



Appeal Decision

Site visit made on 28 August 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/L3245/W/23/3330534

Previously The Rock House, 4 Granary Steps, Bridgnorth, Shropshire, WV16 4BL

- 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 Mr Jake Malcolm against the decision of Shropshire Council.
 - The application Ref is 23/00609/FUL.
 - The development proposed is Access to site.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Jake Malcom against Shropshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted a number of documents in support of the appeal, which were not submitted prior to the Council's determination of the application, including a speed survey, Geotechnical Stability Assessment Report (dated August 2023) and proposed vehicular access arrangement highway safety assessment. The Council has raised concern regarding the acceptability of the additional information and has drawn my attention to appeal decision APP/L3245/W/23/3320163, where revised plans, which included a different 'red line' boundary and alterations to the design and layout of the dwellings were proposed.
4. The Inspector found in that case, that accepting the revised plans may unacceptably prejudice the interests of interested parties. While I have had regard to the aforementioned case, the information submitted by the appellant is intended to address the Council's concerns, rather than alter the appeal scheme. The Council and interested parties have had the opportunity to comment on the information submitted through the appeal. The fact that it has chosen not to is a matter for the Council. Given the above, I shall take the evidence submitted into account in my consideration of the appeal.
5. The appellant requested a hearing with a view to asking a geologist to provide an explanation and evidence of the difference between the stability of sandstone and the roofs of caves, which have deteriorated over time. However, while the matter is technical, I consider it can be determined on the evidence before me, without the need for testing through questioning.

Main Issues

6. The main issues of the appeal are the effect of the appeal scheme on:
- The character or appearance of the Bridgnorth Conservation Area (the BCA);
 - Land stability;
 - Highway safety; and
 - The living conditions of nearby occupants, having regard to light from vehicles exiting the site and the provision of on street parking bays.

Background

7. Planning permission was granted on 16 March 2017 for a dwelling and garage at the appeal site. The appellant advises that, at the outset, it was proposed to access the site using a car lift to the dwelling at the top. However, this element was withdrawn, seemingly at the suggestion of the Council, as it could not be persuaded that the structural stability of the cliff/land and neighbouring caves would not be affected by the proposed access arrangements.
8. Notwithstanding the withdrawal of the access arrangements, the appeal site benefits from planning permission for the erection of a dwelling and a garage. During my visit, I saw that construction works have begun on the site and whilst I make no determination as to whether or not they have lawfully begun, I see no reason why the dwelling would not be constructed in accordance with the planning permission. In 2020, an application for a tunnelled access was made. However, the Council requested further information which, the appellant suggests as a result of Covid, was delayed and the application 'cancelled'. The appeal scheme has been submitted instead of the 'lift' and 'tunnel' scheme, neither of which has been approved and neither of which is before me.

Reasons

Character or appearance

9. The appeal site is located within the Bridgnorth Conservation Area (the BCA). Bridgnorth is a historic settlement largely built on an outcrop of sandstone, which straddles the River Severn, with the design and layout of development heavily influenced by its topography. The sandstone is identified as the Bridgenorth Sandstone Formation, which has a characteristic red hue. Exposed, weathered red sandstone is visible throughout the BCA and makes a significant contribution to its character and appearance.
10. In my view, the significance of the BCA is derived from the historic layout of development, the geology of the area and the large number of buildings of special architectural and historic interest.
11. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 205 of the National Planning Policy Framework (December 2023)(the Framework) states that when considering the impact of a proposed

development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

12. Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy (2011)(the CS) seeks to protect, restore, conserve and enhance the built and historic environment, amongst other things. Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan (2015) explains that for a development proposal to be considered acceptable it is required to respond appropriately to the form and layout of existing development. Policy CS17 of the CS and policy MD 13 of the SAMDev Plan both seek development which protects and enhances the local character of Shropshire's historic environment.
13. The appeal site comprises an area of sloping land (west to east) on a prominent hillside being the steeply sloping valley side of the River Severn which passes beneath the rocky outcrop upon which that part of the town of Bridgenorth known as High Town is situated. It consists of two relatively level sections separated by a steep outcrop of rock. On the lower section is the remains and cellar of a dwelling which was condemned and demolished around 1950.
14. There is a substantial difference between the level at which Friar Street sits and the level at which the approved dwelling is being constructed. Where the site faces Friar Street, significant sections of the rock face are bound by brick walls. It is suggested that these are retaining walls which were constructed by the Council following the collapse of caves in around 1995. Between the brick walls, a section of sandstone remains exposed, which makes a positive contribution to the character and appearance of the BCA.
15. The appeal site is currently accessed via a series of steps from Friar Street. Although some properties within this part of the BCA have off road parking, I saw that a significant number do not. The topography and historic layout of development has also resulted in a number of properties which are not directly accessible by vehicle.
16. The appeal scheme comprises an access road which would be cut into the rockface and snake round, leading up to the approved dwelling. The access would enable vehicles to access the approved dwelling and garage from Friar Street and would enable occupants of the dwelling to park their vehicles off road. Visitors to the site would also be able to use the access and could use off road parking within the site.
17. Although I saw there are other accesses along Friar Street, the cutting into the rock would appear a significant feature in the streetscene, which is not characteristic of the area. While there are exposed sections of sandstone throughout the BCA, the cutting proposed is more typical of a quarry or major road construction, not an individual access to a residential dwelling. I acknowledge that the retaining walls do not make a positive contribution to the character and appearance of the BCA, however, these walls would remain *in situ*.
18. While the overall extent of sandstone which would be exposed is greater, in my view the works would create an engineered feature which is not characteristic of the area, and which would harm the character and appearance of the BCA. Moreover, given the nature of the rock, it is likely that, over time, measures to

address any rock fall from weathering are likely to be required. Such measures are likely to have a harmful effect on the character and appearance of the BCA.

19. I saw that Number 54 is served by a garage, which fronts onto Friar Street, however, this is not comparable to the appeal scheme before me, which consists of a substantial cutting into the rock face. Indeed, I saw various examples of off-road parking in the BCA and within Friar Street itself. However, these are also not comparable to the appeal scheme before me in their design or layout.
20. I note that English Heritage did not object to the appeal scheme. However, it does not appear to have been consulted on the application. The lack of objection from English Heritage is a neutral factor in my consideration of the appeal scheme.
21. Paragraph 195 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. The appeal site occupies a prominent location along Friar Street and the entrance to the proposed access would be highly visible from the public domain. Given the limited size of the site relative to the BCA as a whole, I consider the harm to be less than substantial harm to the significance of the BCA.
22. Paragraph 208 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
23. It is suggested that in restoring a significant element of this site off Granary Steps to its historic layout, it makes a positive contribution to the historic character of the area. However, the appeal before me is concerned with the access and not the dwelling. Irrespective of the outcome of this decision, it would be possible for the appellant to construct the dwelling and, since there is pedestrian access to the site, use the dwelling as it was intended.
24. I recognise it would not be possible for vehicles to access the garage and so the appeal scheme would facilitate its use for its intended purpose. It may also make it easier to construct the dwelling and garage, by enabling materials to be brought to and from the site by vehicle. These are matters which weigh in support of the appeal scheme and are matters to which I afford moderate weight.
25. Overall, the benefits advanced by the appellant do not, in my view, outweigh the harm to the BCA, the conservation of which I attribute great weight to. Thus, I find the appeal scheme conflicts with policies CS6 and CS17 of the CS and policies MD2 and MD13 of the SAMDev Plan, the requirements of which are set out above, and is contrary to the expectations of the Framework.

Stability

26. The Framework advises that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability...and adequate site investigation information, prepared by a competent person, is available to inform these assessments. As set out above, much of Bridgnorth is constructed on sandstone. Indeed, the approved dwelling will be constructed on the very sandstone it is proposed to cut into.

27. The Council advise that the rock face has previously collapsed in this location, resulting in rockfall and the subsequent closure of Friar Street for 18 months, while remedial work was undertaken. It is therefore understandable that the Council, as well as interested parties, have concerns regarding the stability of the appeal site and the effect of the appeal scheme on neighbouring properties and Friar Street as a result.
28. Cutting into the rock would expose a greater surface area, which would erode and weather over time. Throughout the area, I saw examples of exposed sandstone, with weathering evident. The access road would slope upwards and snake round, to allow for the height differential between Friar Street and the approved dwelling. In support of the application, the appellant has submitted an Initial Geotechnical Investigation, a Georisk Management Report and, following the refusal of the application, a Geotechnical Stability Assessment Report.
29. The Initial Geotechnical Investigation (the IGI) considered stability of the site in relation to a proposed tunnel, rather than the access which is currently proposed. The report concluded that the proposed development will not significantly increase overall site slope angles and should not adversely affect the stability of land and properties within the vicinity of the site.
30. The report considered possible interaction between the proposed tunnel route and historic caves and suggested that consideration should be given to adjusting the proposed route of the tunnel such that the curved sections are moved at least about 5m to the west. The proposed access road would be located further away from the western extent of the cave than the tunnel scheme considered within the IGI. However, the entrance would remain in a similar position and, rather than extending the wall either side of the opening into the site, as indicated in the IGI, the sandstone would be exposed.
31. Given the proximity of the proposed entrance to the cave, it is possible that some sort of works would be required to ensure its stability. An interested party suggests that caves exist on both sides of the proposed entrance and that the retaining walls are back filled with concrete. The report also notes that there may be a cave to the north of the entrance and suggests that, prior to final design, it would be prudent to confirm that the deeper part of the cave to the north does not extend further to the south.
32. Although I have no substantive details regarding the construction of the walls, in my experience works of this nature are only carried out where they are necessary due to the costs involved. As such, it seems likely that the retaining wall to the north of the proposed access would have been constructed to address instability in that part of the site, most likely caused by a cave or cavity of some sort.
33. The Georisk Management Report (GMR) details the taking of three boreholes within the site, to a depth of around 15m. The sandstone is identified as typically very weak to weak. In terms of excavating the rock, it is concluded that it could be excavated by hard digging or easy ripping. The author of the report acknowledges that the construction of the access road will result in relatively steep side slopes in rock and suggests that from observations of sandstone exposures in the local area, this should not be an issue of concern in terms of long term rock slope stability.

34. The author of the GMR also advises that appropriate health and safety measures should be put in place during construction, with particular attention being paid to the cave which is believed to be present to the rear of the existing brick retaining wall.
35. The Geotechnical Stability Assessment Report (the 2023 report) makes similar recommendations, advising that special attention should be paid when excavating in the vicinity of known cavities within the sandstone rock mass. It advises that two small caves are located in the approximate centre of the site, that it is understood there is another cave located behind the south brick retaining walls which forms part of the Friar's Street boundary and that there is also a small area of brick facing at the base of the rock face which, it is assumed, covers up a small excavation entrance.
36. The 2023 report makes a number of recommendations, including that special attention should be paid when excavating in the vicinity of known cavities within the sandstone rock mass. It is suggested that it may be necessary to infill any cavities exposed within the cutting faces with mass concrete. Such works are likely to have a visual effect on the BCA, though the extent to which it is visible from outside of the site will depend upon their precise location. Given the likely location of a cave behind the wall fronting Friar Street, such works may well be visible from the public domain.
37. The author of the 2023 report advises a watching brief is carried out throughout the excavation process to identify any weaknesses in the rock face which may result in localised rock failure. The author of the report also recommends the implementation of a long term monitoring/maintenance programme, along with the incorporation of a catch ditch at the toe of the rock faces such that any weathering debris may be readily collected.
38. I don't doubt that it would be possible to construct the proposed access track within the sandstone. However, measures which may be required, such as the filling of any cavities exposed within the cutting and the use of remedial stabilisation works are likely to have a visual effect on the BCA. There is uncertainty as to exactly what measures would be required and, as a result it is unclear what the visual effect on the BCA would be.
39. While the author of the 2023 report suggests stabilisation works are not considered necessary at this stage, given the nature of the material and the surface area that would be exposed, I consider it likely that some sort of works would be required over time. Indeed, During my visit, I saw signage by the sandstone exposure along Underhill Street warning of possible falling rock. I also saw netting used along the escarpment above properties along Underhill Street, presumably to catch falling rock.
40. The extent to which such measures can be seen from outside the site will depend upon the measures chosen and the part of the face which it is required to address. Although it would be possible to include a condition to address unexpected land instability issues, this introduces uncertainty as to the likely visual effect of the appeal scheme. This is not something which can, in my view, be left to condition, but should be understood prior to determination so that the likely effects on the BCA are properly understood.
41. Since it would not be appropriate in this case to secure a scheme by condition, it would not be possible to ensure that the risks arising from any land

instability would be adequately addressed. This is contrary to policy CS6 of the CS, which seeks development which is safe and policy MD2 of the SAMDev, which seeks good standards of construction.

Living conditions: Parking and vehicle headlights

42. The proposed access would be located opposite to the rear of Nos 8-10 Southwell Riverside. The Council raised concern regarding the potential for the amenity of the occupants of the properties to be adversely affected by car headlights pointing directly at the properties when exiting the site.
43. Although vehicles exiting the site would be travelling at a slightly elevated position relative to the road as they turn the corner to be perpendicular to Friar Street, the rear of Nos. 8-10 are bound by a brick wall which would significantly limit the amount of light reaching the properties within. Furthermore, given the access would serve a single property, the number of vehicles using the site, particularly at night, is likely to be limited.
44. As a consequence, I consider any glare from vehicle headlights would not significantly harm the living conditions of occupants of these dwellings and there would be no conflict with policy CS6 of the CS in this regard, which seeks to safeguard residential amenity, amongst other things.
45. Parking in this part of the town is via a permit. Adjacent to the appeal site is a parking bay which can accommodate up to 4 cars (the appellant has provided a photograph which shows that 4 cars are parked within the bay). To enable vehicles to access the proposed road, at least two of the parking spaces would need to be removed.
46. The appellant suggests that once the dwelling has been built, its occupiers would be entitled to 2 permits and could therefore park cars in 2 of the 4 spaces in front of the proposed access and leave them there. While it is unlikely that the occupants would leave 2 vehicles in the spaces all day, every day, and eligibility for parking permits may change¹, the provision of off-road parking for the appeal site is likely to off-set the loss of those parking spaces to a certain extent.
47. The appellant has proposed the provision of a commuted sum to the Council to provide 2 spaces elsewhere in Bridgnorth. The document is not signed, and the Council advise that it has not been party to it. Further, the Council advise it does not consider the submitted section 106 agreement is the correct mechanism to compensate for the loss of the parking bays. In this case, given the limited effect on the actual availability of on-street parking, I consider the proposed obligation is unnecessary to make the development acceptable in planning terms.
48. For the reasons given above, I find the appeal scheme would not harm the living conditions of nearby occupants having regard to parking provision and vehicle headlights. There is therefore no conflict with policy CS6 in this regard, which seeks to safeguard residential amenity.

¹ A number of interested parties suggest that in the future, the number of permits a property is eligible for may be reduced.

Highway safety

49. Friar Street is a one way street of limited width, which slopes down towards the appeal site from Cartway. On-street parking is provided in marked bays, which are generally located on the same side as the appeal site. During my visit, the road appeared lightly trafficked, with the vehicles I did see using it travelling at limited speed.
50. The appellant has submitted a highway safety assessment in support of the appeal scheme. The assessment identifies that traffic speed along Friar Street is generally low and that vehicles follow a certain path past the parking bay, both when it was occupied and when it was empty. Because vehicles follow this path, a visibility splay of 2.4m by 21.7m could be achieved towards the south.
51. I note the Council refers to the lack of details regarding construction of the access road. However, it would be possible to secure the submission of a Construction and Traffic Management Plan via condition. As such, I do not consider this would be a reason to dismiss the appeal.
52. The number of movements that would be generated by a single dwelling is likely to be modest. Given that Friar Street is one way, the low speed at which vehicles are likely to be travelling and the visibility splay which would be provided, I consider the proposed access is unlikely to harm highway safety and that there would be no conflict with policy CS6 of the CS, which seeks development which is safe and accessible to all and the expectations of the Framework in this regard.

Other Matters

53. The appellant points out that planning permission is not always required for an access off an unclassified road. However, there is no suggestion that the appeal scheme would be development which is permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). I am therefore unable to afford this matter weight.

Conclusion

54. While I have found there would be no harm to the living conditions of nearby occupants, or highway safety, I have found the appeal scheme harms the character and appearance of the BCA and that risks arising from land instability cannot be addressed by condition. Thus, for the reasons given above, I find the appeal scheme conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.

M Savage

INSPECTOR