



Appeal Decision

Site visit made on 21 May 2026

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2026

Appeal Ref: 6006604

Land to south of Sowerby New Road, Sowerby Bridge, HX6 1EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Sam Moore against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 25/00134/OUT.
 - The development proposed is the construction of 10 houses and associated access road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved apart from access. The proposed site plan shows an adopted road and a private drive along the southern side of the site. The definition of “access” in The Town and Country Planning (Development Management Procedure) (England) Order 2015 includes accessibility within the site and circulation routes. Therefore, the road layout forms part of the proposal. Furthermore, whilst the accompanying site layout, floor plans, elevations and sections are indicative only, the ‘fixing’ of the road layout limits the scope to re-position the proposed houses.
3. The proposal was dealt with by the Council as being for “up to” ten houses. However, the application form is specific that the proposed development is for ten houses as confirmed in the Design and Access Statement. The appeal will therefore be dealt with on that basis.
4. The underlying matter in dispute is whether the objections raised by the Council are capable of resolution – either by condition or at reserved matters stage. Any outline planning permission represents *the* planning permission. It is therefore necessary to be satisfied at this stage that ten houses can be acceptably accommodated on the land.

Main Issues

5. These are the effect of the proposed development on:
 - A designated wildlife habitat;
 - The risk of flooding and water resource management;
 - Protected trees; and
 - Highway safety and pedestrian connectivity.

Reasons

6. The appeal site is a steeply sloping and irregular shaped parcel that comprises undeveloped grassland. A row of protected trees stands along the southern boundary high above the level of Sowerby New Road.
7. Policy HS1 of the Calderdale Local Plan sets out a series of criteria relating to residential development on non-allocated sites such as this one. This will generally be supported subject to certain provisos. In this regard, the proposal would complement the strategic objectives of the Local Plan and the demands it would generate can broadly be accommodated by existing infrastructure. There would be no adverse impact on heritage assets. Building on angled sites has taken place elsewhere in Sowerby Bridge. However, it is also expected that the proposal should comply with other relevant Local Plan policies.

Wildlife habitat

8. The appeal site is within the Calderdale Wildlife Habitat Network (WHN). As part of ensuring a joined up green infrastructure network, Local Plan Policy GN2 provides that development will not be permitted within such areas if it would damage the physical continuity of the Network, impair its functioning by preventing movement of species or harm its nature conservation value.
9. The appellant's Ecological Impact Assessment (EIA) indicates that there would be scope to incorporate urban trees, neutral grassland and areas of mixed scrub alongside the ten houses. However, the majority of the existing modified grassland, bramble scrub and ruderal vegetation would disappear. These are categorised as of either low or medium distinctiveness and in generally poor condition. However, the EIA refers to this as a "major loss".
10. Multiple invertebrates were identified within the search area. The loss of flowering plants would negatively impact the local pollinator populations and also reduce foraging opportunities for other species, such as birds and bats. Native wildflower planting is recommended to mitigate this. There is a high likelihood of the presence of birds, but disturbance could be avoided by requiring vegetation clearance outside of the nesting season. Because there is good connectivity with other habitats, hedgehogs are highly likely to be present and holes in any fencing could be required to aid their movements. A biodiversity enhancement plan could also require nest and bat boxes and bee bricks as recommended by the EIA.
11. However, the EIA considers the site to be ecologically desirable and that the removal of the on-site vegetation would have a significant impact. It is far from clear that the proposed measures would adequately compensate for the loss of an extensive area of natural habitat. For example, because of the likely extent of built development and the access roads, the scope to provide potential nesting and foraging opportunities for common species of bird, as at present within the grassland and bramble scrub, would be much reduced.
12. The WHN largely extends to the south but also includes a small field to the north on the opposite side of the road. There is no detailed evidence about the impact the proposal would have on wildlife by splitting the designated area into two parts. The field to the north would nonetheless become isolated and severed from the remainder of the Network as it would be separated by the ten houses. The EIA

response to the WHN is to indicate that consultation is required with the Council, but it does not put forward any potential solution or mitigation measures.

13. The EIA concludes that the proposal could result in a net gain of 10.37% and therefore fulfil the mandatory biodiversity net gain requirements. However, when assessed in this way, the increase in habitat units is very small in numerical terms (0.15). The appellant refers to the potential to provide further ecological enhancements on land to the south within his control. However, no detail of what could be achieved and of the likely implications have been provided.
14. A recent approval by the Council and the allocation of land at West End Golf Club indicates that the WHN within Calderdale is not sacrosanct. However, in this case, the extent of it would be fragmented by the proposal and an area of disconnected land would be created. In this way, the physical continuity of the Network would be damaged contrary to Policy GN2. It is unclear whether the proposal would affect the movement of species, but its overall nature conservation value would be diminished. In essence, this is because about half of the site would be of no biodiversity value.
15. Policy GN3 of the Local Plan indicates that development proposals which are likely to have a significant adverse impact on a WHN site will generally not be permitted. The Council's stance is that there is insufficient information to allow the ecological impact to be fully considered. There is therefore limited evidence about the overall implications and whether the threshold of a "significant" adverse impact would be breached. Nonetheless, on a precautionary basis, it is reasonable to take the view that this policy provision would also not be complied with.

Risk of flooding and water resource management

16. The proposed development would be within a Critical Drainage Area as identified in the Calderdale Local Plan. This is defined in the Supplementary Planning Document (SPD) on *Flood Risk and Drainage* as an area contributing to surface water run-off, either as direct overland flow or from the existing sewer network, which causes flooding at locations within that area. Policy CC2 establishes that site specific flood risk assessments will be required for development proposals within such areas, but this has not been undertaken.
17. The SPD notes that flooding is a regular occurrence in Calderdale. Sowerby Bridge is mentioned as a flooding hotspot along the Calder Valley and also an area where surface water flooding has been an issue. The site has been identified as one where a flood risk assessment is required, even for a development of ten houses. The Planning Practice Guidance on *Flood Risk and Coastal Change* confirms that this should be proportionate to the anticipated degree of flood risk but also, when required, that it should accompany a planning application. The National Planning Policy Framework indicates that development should only be allowed in areas at risk of flooding where it can be demonstrated that the matters specified in paragraph 181 can be achieved.
18. The issue of flood risk is therefore so significant nationally and locally that the absence of a site-specific assessment is a critical matter. Without one it has not been shown that acceptable drainage arrangements could be achieved, that there would not be a risk of flooding from existing drainage systems or potential overflow routes or that flood risk would not be increased elsewhere. As such, the proposal would be contrary to Policy CC2.

19. Furthermore, Yorkshire Water advise that the receiving local sewer does not have the capacity to accept the foul water flow that would occur. This stance may have wider implications for other housing developments in Sowerby Bridge but is nonetheless a fundamental matter for this scheme. Without any indication as to how adequate waste water infrastructure could be provided to meet the additional demand in line with Policy CC3, this is a further objection.

Protected trees

20. The lack of an arboricultural impact assessment and method statement is not, of itself, a sufficient objection. However, the position of the roads is incorporated within the proposal and because of the topography of the land it is likely that retaining walls, as shown on the site sections, would be required adjacent to the row of trees. The information provided suggests that these would be within or very close to the root protection areas defined on the Tree Constraints Plan of the appellant's Arboricultural Report.
21. The line of mature and over-mature sycamore and beech trees are an important and noticeable feature within the locality. The majority are within retention category A, and all have been assessed as being of high amenity value. Works are proposed to five of the twenty-three individual specimens for reasons of public safety but most of them have a life expectancy in excess of forty years. Indeed, this protected group is so valuable that surety is required that the proposed development can co-exist with them without jeopardising their health and longevity. The information accompanying the proposal does not provide that assurance.
22. Policy GN5 of the Local Plan seeks to prevent any unacceptable loss or damage to existing trees. Furthermore, all necessary measures should be taken to ensure the continued protection and survival of existing trees worthy of retention during construction. As the trees are so significant and attractive and, given the proximity of the access roads, the potential risk to them is too great for the matter to be left to a later date.

Highway safety and pedestrian connectivity

23. The site plan does not show the necessary visibility splay of 2.4m by 43 m to the west but there is no suggestion that it could not be achieved on land within the appellant's control. This could be secured by condition together with an increase in the radii at the junction. A short stretch of footway is shown to the east. However, given that there is a pavement on the opposite side of Sowerby New Road, the creation of ten additional households does not justify a new footway to link with the Upper Bentley Road junction or to the west. The existing arrangements, together with the inclusion of some crossing points, would be reasonable to ensure adequate opportunity to access the facilities and services of the town on foot.
24. The proposal would therefore comply with Local Plan Policy BT4 as the design and layout of the access could ensure the safe and free flow of traffic and as convenient and safe pedestrian routes exist to provide connectivity with the surroundings.

Other Considerations

25. According to the Housing Land Supply Monitoring Report for 2024/25 the Council can only demonstrate a supply figure of 3.89 years. This is below Government expectations. The latest Housing Delivery Test results show that 77% of the

Council's housing requirement was met over the previous three years. The provision of ten additional units in an area of under-supply is therefore a significant positive feature of the scheme in terms of addressing the past deficit and contributing to the overall stock. The National Planning Policy Framework particularly notes the role of small and medium sized sites and also that the development of windfall sites should generally be supported.

26. The proposal is within the main built-up area of the town adjacent to existing housing and its location is such that the aspirations for sustainable travel in Local Plan Policy IM4 would be met.
27. The ecological enhancements put forward by the appellant would not overcome the harm that would be caused to the WHN and its nature conservation value.
28. There would be short-term economic benefits associated with the construction of the houses and with future spend in the locality. These advantages also support the proposal, albeit to a limited degree.
29. The appellant is critical of the Council's approach to the application believing that undue emphasis was given to the fact that it had been filtered out during the Local Plan preparation process. However, that has had no bearing on the assessment undertaken in determining the appeal.
30. Other objections were raised at planning application stage but none of them add to the harm identified for the reasons given in the officer report.

Final Balance

31. Objections to the proposal have been identified in relation to the effect on a designated wildlife habitat, the consequences for flooding and water resource management and the impact on protected trees. These matters cannot properly be dealt with at reserved matters stage or by condition since they are critical to the acceptability of the proposed houses. Because of this there would be conflict with relevant policies in the Local Plan. In addition, criteria c, e and g of Policy HS1 would not be adhered to. The proposal would not accord with the development plan as a whole.
32. The appellant suggests that less than ten houses could be specified if dictated by site constraints. However, the objections identified would be likely to apply equally to a smaller number of units on the appeal site.
33. The policies relating to the natural environment, drainage and trees have no direct bearing on the supply of housing. Therefore, the departure from the Local Plan counts very significantly against allowing the appeal.
34. There is not a five-year supply of deliverable housing sites in Calderdale. Because of this, paragraph 11 d) of the Framework is relevant.
35. The Government's overall objective is to significantly boost the supply of homes. The proposal would make an important contribution towards meeting the housing requirement within the Metropolitan Borough. On the other hand, the Framework also seeks to conserve and enhance the natural environment and to meet the challenge of climate change. The objections to the proposal are strong ones. Therefore, the adverse impacts of the proposal 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

36. The proposed development would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the proposal is unacceptable and the appeal should be dismissed.

David Smith

INSPECTOR

Richborough