



Appeal Decision

Site visit made on 28 January 2025

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2025

Appeal Ref: APP/A4710/W/24/3352517

Land adjacent Clarence Hotel, Lister Lane, Halifax HX1 5DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Yasar Ali of Afton Projects Ltd against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 24/00377/FUL.
 - The development proposed is Construction of one dwelling (revised scheme to application number 21/00485/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have consulted the main parties on the revised National Planning Policy Framework December 2024 (the Framework). Comments were received by the appellant stating that paragraphs 125 (c) and (d) of the Framework are relevant which relate to building on brownfield land and supporting the development of under-utilised land as set out in the Framework. The Council has been given the opportunity to comment, however I have not received comments from the Council.

Main Issues

3. The main issues of the appeal are:
 - Whether the appeal site is a suitable location for the development having particular regard to the Council's approach to development in Primary Employment Areas (PEA).
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the living conditions of future and nearby residents, with particular regard to outlook, daylight and sunlight, privacy and garden area.

Reasons

Location of development

4. The appeal site is a gated car park and yard area adjacent to the former Clarence Hotel, which is also described in evidence as Clarence Public House which is now in residential use. The car park area is of a modest size and fronts onto Lister

Lane with dwellings located opposite and to both sides. An industrial unit is located very close to the rear of the site. The site is located within a PEA, however the location has a mixture of residential and employment uses close to each other.

5. The proposal is for the development of a large, detached dwelling with associated car parking and garden area on the site, which includes part of the yard for the former Clarence Hotel adjacent to the site.
6. Policy EE1 of the Calderdale Local Plan (2023) (CLP) sets out the Council's approach to safeguarding existing employment areas, land and premises. The site is located within a designated PEA, where the loss of land for redevelopment on sites within a PEA will not be permitted unless a series of criteria are met. These criteria include demonstrating that there is no demand for the use of the premises for employment use, evidence of marketing and evidence to demonstrate that the site has been identified for release in an Employment Land Review.
7. I am mindful that the planning history of the site does include a previous approval¹ for residential development where the principle of development was considered to be acceptable by the Council. I have also been provided with evidence relating to two subsequent decisions where the Council determined that although the schemes were unacceptable for other reasons, the principle of development was considered to be acceptable due to the extant planning permission for residential development on the site. I have been provided the former policy in relation to employment land by which the previous applications were likely assessed from the Replacement Calderdale UDP (2006) (UDP). Policy E5 of the UDP, similarly to policy EE1 of the CLP, included several criteria, including the requirement for adequate marketing to be undertaken to demonstrate that there was no demand for the site for employment purposes, and the policy required applicants to demonstrate that the site was no longer capable of supporting an employment use.
8. Notwithstanding the similarities of the above policies, it is my understanding that the previous approval¹ is not an extant permission. Furthermore, without being provided with all supporting information that may have accompanied the previous applications, it is not clear to me as to whether the policy criteria had been satisfied in some form at that time. Therefore, the history of the site does not indicate that CLP policy EE1 should not be applied fully in this case.
9. Whilst I acknowledge that the site is of a modest size, and given its location and current use as a car parking area would utilise a brownfield site as supported by parts (c) and (d) of paragraph 125 of the Framework. In my view, this is not a reflection on the site's quality and it has not been adequately demonstrated that the appeal site is no longer capable of any employment use despite its small size. Furthermore, it has not been adequately demonstrated that there is no demand to use the site for employment use supported by evidence of marketing, and it has not been adequately demonstrated that the site has been identified for release in an Employment Land Review.
10. Therefore, I conclude that, in the absence of information to satisfy the criteria as set out in Policy EE1 of the CLP, the appeal site would not be a suitable location for the development having particular regard to the Council's approach to development in PEAs. In my view the proposal would not meet the requirements of policy EE1 of the CLP, which seeks to ensure that a viable employment base is

¹ 11/00377/FUL Detached dwelling, approved with conditions 16/11/2011

maintained within Calderdale, and that good quality employment sites are retained for future use and are protected from development for other uses.

Character and appearance

11. The appeal site has residential development on three sides in the form of traditional terraced properties and the former Clarence Hotel now in residential use. An industrial estate is located to the south. Lister Lane slopes down towards the site.
12. The proposed development would see a large L-shaped, detached dwelling that would fill a considerable portion of the site. The design of the dwelling would have a significant bulk and height. The depth of the dwelling almost fills the depth of the site on the side elevation facing Church Close and although the elevation is broken up by one window, nonetheless the height and bulk would be an imposing feature and would be particularly prominent.
13. The front elevation would be in part set back from the highway to provide car parking to the front of the site. However, this set back would be at odds with the street pattern of the surrounding historic dwellings, which have small gardens to the front or are located on the back of the pavement. The blank front gable end although located at the back of pavement would be very prominent and would appear incongruous in the street scene. Furthermore, due to the size of the dwelling and the restricted nature of the site, the dwelling would appear cramped.
14. The proposed palette of materials using stone would be in keeping with the character of the area. However, overall, the bulk and massing of the proposed building on the site, together with the position of the proposed dwelling on the site would appear incongruous and would cause harm to character of the area.
15. Therefore, I conclude that the proposed development would have a detrimental effect on the character and appearance of the area contrary to policy BT1 of the CLP which insofar as it relates to character and appearance which seeks to ensure that new developments will be of high quality and be of a suitable height, massing, scale, form and siting, and should respect or enhance the character and appearance of existing buildings.
16. CLP Policy BT2 relates specifically to privacy, daylighting and amenity space. Therefore, this does not relate to this main issue and is addressed below.

Living conditions

17. The proposed dwelling would have residential development on three sides with the industrial unit to the rear.
18. Due to the proposed blank gable directly facing properties opposite the site on Lister Lane and sufficient separation distances, I am satisfied that no loss of privacy would result from the development, causing harm to those properties. In addition, due to the separation distances between the properties I am satisfied that there would be no overshadowing of these properties as a result of the proposed development.
19. Having regard to the properties located on Church Close, the placement of an obscure glazed bathroom window would not cause a loss of privacy to the rear elevations of those properties directly facing the appeal site. I am satisfied that

sufficient separation exists between the properties and this together with the juxtaposition of the proposed dwelling in relation to the dwellings on Church Close, in my view there would not be a loss of sunlight or daylight to those properties as a result of the proposed development.

20. With regard to the former Clarence Hotel to the side of the appeal site, I am satisfied that sufficient separation exists between the proposed dwelling and the residential units to the side, and together with ground floor boundary treatments there would not be a loss of light, loss of privacy to these properties.
21. However, part of the yard area to the former Clarence Hotel residential units would be lost as a result of the proposed development, which from my observations appears to be within the red line site plan. I have not been provided with sufficient information as to how any remaining space would appear and function for the occupiers of the flats. Therefore, I consider that the proposal would have an adverse impact on the living conditions of occupants of the former Clarence Hotel by way of a loss of outdoor private space.
22. Turning to the living conditions of future occupiers of the proposed development. The Council's planning officer in their report raised concerns relating to noise from the industrial units to the rear and their effect on future occupiers of the proposed dwelling. This has not been substantiated further in the evidence and was not mentioned in the reason for refusal relating to this main issue. For these reasons I will not be focussing my assessment in terms of this main issue on this matter.
23. The distance between the rear elevation of the proposed dwelling and the industrial unit to the rear would be very limited, and due to the height of industrial building, together with its location on the south side of the proposed dwelling, would, in my view, result in a significant lack of sunlight to the rear elevation of the proposed dwelling. A number of windows serving bedrooms and main living areas would be affected by this relationship, notwithstanding additional windows to some rooms. In addition to this, due to the proximity of the industrial building to the rear, there would be very little outlook for future occupiers. Therefore, in my view the proposal would not provide adequate daylighting and outlook for prospective residents.
24. The proposed garden being to the side of the proposed dwelling would be in very close proximity to some of the windows, including high level windows of the former Clarence Hotel residential units. Due to this close relationship, the garden could be easily overlooked, and therefore, I find that the proposed garden would not have sufficient privacy from the former Clarence Hotel residential units.
25. Overall, I conclude that the proposal would have a harmful effect on the living conditions of future and nearby residents of the former Clarence Hotel with regard to outlook, daylight, sunlight, privacy and garden area. Therefore, the proposal would be contrary to policy BT2 of the CLP insofar as it seeks to ensure that development proposals do not have a significant adverse impact on the private amenity space of adjacent residents and should provide adequate privacy, daylighting and private amenity space for prospective residents.

Other Matters

26. The proposed development would provide one dwelling which would contribute to the delivery of housing in the area. In addition to this the development does not impact an on-site priority habitat, and biodiversity improvements would be made through the provision of bird nesting and bat roosting features. Whilst these are evident benefits of the proposal, the contribution this dwelling would make would be limited by the small scale of the development and therefore, these benefits do not outweigh the harm identified in the main issues.
27. The appellant has provided details of a flooding and drainage assessment and contaminated land assessment, which indicate that the proposed development would be acceptable regarding these matters. Based on the information provided by the main parties, it would not lead me to reach a different conclusion on these matters. However, the absence of harm in these respects is a neutral factor.
28. A neighbour has commented on the proposal and did not object, however this does not affect the conclusions I have reached on the main issues.

Conclusion

29. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

N Duff

INSPECTOR