be acceptable at the appeal site.

16. Whilst I acknowledge that there is no reference to a “flattened area” being required within Policy BT2 of the CLP, it does refer to the provision of an adequate amenity space. Furthermore, I accept that in some situations garden areas can be formed on sloping sites and acknowledge that it is stated that this is a common topography of the area. Whilst some flattened areas are proposed around the dwelling, given that the ground floor of the dwelling is likely to be used for commercial purposes and the position of the workshop door relative to the space shown around the dwelling on the submitted plans, the flattened areas to the south of the dwelling would seem unsuitable for garden area.
17. Taking all of the above into account, I conclude that the proposal is contrary to Policy BT2 of the CLP which requires, amongst other things, development proposals to provide adequate amenity space for prospective residents.

Conclusion on living conditions

18. Whilst future occupiers of the proposed dwelling would be provided with satisfactory living conditions having regard to noise, disturbance and odour, they would not be provided with a satisfactory garden area.

Highway safety

19. The appeal site is located to the north and west of Haigh Lane and to the north of Farrar Mill Lane. The existing site access is located very close to the junction of Haigh Lane and Farrar Mill Lane with Haigh Lane bending to the west immediately to the south of the site. The road network surrounding the site is narrow meaning that it is not possible for two vehicles to pass one another at many points along Haigh Lane and Farrar Mill Lane. The existing access is at an angle to Haigh Lane and this together with the alignment of the nearby roads near to the access means that visibility of and from the access is poor.
20. As stated above, there is some existing development on the site, and it is near to a number of commercial premises. Given the nature of the local road network and position of the site access, the Highway Authority has raised concerns regarding the proposal.
21. An Access Statement² was submitted with the application and this was updated prior to the Council’s decision. This refers to the access having been in operation for 10 years with no discernible impact on the highway. However, whilst this may be the case, the 2012 google earth image supplied suggests that it was little used, and I have no evidence before me as to the legal status of the appeal site and the nature and frequency of any previous use of the access.
22. The proposal is for the site to be used for residential and commercial development and the appellant states that that this would be in the form of a live/work unit with the appellant being the only person employed on the site. It is stated that there would be no customers visiting the site nor any large delivery vehicles with the only commercial vehicle being a light, short wheel base pick-up truck used by the appellant. The appellant considers that the scale and nature of the commercial use of the site could be appropriately controlled by the imposition of conditions.

² PRD Highway Consultants

23. Even accepting the appellant's position regarding the scale and scope of the commercial use of the site, the proposal includes the use of the site for one dwelling and for commercial use by the appellant. The existing lawful status of the site is unknown. Given this, it appears that the proposal would result in increased vehicular activity connected with the site and increased use of the access and the surrounding road network. Notwithstanding the recorded relatively low speeds and accident figures, given the width and alignment of the approach roads which restrict forward visibility and offer limited passing places, and the absence of footways, the likely increase in traffic associated with the proposed use would be unacceptable and harmful to highway safety.
24. In addition, notwithstanding any improvements proposed to the existing access, its alignment and position relative to Haigh Lane and Farrar Mill Lane, including to the junction between the two roads, means that inadequate visibility is available both for and of vehicles exiting the access and this is likely to increase the risk of collisions. Whilst I note that the Access Statement has been updated and amended access details submitted, I am not satisfied that the evidence before me demonstrates that satisfactory visibility would be achieved at the point of access even if it is accepted that the circumstances justify a reduction in the x-distance to 2 metres. The amended access plan suggests that the y-distances of 21 metres to the left and 19 metres to the right required by the Highway Authority can be achieved. However, I note that the x-position appears to be incorrectly plotted and that the splay to the right ignores Haigh Lane.
25. In this case there is no compelling evidence to suggest that a deviation from the normal visibility splay standards would not be unsafe. Whilst the submitted evidence indicates that there may not be a significant history of accidents either along the nearby roads or near the site between 2017 and 2021, this period largely pre-dates the appellant's occupation of the site and use of the access.
26. Having regard to all of the above, I conclude that the proposal is not acceptable in highway safety terms having regard to the local road network and access arrangements. It is therefore contrary to Policy BT4 of the CLP which, amongst other things, requires the design and layout of highways and accesses to ensure the safe and free flow of traffic in the interests of highway safety.

Access to services and facilities

27. As stated, the surrounding road network is narrow and in places undulating and winding. Nearby roads are also largely without pavements and lighting. Although it appears that in terms of distance, the appeal site is not remote from a range of services and facilities with the nearest bus stop being 400 metres away, the pedestrian routes to access those facilities is not convenient and safe. The proposal is therefore contrary to Policy BT4 of the CLP which, amongst other things, requires convenient and safe pedestrian routes and connectivity within a site's surroundings. This is the case even if the site would not need to be accessed by staff and customers.

Character and appearance

28. The appeal site comprises a reasonably narrow piece of land positioned between the railway line to the west and Haigh Lane to the east. Land levels

fall fairly steeply west to east meaning that the site occupies an elevated position relative to Haigh Lane. As stated above, there is some development on the site, but its legal status is currently unknown. The southern part of the site is more open with less landscaping allowing for clear views into this part of the site from Haigh Lane and Farrar Mill Lane. Other parts of the site contain more trees and landscaping which screen it from wider views, albeit the screening will be reduced during the winter months. There is some residential development in the surrounding area, but none in the immediate vicinity of the site with commercial development located nearby on Haigh Lane, Shaw Lane and Farrar Mill Lane.

29. The Council's concerns in respect of character and appearance relate to the design of the proposed dwelling. It would be two storeys and would be set into the existing wooded slope to the north of existing development on site. It would have a sedum flat roof and be faced with dry stone walling to the ground floor and blackened timber cladding to the first floor. It would incorporate high level horizontal window openings together with full length vertical openings at first floor, some of which would wrap around the corner of the building.
30. Policy BT1 of the CLP seeks, amongst other things, to ensure high quality, inclusive design which respects the character and appearance of existing buildings and surroundings taking account of its local context and distinctiveness. The Council raises no concerns in respect of the scale, height or massing of the building.
31. Whilst the design of the proposed dwelling is modern in its form and appearance, it would be constructed from traditional materials reflective of its wooded surroundings in an area where natural stone is extensively used as a building material. As stated, the site is detached from other residential development and is instead viewed in the context of its wooded setting and nearby commercial developments comprising utilitarian buildings of varying form and construction. Given this and subject to a suitable and appropriate landscape scheme, it would not be an incongruous and strident feature that would be harmful to the character and appearance of the area.
32. Therefore and insofar as it relates to the design of the proposed dwelling, the proposal accords with Policy BT1 of the CLP and section 12 of the Framework. These policies and this guidance, amongst other things, seek to ensure high quality design which respects its surroundings.

Supporting information

Drainage

33. The Council's decision notice refers to the appeal site being within an area identified as a Critical Drainage Area (CDA). Policy CC2 of the CLP states that site specific flood risk assessments (FRAs) will be required for development proposals that fall within CDA's. It appears that no drainage information was submitted with the application and the Council's Officer Report refers to an objection being raised to the proposal by the Local Lead Flood Risk Authority due to the lack of drainage information.
34. I understand that a drainage consultant was commissioned prior to the application being determined and drainage details have been submitted with

the appeal. The Council has had the opportunity to comment on these details, but no comments have been received.

35. Under the circumstances and based on the evidence before me, whilst the information submitted does not appear to constitute a FRA, there is no evidence to suggest that suitable drainage could not be provided on the site or that the proposal would either contribute to or be vulnerable to flood risk. The proposal therefore accords with Policy CC2 of the CLP and to relevant paragraphs of the Framework regarding drainage and flood risk.

Landscape

36. The Council's decision notice refers to the appeal site being within a Special Landscape Area (SLA) as identified by the CLP. Policy GN4 of the CLP requires proposal within SLA's to be accompanied by a Landscape Impact Assessment (LIA) setting out how the proposal protects and enhances the landscape. No such assessment was submitted with the application.
37. The appellant contends that the appeal site does not fall within an SLA and therefore there is no requirements to submit a LIA. He also points to the fact that the application was validated by the Council without one and that one was not requested prior to the decision being made.
38. Under the designation/allocation section of the Council's Officer Report, the appeal site is referred to as being within a Landscape Character Area and not an SLA. There is no explanation within the report as to which SLA is affected and I have seen no evidence from the Council to refute the appellant's assertion that the appeal site is not within an SLA. Therefore, based on the evidence before me, the lack of a LIA is not a reason in and of itself to refuse planning permission.

Parking and vehicle turning

39. The Highway Authority consultation response refers to a lack of information regarding visitor and staff parking and the turning of goods vehicles. The Council's decision notice refers to the fact that no cycle parking is shown though the Highway Authority response suggests that this matter could be addressed by condition.
40. As stated, the appellant has advised that the nature of the proposal and the commercial use of the site is such that goods vehicles, staff and customers will not be accessing the site. Moreover, additional information has been provided including a swept path analysis and turning details for a light van. The Council has had the opportunity to comment on this though no reference is made to it in the statement received from the Highway Authority.
41. Based on the evidence before me, I am satisfied that were I to grant planning permission, then conditions could be imposed restricting the scale of the proposed commercial use including restricting access by staff, customers and large commercial vehicles. The additional information submitted by the appellant indicates that vehicles could turn within the site. I therefore conclude that parking, turning and cycle parking are not reasons to refuse the proposal and that suitable parking and turning facilities could be provided within the site. The proposal is not therefore contrary to Policy BT4 of the CLP in this regard.

Other Matters

42. The proposal includes the provision of an additional dwelling and commercial development in the form of a live-work unit. This would provide economic and social benefits, though these would be modest given the relatively small scale of the proposal. The proposal includes a number of sustainable design features and there would be some modest environmental benefits associated with these.
43. Reference is made within the appellant's planning statement to the fact that the Council cannot demonstrate a five year housing land supply. No details of the extent of any shortfall are provided and no reference is made to it by the Council. Nevertheless, even if there is a shortfall and paragraph 11d of the Framework is applied, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

44. The design of the proposed dwelling would not be harmful to the character and appearance of the area and the proposal is acceptable in terms of drainage, Special Landscape Area and parking and turning. Whilst future occupiers of the proposed dwelling would have satisfactory living conditions having regard to noise, disturbance and odour they would not be provided with a satisfactory garden area. In addition, the proposal would result in development on an area of designated open space, sport and recreation, it would be harmful to highway safety and would not provide safe and convenient pedestrian access to the surrounding area.
45. The proposal is therefore contrary to the development plan as a whole and there are no material considerations that warrant a decision other than in accordance with the development plan.
46. For the reasons given above, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR