
Appeal Decision

Site visit made on 4 December 2025

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 December 2025

Appeal Ref: APP/A4710/W/25/3363422

Former Box Trees Mill, Boy Lane, Wheatley, Halifax HX3 5AF

- 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 Mandale Homes Ltd against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 23/00228/FUL.
 - The development proposed is erection of 1no. dwelling with associated landscaping and external works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Submitted documents include those relating to a development of four dwellings and another for three dwellings. Also, the proposed single dwelling was amended during the course of the Council's determination with a smaller dwelling now being proposed. My assessment is based on the evidence submitted in relation to the amended single dwelling.
3. In addition to the development plan policies referred to I have also taken into account the appropriate sections and paragraphs of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effect of the proposed dwelling on: -
 - the character and appearance of the area with regard to the loss of trees;
 - the living conditions of future occupiers of the proposed dwelling with regard to overshadowing and amenity space;
 - biodiversity; and
 - highway and pedestrian safety.

Reasons

Character and Appearance

5. The appeal site comprises an area of overgrown land and access to it at the north-western end of Boy Lane. The lane narrows and runs under an elevated viaduct and continues as Ridings Lane, a bridleway which is partly cobbled. A new road,

Creek View, runs off Boy Lane leading to a fairly new residential development. The surrounding area is characterised by its location at the end of an urban road, the industrial heritage of the area represented by the viaduct leading through to more rural area including trees, and the bridleway.

6. As the site is bounded on two sides by trees, the third comprises the bridleway/footpath, even in the winter, the trees are a prominent feature that make a positive contribution to the character and appearance of the area. The trees are protected by a Tree Preservation Order (TPO)¹.
7. The submitted arboricultural report is based on the initial proposal for one dwelling; any amended report has not been submitted. The report identifies the removal of part of a group of trees comprising a mix of Sycamore, Elm, Ash and Oak. The group as a whole is classified as Category B and described as moderate quality and value. The report also notes that the group is made up of self-seeded trees which warrant a B classification for group value but individually many of the trees would be considered Category C. These are considered to be trees of low quality and value but of an adequate condition to remain in the short term. The report recommends retaining both category of trees where possible and physical protection during construction. The report also indicates that some clearance can be achieved by crown pruning as opposed to whole tree removal and any losses mitigated by planting trees of a smaller mature stature.
8. Whilst the description of development includes landscaping, a landscaping scheme has not been submitted with the appeal documents. Therefore, it is not entirely clear how any losses would be compensated for in terms of an appropriate scheme of landscaping suited to this site and this development. The arboricultural report also does not specify the extent where crown pruning could be carried out instead of whole tree removal.
9. Therefore, whilst some tree removal may represent good tree management regardless of the proposed development, the loss of trees without a clear indication of any meaningful replacement would have a harmful effect on the character and appearance of the area. This would be contrary to Calderdale Local Plan² Policies GN5 and BT3 which, amongst other things, indicate that proposed development would be positively considered provided that there was no unacceptable loss of existing trees. Furthermore, trees not to be retained should be replaced with a well-designed landscape scheme and landscaping should form an integral part of the design. It would also be inconsistent with the objectives of Policies GN3 and BT1 which aim to protect the character of an area and the natural environment and Policy HS1 which sets out criteria for development that meets the Council's strategic objectives and are in accordance with other Local Plan policies.

Living Conditions

10. The proposal would include the removal of some trees identified as falling within Group 5 of the arboricultural report. The plan in the report is of the single dwelling before it was amended and so it is not clear as to the actual extent of tree removal in relation to the amenity space for the proposed dwelling. However, even taking into account that less trees may need to be fully removed and crown pruning may

¹ Tree Preservation Order (No C797 1993P).

² Calderdale Local Plan 2018/19 – 2032/33 Written Statement Adopted March 2023.

be appropriate, the proposed house would be dominated by the trees and the viaduct. Furthermore, due to land levels and the elevated levels of the surrounding land including the walls and fencing close to the bridleway at the new development at Creek View, the proposed dwelling would be surrounded by tall features albeit some would be closer than others.

11. Given the topography of the site and its surroundings, the proposed house and garden areas would very likely be overshadowed by trees. Even if overshadowing as such could be avoided, the retained trees together with the imposing viaduct would create an oppressive and gloomy environment. I note that the dwelling would be sited close to Riding Lane (the bridleway) and together with appropriate pruning, efforts have been made to design the dwelling so that any adverse impact from the surrounding features are minimised. However, whilst these measures would go some way to try and improve the living environment of future occupiers, they would not overcome the effects of the surrounding features.
12. A previous appeal decision for four dwellings on the site refers to the outer plots, A and D in terms of amenity space and living conditions³. The appellant has taken this to mean that the middle two plots, B and C would be acceptable and so has located the proposed single dwelling in this location. However, that Inspector was considering the scheme for four as a whole and I do not agree that this indicates that the location of the dwelling subject to this appeal is acceptable.
13. I find that the site is unsuitable for the proposed dwelling on the basis of the amount of overshadowing and dominance of its surroundings, especially the trees. This would create a poor living environment and therefore have a harmful effect on the living conditions of future occupiers of the proposed dwelling with regard to overshadowing and amenity space. This would be contrary to Local Plan Policy BT2 which seeks to avoid development that would result in a significant adverse impact on daylight and private amenity space, amongst other things together with the guidance in Annex 2 with regard to ensuring adequate space around dwellings and Annex 3 which sets out guidance for development where there are trees on or adjacent to development.

Biodiversity

14. The site is within an area designated as a Wildlife Habitat Network in the Local Plan. A preliminary ecological appraisal has been submitted but states that the site is not within this designation. This anomaly has not been explained. Nonetheless, the report sets out a series of recommendations, amongst which these relate to the finalisation of landscaping plans and a subsequent Ecological Impact Assessment where details of further survey results, mitigation and biological enhancements are included in order to arrive at an assessment of the residual impact of the proposed development. Therefore, from the appellant's own report, further information is required.
15. However, the statutory duty for Biodiversity Net Gain (BNG) does not apply due to the date the planning application was submitted. Notwithstanding this, Local Plan Policy GN3 requires development to conserve and enhance biodiversity, improve habitats, species, sites of wildlife and geological value, amongst other things. Given that further survey works would be necessary and clarification of the site's location in the designated Wildlife Habitat Network is required, together with the

³ Appeal Ref: APP/A4710/W/22/3308070.

lack of landscaping details and details relating to tree works, the proposal would conflict with Policy GN3. Therefore, it has not been established that there would not be a harmful effect on biodiversity.

Highway and Pedestrian Safety

16. The proposal would include parking provision but due to the site's location in relation to the viaduct and the narrowing of the road and the bridleway there would be little space for larger vehicles to manoeuvre safely. Refuse vehicles or delivery vehicles would therefore have to manoeuvre close to the entrance to Creek View or on Riding Lane where there could be conflict with pedestrians, cyclists and presumably horse riders (although no reference has been made as to whether this is regularly used by horses).
17. The frequency of any such conflicts would be small due to the proposal being for just one dwelling. The appellant suggests that appropriate signage could be implemented to state 'no access for HGV's' and this could be secured by a suitably worded condition. However, it would need to be located on land within the appellant's ownership or subject to a Traffic Regulation Order (TRO). If it were on the site itself, vehicles would have already started to drive along Riding Lane and so have to reverse close to the entrance to Creek View. There is no evidence to support the acceptability of a TRO being implemented on the highway.
18. I note that the appeal site formed part of the car park for the factory that was on the site previously. This would have involved more traffic utilising the bridleway but it would not necessarily have involved vehicles reversing along it or manoeuvring to enable access/egress. I accept that additional traffic would be modest but this does not lessen the potential conflict that would arise between pedestrians and other road and bridleway users and those generated by this proposal.
19. Consequently, this would be harmful to highway and pedestrian safety and conflict with Local Plan Policy BT4 which, amongst other things, seeks to ensure the safe and free flow of traffic in the interests of highway safety and to allow access by emergency, refuse and service vehicles. It would also conflict with the aims in Local Plan Policies IM4 and IM5 for sustainable travel by creating a hazard for pedestrians and other users of the bridleway.

Other Matters

20. Although the appellant states that Calderdale has a shortfall of housing land, the Council state that it has a demonstrable five year supply of housing land in accordance with the Framework. I have no evidence to contradict the Council's figures and therefore paragraph 11 (d) of the Framework is not engaged. However, the proposal would result in the provision of one new home and with it would come economic and social benefits. These would include economic benefits during the construction phase and the contributions future occupiers would make to the local economy and community. However, the benefit of one dwelling in this regard would be insufficient to overcome the harms I have identified.
21. The appellant cites the development of a brownfield site on the edge of the existing residential development as a continuation of the recently approved residential development. Creek View has recently been developed with its own access and although close to the appeal site, is separated from it. There is a notable level difference between the two sites. Although the appeal site is currently

an unused area of land and a substantial part of it is currently bare ground, I see no environmental harm to leaving it undeveloped. It is physically close to the bridleway and the rural landscape comprising the existing grouping of trees.

22. The proposal would include a dedicated footpath connecting to the existing footpath network and to Boy Lane. However, this benefit would be small. The appellant also states that the proposal would improve natural surveillance and whilst this may be the case, the extent of this would be modest.
23. The appellants suggest that the proposal would benefit the setting of the nearby non-designated heritage asset. I take this to mean the viaduct. Access to the proposed house would run under one of the arches of the viaduct and I note that the proposal would incorporate a palette of materials aimed at complementing the surrounding area. I do not consider that the proposal would harm the setting of this non-designated heritage asset, having taken into account the statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). However, neither do I find any particular benefit.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, for the reasons set out above the appeal should be dismissed.

J D Clark

INSPECTOR