



Appeal Decision

Site visit made on 11 August 2025

by **M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 August 2025

Appeal Ref: APP/A4710/W/25/3366466

Kingdom Hall Of Jehovah's Witnesses, Boyne Street, Halifax HX1 5HL

- 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 Tony Dapolito against the decision of Calderdale Metropolitan Borough Council.
- The application Ref is 24/01016/FUL.
- The development proposed is change of use from F1 to sui generis use.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal building would accommodate offices and packing facilities in connection with the sale and distribution of health, beauty and leisure products for an online retailer¹. No on-site retailing would occur and the offices would be used for purposes ancillary to the packing and distribution of goods on-site. The appellant has described the proposed use as 'sui generis,' meaning 'of its own kind,' suggesting that it does not fit into one of the prescribed classes set out in the Town and Country Planning (Use Classes) Order 1987 (as amended). The Council has determined the application on this basis and I must do the same.
3. It became evident during the appeal process that the accompanying documents supplied with the appeal related to a previous planning application made in respect of a change to a Class E use². As the Council's notification of the appeal to interested parties provided access to the correct documentation arising from planning application 24/01016/FUL, I am satisfied that no prejudice has occurred. The correct application form, plans and design and access statement have been saved to the appeal file and I have made my decision based on this information³.

Main Issue

4. The main issue is the effect of the proposed development upon highway safety.

Reasons

5. The appeal site comprises a building formerly used as a place of worship that is currently vacant⁴. It fills the majority of the plot, such that there is little external

¹ As set out in the appellant's design and access statement.

² Application reference 24/00565/FUL.

³ As supplied by the Council in its emails dated 24 July and 11 August 2025.

⁴ As viewed during the site visit and as stated by the appellant in his design and access statement for change of use from F1 to sui generis (online business).

space for vehicle parking and manoeuvring. The proposal is for the change of use of the building only with no structural or external alterations.

6. The appellant advises that goods arriving at and leaving the premises would be loaded and unloaded from transit vans on average once or twice a week in an area including a small yard to the rear⁵. This area is accessed via the private road off Back Lord Street and is constrained by its limited size, the presence of palisade fencing and a fire escape staircase. Transit vans come in different sizes and it is not clear from the evidence that there would be sufficient room to park such vehicles entirely within the appeal site, whilst allowing sufficient circulation room to enable goods to be transposed into the building.
7. Moreover, no specific information has been supplied about the operations of the business. For example, there is no information regarding where stock would be sourced from and if this includes multiple sources, whether that would lead to multiple deliveries from each supplier. The evidence is vague about what, if any, control the appellant would have to prevent deliveries being made by larger trucks or HGV's. Although the appellant suggests that 'no HGV's are anticipated,' it would not rule them out.
8. I am also concerned that the appellant's statement appears to downplay the highway implications of the proposal in suggesting that the premises would be used for 'limited on-site storage and dispatch.' This would be contrary to the floorplans which indicate large storage areas within the building. It is unclear how the change of use would be for limited dispatch, when that would be the purpose of the business. The statement also suggests that deliveries would be infrequent which appears to be contradictory to the information within the design and access statement that servicing would be at least weekly. If sales were to increase, it follows that the number of deliveries and distributions would also rise.
9. Although it is suggested that sold goods would be distributed from the appeal site by the appellant or employees taking the parcels to collection points, I have no information of the number of average sales per day or the size of parcels to indicate whether this would be realistic. Even if staff were to utilise public car parking within the vicinity of the appeal site while they were working, it seems that with no evidence to the contrary, vehicles would need to be brought to the site to assist with the distribution of goods.
10. The appellant suggests that there is land to the front and side of the building that could be repurposed to provide additional parking and unloading space if required. However, that is not part of the proposal before me as permission is sought for the change of use of the building only. The land to the side of the host building is at a lower land level and would require engineering works to create level access to accommodate a vehicle(s). Likewise, there is a gated under-croft to the rear of the appeal site. It is of a limited width and head height, particularly when the change in ground level is accounted for. It would be difficult to access by anything other than a single small vehicle, such that I am not satisfied that it could be relied upon to accommodate delivery vehicles. In any event, it appears that not all of the land to the northern side of the building belongs to the appeal site⁶.

⁵ As described in the appellant's design and access statement.

⁶ With regard to the extent of the site edged red on the submitted site location plan and the absence of any other land within the same ownership.

11. Even if I could accept that there are access rights to pass over the private road to access the appeal site, there is nothing in the land registry extract supplied to suggest that visitors to the premises including staff and delivery drivers would be permitted to stop or park in this street to enable loading or unloading to occur.
12. At the time of my visit, the relatively narrow private road was being used for the parking of vehicles in connection with an adjacent joinery business, the owner of which has suggested that they own the majority of the road. Whether or not that is the case, my observations of parking on the private road chime with those of the Highway Authority as detailed in the Council's officer report. Even if a transit van could be accommodated entirely within the appeal site's yard area, manoeuvring into and out of the area around parked vehicles would not be easy, given the limited width of the private road. This is likely to result in vehicles having to reverse around the corner into or out of Back Lord Street where visibility is hampered by the 3-storey buildings sited at the back edge of the pavement to either side. Larger vehicles would be unlikely to be able to get close to the rear of the appeal building.
13. I further observed that the carriageway of Back Lord Street is reduced by the presence of on-street parking bays and it has no stopping restrictions Monday to Saturday 8am-6pm which are likely to coincide with the operation of the business. The proposal could therefore prevent the free flow of traffic and require unsafe manoeuvres within the highway network.
14. I accept that the neighbouring commercial premises will generate daily traffic. Nonetheless that is a pre-existing situation. The onus is upon the agent of change i.e. the appellant, to demonstrate that the proposal would be acceptable in highway safety terms, given the prevailing context of the appeal site. There is no highway assessment before me to counter the objection from the Highway Authority and lead me to a different conclusion.
15. The appellant has suggested that a condition could secure the positioning of gates a minimum of 5m back from the building façade to facilitate turning. Given the constraints and limited width of the rear yard area and private access road it is unclear where gates could be positioned on land within the appellant's control to meet this requirement, whilst still enabling service deliveries to occur within the appeal site. I am not satisfied on the evidence before me that such a condition would be reasonable and, overcome the harm identified.
16. It has been put to me that the existing F1 place of worship use would generate far more intensive traffic from 90+ attendees. Former congregations will have accessed the building via the front entrance on Boyne Street on foot after travelling by public transport or vehicles utilising car parking elsewhere within the town. These circumstances are considerably different to the proposal which generates the need for goods to be supplied and distributed from the appeal site in vehicles.
17. I am satisfied that the residual cumulative impacts on the road network would not be severe given the scale of the proposal. Whilst land ownership is not necessarily a barrier to granting planning permission, in this case, it has not been demonstrated that adequate arrangements would be provided to service the proposed use within the appeal site, and that it would not result in a consequential negative effect on highway safety. It follows that it has not been demonstrated that the proposal would not have an unacceptable impact on highway safety⁷.

⁷ With reference to paragraph 116 of the Framework.

18. I therefore find conflict with Policy BT4 of the Calderdale Local Plan (CLP) 2023, which amongst other things, requires the proposal to ensure the safe and free flow of traffic and access by service vehicles. Conflict is also found with paragraphs 115–117 of the National Planning Policy Framework which require safe and suitable access to the site to be achieved for all users and, that developments allow for the efficient delivery of goods.

Other Matters

19. I have been referred to 2 appeal decisions which are suggested to be of relevance as they deal with matters of access rights and private land matters⁸. However, neither of the reference numbers were accurate and the appellant has suggested there may have been an error in how they were recorded. As the decisions were unidentifiable and the appellant has not supplied copies, I have been unable to consider them as part of the appeal.
20. Reference is made to policies IM7 and GN4 of the CLP. As these policies relate to masterplanning for garden suburbs and mixed-use allocations and the landscape, I am satisfied that they are not engaged by this proposal.
21. I acknowledge that the appellant has altered their proposal since the refusal of the previous planning application. However, that does not automatically render the proposal before me acceptable and I have found harm for the reasons given.

Planning Balance and Conclusion

22. The proposal would result in an unacceptable impact on highway safety as it has not been demonstrated that adequate service arrangements could be made within the appeal site to meet the specific needs of the proposed use.
23. The proposal would result in the re-use of previously developed land and provide a small number of jobs. However, such benefits would be achieved at the expense of highway safety. There was no evidence during my visit that the unoccupied building is attracting anti-social behaviour or fly-tipping. The rear yard area is already visible from the adjacent occupied buildings such that increased surveillance is not particularly necessary. These matters attract no more than limited weight.
24. It is unclear how an online business has been designed to serve the local community or how it would be community focussed such that I could consider this as a benefit. The acceptability of the scheme with regard to the living conditions of residents is a neutral matter, that weighs neither for, nor against the proposal.
25. Drawing this together, it is evident that the limited weight to be attributed to the benefits does not outweigh the identified harm to highway safety. The proposal conflicts with the development plan and there are no material considerations individually or cumulatively that would outweigh the identified harm. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

⁸ Appeal references APP/G5180/W/21/3288571 and APP/Q0505/W/22/3298147 as set out in the appellant's appeal statement.