



Appeal Decision

Site visit made on 28 October 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal Ref: APP/A4710/W/25/3371425

The White Hart, 5 Mill Lane, Mixenden, Calderdale, Halifax HX2 8SE

- 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 Ms Nicola Lawton against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 25/00391/FUL.
 - The development proposed is erection of one dwelling and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. While the reasons for refusal in the Council's decision notice do not refer to Policy BT2 of the Calderdale Local Plan 2018/19-2032/33, March 2023, (LP) both parties refer to this policy in their evidence with regard to outlook, daylight and privacy. I have been provided with a copy of this policy and have referred to it accordingly.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the area;
 - living conditions of the occupants of neighbouring dwellings, with particular reference to outlook, daylight and privacy; and,
 - highway safety.

Reasons

Character and appearance

4. The proposed dwelling would occupy a site fronting onto Mill Lane, positioned between two rows of stone-built, two-storey houses located on Seed Hill Terrace and Clough Lane. The prevailing built form along Mill Lane comprises predominantly two or more storey terraced dwellings constructed from coursed stone, with stone or slate roofs and a predominance of horizontally proportioned windows. Dormer windows are not a characteristic element of buildings, and their absence contributes to the simplicity and coherence of the streetscape. While some buildings are orientated with gable ends facing the street, the overall character of the area is defined by a limited palette of materials and consistency of architectural form.

5. The proposed use of coursed natural stone and stone slate roofing would reflect the established palette of materials in the locality. However, the introduction of a one-and-half storey dwelling, with pronounced front dormers and the use of materials such as render, and cedar and zinc cladding, would represent a departure from the established character. Furthermore, the inclusion of vertically proportioned windows and the proposed one-and-half storey gabled projection to the front elevation, in the context of the existing streetscape, would further contribute to an incongruous appearance.
6. The appellant has referred to several examples of dormers granted planning permission, including standalone additions or as part of new builds, which may not align with the Calderdale Placemaking and Design Guide, Supplementary Planning Document, July 2024, (SPD). However, these examples differ in scale, design, site character and, above all, location. In any case, circumstances vary from one site to another, and I have considered this appeal on its merits.
7. A notable feature of the streetscape is the narrow gap between the two terrace rows, which reflects the sloping topography and maintains a clear distinction between the terrace rows, contributing positively to the character of the area. The orientation and siting of the proposed dwelling would erode this positive contribution made by the existing gap, resulting in a form of development that would appear cramped in this context and at odds with the established pattern of development.
8. The scheme proposes a stepped building form, from front to back, with a green roof over the rear, single-storey projection reflecting, in part, the site's sloping topography. However, this does not address the incongruous appearance of the proposed dwelling when seen from the street. Furthermore, while the retention of existing trees and boundary features, together with the provision of further landscaping, trees and hedgerow would contribute to the environmental quality of the site, these measures would not sufficiently mitigate or outweigh the harm to the character and appearance of the area identified above.
9. For these reasons, the proposal would be harmful to the character and appearance of the area, conflicting with Policies BT1 and GN4, and thereby HS1, of the LP which seek, among other things, high quality design that takes account of local context and distinctiveness, and respects or enhances the character and appearance of the surroundings. It would also be contrary to the SPD, which emphasises the need for dormers to be sensitively designed and located.

Living conditions

10. Annex 2 of Policy BT2 of the LP provides guidance on the provision of adequate space around and minimum separation distances between dwellings. Based on this guidance, the proposed dwelling would not be sufficiently distanced from the rear-facing windows and entrance doors, and rear boundaries to 5 and 6 Seed Hill Terrace (Nos 5 and 6) as to avoid an overbearing effect on the outlook from these properties.
11. The appellant has submitted sun path and shadowing plans which indicate that the proposed dwelling would not result in an unacceptable loss of direct sunlight to neighbouring properties, and I have no reason to disagree with these findings. However, in assessing the impact on daylight, the evidence relies on a 45-degree line between the windows of existing properties and the proposed dwelling. This

approach differs from the 25-degree line typically used to assess the effect on windows directly opposite new development. As a result, the evidence fails to conclusively demonstrate that daylight to rooms at the rear of Nos 5 and 6 would be adequately protected.

12. The use of obscured glazing to the windows in the side elevation of the proposed dwelling would limit opportunities for overlooking neighbouring properties. Furthermore, the site is currently in use as private amenity space, and the proposed development would retain this function in the areas surrounding the new dwelling. Accordingly, and in respect of amenity space and side-facing windows only, the scheme would not result in unacceptable effects on the privacy of occupants of neighbouring properties.
13. The first-floor windows to the front and rear of the proposed dwelling would not result in direct intervisibility between windows of neighbouring properties. However, they would allow direct views over the residential garden land to the rear of the site, external amenity spaces to properties along Seed Hill Terrace and close-range views over the external amenity space to 5 Mill Lane. This level of overlooking would be unacceptable as it would significantly erode the sense of privacy that residents reasonably expect within their gardens and outdoor spaces. Such intrusion could diminish enjoyment of these areas, discourage their use, and lead to a material loss of residential amenity.
14. For the reasons given above, I conclude that the proposed development would have a harmful effect on the outlook, daylight and privacy of occupants of properties on Seed Hill Terrace, particularly Nos 5 and 6, and 5 Mill Lane. Therefore, the proposed scheme would be contrary to Policy BT2 of the LP which, among other things, requires development to avoid significant adverse effects on privacy, daylighting and private amenity of existing occupants.

Highway safety

15. The appellant contends that the existing 4.8m-wide dropped kerb crossover would be retained, allowing vehicles to enter and exit in forward gear, and that visibility splays of at least 2.4m x 24.8m are achievable in both directions. They also refer to design measures intended to reinforce low speeds within the property and predict peak-hour trip generation of less than one two-way movement, suggesting that the proposal would have no material impact on highway safety.
16. However, even with low traffic generation, vehicles entering or leaving the site must do so safely. The proposed access would be positioned on the inside of a bend where visibility is restricted by the road's curvature, vegetation and boundary walls. The Council have indicated that they base their requirements for visibility splays on guidance in Manual for Streets, and that splays of around 33m are normally required; I have been provided with no reason to question this, and no speed survey has been provided to justify a lesser distance. What I observed during my site visit confirms that visibility, in particular to the nearside of the access, is constrained and supports the Council's view that the recommended visibility splays are necessary to ensure safe access. The proposed splays therefore fall short of what is necessary to achieve this.
17. While the Council has raised concerns regarding the functionality of the proposed turning area and the adequacy of parking provision, I have not been provided with evidence to demonstrate that a minimum level of off-road parking provision is

required for a new dwelling in this location. As such, the potential for a second vehicle to be parked within the site, and the associated implications for vehicle manoeuvring, are not substantiated on the basis of the information before me. Furthermore, the site benefits from proximity to public transport, local shops and services, which may reasonably be expected to reduce reliance on private car use. However, this does not outweigh the concerns regarding highway safety.

18. The appellant also cites earlier planning decisions where parking and highway safety were not raised as concerns. Those decisions were made under a superseded Local Plan and relate to different circumstances. They do not alter the need to assess this proposal against current policy and standards.
19. For the above reasons, I conclude that the proposal would have a harmful impact on highway safety. In this regard it would conflict with Policy BT4 of the LP which seeks, among other things, to ensure the safe and free flow of traffic in the interests of highway safety.

Other Matters

20. I acknowledge that the site is not within a conservation area, nor does it form part of the setting of any listed buildings, non-designated heritage assets or geodiversity features. It lies within Flood Zone 1, and a drainage statement has been provided. The scheme would provide an internal layout and external space meeting the relevant standards, with level access and measures to comply with Part M of the Building Regulations. The design includes energy efficiency features and proposes sustainably sourced materials, and provision could be made for an electric vehicle charging point and cycle storage. Although the proposed development is described as exempt from mandatory biodiversity net gain, it has not been indicated that the biodiversity enhancements more than the mandatory requirement could not be achieved on site. However, these matters weigh neither for nor against the appeal and do not alter my overall conclusion on the main issues.

Planning Balance

21. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP, with the associated conflict reflecting harm to the character and appearance of the area, living conditions of occupants of neighbouring properties and highway safety. For this reason, the development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
22. The Council have confirmed that they do not currently meet the Housing Delivery Test and cannot demonstrate adequate supply of housing land. Consequently paragraph 11(d) of the Framework should be applied. Paragraph 11(d) explains that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposal would make a positive contribution to housing supply, with associated social and economic benefits during the construction period and once the dwelling is occupied, and ecological benefits. However, the scale of development proposed means the contribution of one additional dwelling to meet the housing need in the district would be slight.

24. In the particular circumstances of this case, I have concluded that the proposed development would have a significant and detrimental effect on the character and appearance of the area, the living conditions of neighbouring occupants and highway safety. As such, the conflict with policies in the LP should be given significant weight. Consequently, the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

25. The proposal would conflict with the development plan, when considered as a whole, and there are no material considerations that indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

C Mayes

INSPECTOR