



Appeal Decision

Site visit made on 12 June 2026

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2026

Appeal Ref: 6005633

Land to the east of Boundary Lane, Hesketh Bank, Preston PR4 6AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Anne Price of Henry Alty Ltd against West Lancashire Borough Council.
 - The application Ref is 2023/0787/OUT.
 - The development proposed is erection of 10 no. affordable houses (some matters reserved).
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Decision

1. The appeal is dismissed and planning permission for erection of 10 no. affordable houses (some matters reserved) is refused.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the appeal form as it more succinctly and accurately describes the proposal before me than the description provided on the planning application form.
3. The appeal scheme relates to an outline proposal, which was not determined by the Council within the prescribed period. Access and layout are to be considered at this stage, with all other matters reserved for future consideration. Had it been able to determine the application, the Council's Planning Committee resolved that planning permission would have been refused, and putative reasons have been provided. The appellant has had an opportunity to comment on the Committee Report and these reasons, which have established the main issues below.

Main Issues

4. The main issues are:
 - whether the appeal site would be a suitable location for the proposed development, with regard to its 'protected land' designation;
 - the effect of the proposed development on flood risk; and
 - the effect of the proposed development on protected species.

Reasons

Protected land

5. The appeal site is designated 'protected land' and it lies outside of the settlement boundary of the 'Key Sustainable Village' of Tarleton with Hesketh Bank, as

identified on the proposals map of the West Lancashire Local Plan 2012-2027 Development Plan Document (2013) (LP).

6. LP policies GN1 and RS1 state that small scale 100% affordable schemes (i.e. 10 units or fewer) may be permitted on protected land, provided that a sequential site search has been carried out in accordance with Policy GN5. LP Policy GN1 goes on to state that if it is demonstrated that there are no sequentially preferable sites within the settlement boundary, then the most sustainable protected land sites closest to the village centre should be considered first, followed by sites which are further from the village centre where a problem of dereliction would be removed. Only after this search sequence has been satisfied should other sites outside the settlement boundary be considered.
7. LP Policy GN5 details the way in which the sequential test for various types of development would be applied. It explains that the area of search will depend on the scale and nature of the proposed development, but will usually be the settlement, ward or parish in which the proposed development site lies.
8. The Council assert that the search area for the proposal should be the Northern Parishes so that it aligns with the broad spatial distribution of new housing in LP Policy SP1. The appellant's 'Sequential Test' (dated June 2023) considered alternative sites within a much smaller area, which extended a maximum 1km radius of the centre of Hesketh Bank village. Given the relatively small scale of the proposed development, I consider it appropriate that the area of search is the settlement rather than the wider Northern Parishes. However, it is unclear why Tarleton was excluded from the search area given it is contiguous with Hesketh Bank, and given the proposed affordable housing is intended to serve this wider Key Sustainable Village.
9. Moreover, the ST was undertaken around 3-years ago and has not been updated. I cannot therefore be certain that circumstances have not changed in the interim. This is particularly relevant for those sites discounted solely because they were in 'active use,' which includes sites 14, 15 and 16 which are a similar distance from the village centre as the appeal site. Other 'windfall sites' within the settlement boundary may have also since become available. Accordingly, I am not satisfied that the search area is wide enough or that the ST undertaken is sufficiently up to date to meet the requirements of LP Policy GN5.
10. I therefore conclude that the appeal site would not be a suitable location for the proposed development, with regard to its 'protected land' designation. It would conflict with LP policies RS1, GN1 and GN5 as it fails to demonstrate that there are no suitable sites in a sequentially preferable location.
11. However, whilst these policies may broadly align with the objectives to restrict development on land akin to countryside, a sequential test is not a requirement of the National Planning Policy Framework (the Framework). Accordingly, there is some inconsistency, and I therefore attribute the conflict with these policies a reduced amount of weight.

Flood Risk

12. The appeal site is within Flood Zone 1 as shown on the EA Flood Map, which indicates that for the current day, and with climate change, there is a low probability of fluvial and tidal flooding. The site-specific Flood Risk Assessment

(FRA) also demonstrates a negligible risk from groundwater flooding, and no risk from artificial sources.

13. However, according to the EA's Risk of Flooding from Surface Water (pluvial) flood mapping, the appeal site is at variable risk of surface water flooding ranging from 'very low' to 'high.' The FRA indicates that surface water flood depths in areas of the appeal site proposed for development could be up to 0.30m in the 1 in 100-year present day scenario event, and up to 0.60m in the 1 in 100-year plus climate change event.
14. LP Policy GN3 sets out requirements to ensure development does not result in unacceptable flood risk or drainage problems. However, paragraph 173 of the Framework confirms that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from *any* form of flooding. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
15. Paragraph 175 of the Framework states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
16. However, the more recent Planning Practice Guidance (PPG)¹ advises that in applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified), without increasing flood risk elsewhere, then the sequential test need not be applied.
17. The site-specific FRA proposes flood mitigation measures which would include raising the finished floor levels (FFL) of the proposed development at least 0.30m above the estimated 1 in 100-year plus climate change flood level of 11.00m above ordnance datum (AOD) and sloping the ground levels away from buildings. The appeal site slopes to the south from around 11.7m AOD to just over 10m AOD on the southern boundary, but I have nothing before me to indicate that the required FFLs could not be achieved. The scale (including height) and appearance of the proposed dwellings are matters reserved for future consideration.
18. Should these FFLs not be met, the FRA recommends they be set as high as possible with additional mitigation measures included, such as a water exclusion strategy or the use of flood resilient materials and design. The site entrance is at low risk of surface water flooding in the climate change scenario, and details of an emergency evacuation plan to Boundary Lane could be secured by condition.
19. The Surface Drainage Assessment (SDA) proposes a Sustainable Drainage Scheme (SuDs) strategy which principally comprises permeable paving to the

¹ PPG Paragraph: 027 Reference ID: 7-027-20220825

driveways of the dwellings, an ACO drainage system and an on-site attenuation tank which would control discharge flow to the existing drainage ditch along the southern boundary. This would ensure that surface water runoff is stored on site in the 1 in 100-year event, including a 45% allowance for climate change.

20. The Lead Local Flood Authority has had regard to the SDA and has raised no objection, subject to conditions requiring a detailed surface water SuDs strategy, which would include FFLs, a requirement that no surface water shall discharge into the public sewers, and controls over the subsequent operation and maintenance of the system. United Utilities has also suggested a condition requiring, amongst other things, submission and approval of a foul water drainage scheme, and the EA has confirmed that the proposal would not result in new discharge to the Carr Heyes watercourse, which is upstream of the appeal site.
21. I am therefore satisfied that the site-specific FRA demonstrates that the proposed mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development without increasing flood risk elsewhere. Further detailed design of such measures could be secured by condition. Consequently, a sequential test is not necessary.
22. I conclude that the proposed development would not affect flood risk, and accordingly it would not conflict with LP Policy GN3 which seeks to ensure that development does not result in unacceptable flood risk.

Protected Species

23. LP Policy EN2 requires development proposals to seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. Consistent with paragraph 193 of the Framework, it further requires that if significant impacts on biodiversity are unavoidable, then mitigation or as a last resort, compensation, are required to fully offset impacts.
24. The appeal site contains a mix of habitats including scattered trees, scrub, grassland and hardstanding as well as a telecommunications building and a sunken water tank. An unnamed off-site ditch runs parallel to the southern boundary. The Preliminary Ecological Appraisal (PEA)² identifies these to be suitable habitats to support protected species, including bats and water voles.
25. All bat species are European Protected Species protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Water voles are protected under the Wildlife and Countryside Act 1981 (as amended) and are listed as endangered on the Red List for Britain's Mammals.
26. The PEA identified that the unnamed ditch has suitable banks for burrows and varying depths of water which may support water voles. Given that the suitability of habitat for this species can change markedly over the course of the breeding season, best practice is that two survey visits are undertaken between April and September, with the visits at least two months apart³. However, only one survey was undertaken at the end of September 2025, and this survey was noted in the appellant's Water Vole Survey Report (WVSR)⁴ as being 'heavily constrained' due to dense vegetation restricting access to the bank. Notably, the section of bank

² Preliminary Ecological Appraisal Report, Ecology Services Ltd (2025)

³ The Water Vole Mitigation Handbook (2016)

⁴ Water Vole Survey Report, Ecology Services Ltd (November 2025)

along the length of the southern boundary of the appeal site was not surveyed.⁵ When 'latrine rafts' were later deployed, the habitat had been degraded through removal of vegetation, which exposed the banks leaving no cover for mammals.

27. The proposed site plan shows that the flank of Plot 6 and the end of the cul-de-sac (with vehicle restraint system) would adjoin the ditch, and the garage of Plot 7 would be offset only a minimal distance from it. The 3m minimum protection buffer zone recommended in the WVRS along the ditch to ensure habitats remain suitable for water voles would clearly not therefore be achievable. Further, it has not been demonstrated that the proximity of foundations for Plots 6 and 7 would not undermine the stability or integrity of the bank. Nor is it clear what the effect would be of installing the proposed surface water discharge outfall.
28. I acknowledge the WVRS recommends that enhancements could be undertaken to widen the channel and reprofile the banks of the ditch to the north-east, but limited details have been provided to show what this might entail, or how such off-site works would be secured. Moreover, it is uncertain whether long-term management of the ditch and bankside vegetation alongside the appeal site would be feasible given the proximity of the proposed dwellings and likely access restrictions.
29. Circular 06/2005 is clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case, it is possible that water voles are present on site, given the suitability of the habitat, the limitations of the survey and the evidence of their presence in 2020. I am not satisfied that likely effects on water voles have been fully assessed, and it has not been demonstrated that the development would avoid harm, or that mitigation measures would be adequate or could be relied upon with any degree of certainty. No exceptional circumstances have been presented which would lead me to conclude that the necessary surveys should be left to coverage under planning conditions.
30. The appellant's Bat Survey Report (BSR)⁶ identified that the unused brick telecommunications building has potential roost features, such as missing brickwork, and it was assessed as having moderate potential to support roosting bats in the summer. A single emergence survey was undertaken at the end of September 2025 which is a sub-optimal time of year to survey, but was a time when bats were still considered to be active. This identified that the building is being used by a single brown long-eared bat, and it found the presence of a confirmed bat roost. The survey also observed commuting, foraging and feeding activity associated with common pipistrelle and brown long-eared bats, mainly to the south and west of the building over the hardstanding and water tank.
31. An internal inspection of the buildings was not possible because of the presence of asbestos, and the emergence survey did not cover the main maternity season. Accordingly, the BSR identifies that two further roost characterisation surveys are required, during the peak survey season from May to August, to determine if the roost is used on a frequent basis and for breeding. Moreover, it recommends further emergence surveys over the active bat season which would require several

⁵ Figure 2 of WVSR

⁶ Bat Survey Report, Ecology Services Ltd (November 2025)

visits as bats, particularly pipistrelle, often have more than one roost and do not necessarily occupy a single roost over the entire active season.

32. The telecommunications building would not be directly affected by the proposal, but the construction of the proposed dwellings would cause indirect impacts from lighting, noise, dust and vibration. However, works could be avoided during the bat maternity season, and the appellant is agreeable to any lighting scheme for the development meeting ILP⁷ guidance. Further, the recommended linear green corridors could be incorporated into the proposal as part of a subsequent Reserved Matters application in respect of landscaping, albeit the current layout limits opportunities for hedgerow and tree planting along the southern boundary.
33. Therefore, despite the limitations of the bat survey, including confirmation of the presence or absence of a maternity roost, I am satisfied that the impact to bats could be avoided or adequately mitigated. Details of such mitigation could be controlled by a suitably worded planning condition.
34. Nevertheless, for the reasons I have given above, there is insufficient substantive evidence before me to demonstrate that water voles, a protected and endangered species, and their habitats, would be protected. Accordingly, I must take a precautionary approach, and I therefore conclude that the proposed development would have a harmful effect on protected species. It would conflict with LP Policy EN2 insofar as it seeks to avoid impacts on significant ecological assets.

Planning Balance

35. The delivery of 10no. dwellings of a mix found acceptable to the Council would make a small but valuable contribution to housing supply. Moreover, the proposal would utilise an existing point of access and make efficient use of an under-utilised site which adjoins existing housing development and has good accessibility to a range of services and facilities.
36. The proposal conflicts with LP policies RS1, GN1 and GN5 insofar as it fails to meet the sequential test in relation to protected land. For the reasons already outlined, the conflict with this policy attracts reduced weight. However, the proposal also conflicts with LP Policy EN2 which accords with the Framework, and the conflict with this policy attracts full weight. The proposal therefore conflicts with the development plan taken as a whole and should be refused unless material considerations indicate otherwise.
37. The Council can only demonstrate a 1.86-year housing land supply, and accordingly by reason of footnote 8, paragraph 11(d) of the Framework is engaged. The application of policies in the Framework that protect areas or assets of particular importance defined in footnote 7, including areas at risk of flooding, do not provide a strong reason for refusing the development proposed. Therefore, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the key policies cited.
38. Although the appellant has indicated that the proposed dwellings would be affordable, there is nothing before me, such as a s106 agreement, to secure them as such. Consequently, I can afford only limited weight to this benefit as I cannot

⁷ Institution of Lighting Professionals (ILP). Bat Conservation Trust Guidance Note 08/23 Bats and Artificial Lighting at Night.

be certain that affordable housing as proposed would be delivered. Nevertheless, the development would align with the Framework where it supports the effective use of land and where it seeks to increase the supply of housing, acknowledging that small-scale developments can make an important contribution to meeting the housing requirements, often built out relatively quickly. It would deliver housing in a location which would limit the need to travel, recognising that opportunities to maximise sustainable transport solutions vary between urban and rural areas. These matters would attract significant weight in favour of the proposal.

39. However, in view of my conclusions on the effect on protected species, the proposal would conflict with the Framework's principles for how decisions should protect and enhance biodiversity. As water voles are both a protected and endangered species, I attach substantial weight to this conflict.
40. I therefore find that the adverse impacts of granting planning permission would 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

41. For the reasons set out above, I conclude that the appeal proposal would be contrary to the development plan and there are no material considerations, including policies in the Framework, that indicate that a decision should be taken other than in accordance with it. Therefore, the appeal should be dismissed.

R Gravett

INSPECTOR