



Appeal Decisions

Site visit made on 29 July 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal A Ref: APP/A4710/C/24/3357409

5 Beckside, Shelf, Halifax HX3 7QG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”).
 - The appeal is made by Mrs D Stevenson against an enforcement notice (“EN”) issued by Calderdale Metropolitan Borough Council.
 - The EN was issued on 28 November 2024.
 - The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the Land from a dwellinghouse to a mixed use as a dwellinghouse and for creche/childminding activities.
 - The requirements of the EN are: You must: Permanently cease the use of the Land for the purposes of creche/childminding activities.
 - The period for compliance with the requirement is: 12 months from the date this Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.
-

Appeal B Ref: APP/A4710/W/25/3360708

5 Beckside, Shelf, Halifax, Calderdale HX3 7QG

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
 - The appeal is made by Mrs Deborah Stevenson of The Launchpad against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 24/01104/FUL.
 - The development is described as: Change of use from dwelling to a mixed use of dwelling and creche/childminding
-

Decision

1. **Appeal A** - It is directed that the appeal is dismissed, the EN is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.
2. **Appeal B** - The appeal is dismissed.

Preliminary Matters

3. **Appeals A and B** - Since the appeals were lodged, a revised National Planning Policy Framework (“the Framework”) has been published. However, this has not raised any new matters which are determinative to the outcome of these appeals.
4. **Appeal B** –The Council’s decision notice refers to the “*Change of use from domestic to child minder (Retrospective)*”. I accept that the description of development contained within the planning application form contains superfluous information and does not refer to an act of development. However, there is nothing before me to suggest that the Council sought permission from the

appellant to amend the description of development. Furthermore, the Council's description is incorrect as the evidence clearly indicates that the change of use is for a mixed use to a dwelling and a creche/childminding business.

5. Consequently, I sought the parties' views on amending the description of development to "*Change of use from dwelling to a mixed use of dwelling and creche/childminding*". The appellant confirmed they had no objection to my suggested amendment. The Council proposed an alternative description. However, I am satisfied that my suggested description reflects the development for which planning permission is sought. The banner heading above includes the amended description, and I will determine Appeal B on this basis.

Appeal A on Ground (a) and the Deemed Planning Permission, and Appeal B – the s78 Appeal

6. An appeal under ground (a) is that planning permission should be granted for the matter alleged. The matter alleged in Appeal A and the amended description of development in Appeal B involve the same development. This is also true of the main issues. Therefore, while I shall consider each appeal on its individual merits, to avoid duplication, I will deal with the appeals together.
7. The **main issues** are the effect of the development on:
 - the living conditions of neighbouring occupiers, with particular reference to noise and disturbance; and
 - highway safety.

Reasons

Living Conditions – Noise and Disturbance

8. The appeal property is a three-storey, end-of-terrace dwelling. The ground floor comprises an entrance hall, open-plan kitchen/dining/living room and toilet which are used by the creche/childminding business ("the business") and as part of the dwelling. Patio doors provide access to a small rear garden used by both uses. There is a single room to the first floor used solely for the business as a playroom. The second floor includes a master bedroom with en-suite and a study used as part of the dwelling, a room used by the business for sleeping/quiet time/sensory play, and a bathroom used by both uses.
9. The property is located towards the entrance of a cul-de-sac that serves a mix of two-and-a-half-storey and three-storey dwellings that were constructed as part of a single development.
10. The appellant asserts that there has been a business operating from the dwelling since 2015. However, Ofsted Inspection reports indicate a significant intensification in the operation of the business circa August 2022 when the number of children on the role increased from 14 to 29 and the number of staff increased from 3 to 6. It was after this intensification occurred that the Council received a complaint regarding noise and disturbance.
11. The business is registered to care for 20 children. However, as of September 2024, the appellant asserts that on the busiest day there are 17 children being cared for, with an average of 12-13 children the rest of the week, supervised by

the appellant and three full-time staff. The children are aged from 12 months to 4 years, and the business operates from 7:30am to 5:30pm Monday to Thursday and from 7:30am to 5pm on Fridays, excluding Bank Holidays.

12. There is no noise survey before me, and I have no objective means of quantifying the noise impacts of the business. Nonetheless, the number of children and staff far exceeds the number of people that would occupy a typical 3-bedroom dwelling, albeit occupied by a large family. Even when supervised, pre-school children will cry, shout and scream in surprise, anger and delight. Consequently, I have no reason to disagree with the complainant that the noise and disturbance emanating from the business affects their living conditions.
13. The property is attached to another dwelling and therefore, the noise associated with the business can travel through the adjoining walls. I acknowledge that carpets were fitted to some of the appeal property's rooms at the request of the Council's Environmental Health department to lessen the effect of the noise generated by the business. Also, the appellant would be amenable to the implementation of a scheme of noise attenuation measures. However, in the absence of a noise survey, I am unable to determine whether internal sound insulation measures would be effective in reducing noise to an acceptable level.
14. Noise from the business would likely be discernible to the occupiers of neighbouring properties when the appeal property's windows and doors are open and when children are in the garden. This would be particularly noticeable due to the small size of the rear gardens and during periods of warmer weather when neighbours would likely be outside. A condition preventing windows from being opened and patio doors from being left open at the appeal property would not be enforceable. The appellant asserts that the garden is used by a maximum of 6 children at a time, supervised by one staff member and only used between 10am and 3pm. There is already a close boarded fence to the rear garden's boundaries therefore, I am unclear how noise from the rear garden could be further mitigated.
15. Children attending the business are dropped off between 7:30am and 9am and picked up between 3:30pm and 5:30pm. The appellant asserts that pick up and drop off times are staggered and only one child currently stays until 5:30pm, two days a week. However, evidence has not been provided to demonstrate the precise time each child is dropped off and picked up over a representative period.
16. Typical noise associated with drop offs and picks ups would include vehicles driving along the road, vehicles driving into the off-street parking space to the front of the property and reversing back onto the street (or vice-versa), car doors opening and closing, people walking along the road, and talking. In the absence of evidence to the contrary, I must assume that caring for between 12 and 17 children each day could equate to 12-17 separate comings and goings, twice a day (excluding staff). This is substantially more than the comings and goings associated with a family dwelling during these periods and therefore, has the potential to cause significant harm to the living conditions of the occupiers of neighbouring properties.
17. At the time of my site visit, 10 children were being cared for inside the property with all the windows and doors closed. As such, the street had a tranquil character with only the sound of bird song, running water from the beck and occasional distant road noise. In the absence of a noise survey, it is my judgement that the

comings and goings associated with the business, particularly early in the morning when the occupiers of neighbouring properties could still be asleep, would be detrimental to the living conditions of the occupiers of neighbouring properties. While I could impose a condition that restricts the business to open later in the morning, I am unclear whether it would be reasonable for the business' operation.

18. The Council has provided me with a list of suggested conditions should I be minded to allow the appeals, and the appellant has no objection to them. However, some are more lenient than how the business currently operates, while others would maintain the status quo, and the evidence before me suggests that the status quo results in excessive noise and disturbance.
19. I am mindful that I could amend the suggested conditions to reduce the number of children on the role and with reduced opening hours, and that the business could be subject to an agreed Noise Management Plan. However, without technical evidence before me, I am unable to ascertain what would be reasonable or whether such conditions would be effective in mitigating the noise impacts.
20. In my opinion, there is insufficient technical evidence to demonstrate that the development does not harm the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance. As such, it conflicts with Policies BT2 and EN1 of the Calderdale Local Plan 2018/19 – 2032/33 Written Statement, adopted 2023 (“LP”) which, amongst other things, seek to ensure that development proposals do not result in significant adverse impact on the private amenity space of adjacent residents; that consideration will be given to the potential for pollution including noise; and that an appropriate impact assessment should be submitted with the planning application and should detail any mitigation measures needed to make the development acceptable.

Highway Safety

21. According to the LP's Parking Standards, dwellings should have a minimum of one parking space within the curtilage of the property. Day nurseries/creches require one space per two staff members (likely to be present at any one time), no more than four spaces for visitors, and that parking on-street may be acceptable. The business has four staff (including the appellant who lives at the property). Therefore, two staff parking spaces are required and up to four spaces are required for visitors.
22. The property has one off-street parking space. A drawing submitted with Appeal B demonstrates that the front garden could accommodate two off-street parking spaces. However, it is unclear whether sufficient space would remain to access the property's front door, particularly by those with a pram/pushchair. Furthermore, the drawing does not include a bin storage area to the front of the property, and it is unclear whether they can be stored within the rear garden where children attending the business play.
23. The property forms part of a housing development which has no visitor parking spaces. Most dwellings have a driveway that can accommodate either one or two cars and an integral garage. However, according to the Council's Highways Section, the garages are of an inadequate size to accommodate a vehicle. Consequently, visitors and occupiers of properties with insufficient off-street parking space park on the road.

24. There are no parking restrictions along the road. However, each property has a driveway which consequently, limits where on-street parking can take place. The road is only wide enough for two vehicles to pass one another and therefore, parking on the road inhibits the free flow of vehicles. Furthermore, the appeal site is located on a bend and therefore vehicles parked on the road immediately outside the property obstruct drivers' visibility.
25. At the time of my site visit there was evidence of vehicles parked within driveways and along one side of the road including close to the junction with Cooper Lane. As such, there was a lack of places where additional vehicles could safely park on the road without causing an obstruction or impeding the free flow of vehicles. I appreciate that this was a snapshot in time, however, I have not been provided with a parking survey to demonstrate that this is an uncommon occurrence. Consequently, from the information before me, there is insufficient space along the road for visitors to the business to park.
26. The appellant asserts that employees walk and therefore, do not require a parking space. However, I cannot guarantee that employees would live within walking distance of the property, or choose to walk to work, for the lifetime of the development. Furthermore, a condition preventing employees from driving a car to their place of employment is unenforceable.
27. There are bus stops on Cooper Lane, within proximity of the appeal site. However, I have not been provided with information regarding the frequency of the service or the route. Therefore, it is unclear whether buses could be relied upon by visitors or employees as an alternative to the private car.
28. The appellant asserts that clients are told to park on Cooper Lane and walk to the appeal property. However, this could not be enforced by condition, as vehicles cannot be prevented from accessing a public highway. Additionally, I do not have a parking survey to demonstrate that there is capacity for vehicles to park on Cooper Lane.
29. For these reasons, the development harms highway safety. It conflicts with Policy BT4 of the LP which states, amongst other things, that the design and layout of highways and accesses must ensure the safe and free flow of traffic (including provision for cyclists) in the interest of highway safety, and allow access by emergency, refuse and service vehicles.

Other Matters

30. Paragraph 100 of the Framework states that it is important that a sufficient choice of early years places is available to meet the needs of existing and new communities and that Councils should take a proactive, positive and collaborative approach to meeting this requirement. The appellant has also directed me to a letter from Calderdale Council's Children and Young People's Services that states there is an expected shortfall of 215 childcare places for September 2025 and that the ward in which the appeal site is located is ranked 'Amber' in terms of sufficiency indicators for childcare places. The appellant therefore asserts that there is a need for the business within the ward.
31. I appreciate that if planning permission is not granted, the business could close with the loss of four jobs, and parents/guardians may have to find alternative childcare provision for their children with the associated disruption this could

cause. I am also mindful of paragraphs 85 and 98 of the Framework that state that planning decisions should help create the conditions in which businesses can invest, expand or adapt. That significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. And that decisions should guard against the unnecessary loss of valued facilities and services.

32. However, insufficient information is before me to demonstrate that alternative premises for the business could not be found within the surrounding area within the 12 months afforded by the EN, or that the existing staff could not find alternative employment. Even if this was not possible, in the absence of sufficient evidence before me, it is my judgement that the business has outgrown the property, and the loss of the childcare facility and associated jobs would not outweigh the harm afforded to the living conditions of the occupiers of the neighbouring dwellings from noise, disturbance and highway safety.
33. The appellant has directed me to the supporting text to LP Policy EN2 that seeks to ensure that facilities such as nurseries are in areas where pollution levels will be low. However, I have insufficient information before me to determine whether the appeal site is within an area of low pollution, or indeed whether alternative premises cannot be found within an area of low pollution.
34. The plans submitted with Appeal B incorrectly show the layout of the property. However, as I am dismissing the s78 appeal, I do not need to consider this matter further.

Conclusion on Appeal A, Ground (a) and the Deemed Planning Permission and Appeal B – the s78 Appeal

35. **Appeal A** - For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should be dismissed, and the deemed planning permission should be refused.
36. **Appeal B** - For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

Appeal A on Ground F

37. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
38. The appellant states that the steps are excessive to remedy the breach of planning control and that a proportionate response would be to attach appropriate conditions to control the hours of operation of the business and the number of children who attend. However, planning merits may only be considered pursuant to a ground (a) appeal, which I have considered above.
39. The purpose of the EN is clearly to remedy the breach of planning control and no lesser steps would achieve that purpose. Consequently, the steps required by the EN are not excessive.

Conclusion on Appeal A, Ground (f)

40. For these reasons, the appeal under ground (f) should fail.

Overall Conclusion

41. **Appeal A** - For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

42. **Appeal B** - For the reasons given above the appeal should be dismissed.

A Berry

INSPECTOR