



Appeal Decision

Site visit made on 8 July 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2025

Appeal Ref: APP/L3245/W/24/3358093

29 Sycamore Road, Broseley TF12 5QG

- 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 Craig Bearley against the decision of Shropshire Council.
 - The application Ref is 24/00827/FUL.
 - The development proposed is erection of a single replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single replacement dwelling at 29 Sycamore Road, Broseley TF12 5QG in accordance with the terms of the application, Ref 24/00827/FUL, subject to the conditions in the attached schedule.

Preliminary Matters and Background

2. I have taken the description of development, as set out above, from the planning application form but have omitted the text 'following the demolition of a fire, damaged bungalow at 29 Sycamore Road, Broseley Wood, Shropshire, TF12 5QG' as it is not a description of development.
3. Planning permission, reference 17/01239/FUL, was granted for a two-storey dwelling on the appeal site which would have its ground floor significantly below the level of a public footpath known as Pugh's Jitty (the Jitty) that directly adjoins the site. Works to progress its construction were commenced in 2018, involving excavations into an embankment on top of which the Jitty is located. Whilst temporary support was provided to retain the land, it subsequently failed, resulting in the formation of tension cracks and disruption along the Jitty and within the garden of 7B The Hollows (7B).
4. The Council and developer agreed that such tension cracks and disruption were indications of slope movement/failure and, subsequently, construction works ceased. The construction of a stone filled gabion earth retaining wall (Stabilisation Works) was undertaken to prevent further ground movement, and the Jitty was reinstated. The main parties agree that the Stabilisation Works have restored the land of the Jitty and 7B to its condition of stability prior to the excavations and there is nothing before me to conclude otherwise
5. The Council received a memo (the Memo) from its advisors, WSP, dated 8 November 2019, relating to the stability of the appeal site, the Jitty, and 7B. Following on from this in 2020, Approval in Principle was given by the Highway Authority for a more permanent solution that would retain the Jitty and would allow construction of the permitted dwelling to continue.

6. A resubmitted planning application for a revised development on the site, comprising a single storey dwelling with a finished floor level said to be set above the level of the Jitty, was lodged in 2024. That application was supported by a 'Review of Stability of Remediated Slope Following Failure' report (the Review), dated January 2024. The Review set out conclusions and recommendations in respect of ground stability and the method of construction of the proposed dwelling. Such conclusions and recommendations included that the development should not involve the removal or alteration of the existing slope arrangement, that the Stabilisation Works would not provide an acceptable foundation bearing strata for the appeal proposal so piled foundations should be employed, and any fill material excavated should be retained and placed directly on the slope below or immediately adjacent to the excavations.
7. The resubmitted application was subsequently refused by the Council, due to its continued concerns about ground stability, and is now the subject of this appeal.

Main Issue

8. The effect of the appeal proposal on land stability, with particular regard to the Jitty and 7B.

Reasons

9. The concerns of the Council set out in its reason for refusal follows the response of WSP advising that its stance remains that presented within the Memo, based on the assumption that the site has not been through any changes. However, it is noteworthy that key conclusions of the Memo, namely the requirement to construct a contiguous bored pile retaining wall to support the adjoining ground, and the need to undertake further ground investigations to a greater depth to allow the design of such stabilisation works, relate to the permitted dwelling.
10. As referenced above, the dwelling which was assessed within the Memo materially differs from the appeal proposal in respect of its scale and its finished floor level. Therefore, whilst the appeal proposal does not incorporate the measures set out in the key conclusions of the Memo, it does not necessarily follow that it is unacceptable.
11. The Review, which the evidence before me suggests has been carried out by a competent person, assesses whether the site is suitable for the appeal proposal, taking account of ground conditions and any risks arising from land instability associated with that development. Consequently, it accords with paragraph 196 of the National Planning Policy Framework (the Framework).
12. The Review agrees with the Council that the Stabilisation Works would not provide an acceptable foundation bearing strata for the appeal proposal. It goes on to recommend that the Stabilisation Works should remain unaltered and that bored piles, to a load bearing depth below, should be utilised in its construction. The Council, nonetheless, has provided no objective analysis to contradict such recommendations, nor has it presented an alternative assessment of the specific appeal proposal. Thus, there is nothing before me that supports the Council's position that the Review is an insufficient basis upon which to assess the land stability implications of the appeal proposal.

13. The slope movement/failure that previously occurred emphasises the land stability issues associated with the development of the site. However, the information before me strongly suggests that rather than a lack of appropriate technical and environmental advice in support of the permitted dwelling, the problems arose due to the construction works not being carried out in accordance with details approved pursuant to a condition of the planning permission. Whilst there is a clear need for the full details of the method of construction of the appeal proposal to be approved, I am satisfied, in the absence of any evidence to the contrary, that this could be secured through the imposition of a pre-commencement condition.
14. In conclusion, the appeal proposal would not have an unacceptable effect on land stability and would not adversely affect the Jitty or 7B. It would not conflict with Policy C6 of the Core Strategy, dated March 2011, and Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan, dated December 2015, which require high quality development that, amongst other things, take account of site characteristics such as land stability. It would also accord with Part 12 of the Framework.

Other Matters

15. The site lies in Broseley Conservation Area (CA). I consider the significance of the CA is largely derived from its surviving historic settlement pattern. The diverse styles and architectural detailing of its housing, the irregular building and plot sizes, and the absence of a strong building line also contribute to the significance and historic character of the town.
16. The contemporary design of the appeal proposal, which incorporates traditional design elements and materials, would not appear as a discordant feature within its surrounding. Consequently, I agree with the Council that it would not be harmful to the character and appearance of the CA as a whole.
17. I note the concerns expressed by interested parties about the works undertaken pursuant to the previous planning permission, reference 17/01239/FUL, not being carried out in accordance with the approved details, including the retaining wall, and the problems that ensued. Nevertheless, I have no reason to consider that similar issues would arise during the construction of the appeal proposal before me, and if that did happen, it would be open to the Council to consider the expediency of appropriate enforcement action.
18. Requests have been made for a party wall agreement. However, that is not within the scope of this appeal, it is a matter for the respective parties.
19. I have had regard to the other matters raised by interested parties, which include issues associated with the construction phase of the development, possible contamination on site, impact of the development on users of the Jitty and drainage. However, I have been presented with no substantive evidence that would lead me to disagree with the Council's conclusions on these matters and determine that the appeal proposal would result in material harm sufficient to justify its dismissal.

Conditions

20. The Council has suggested several conditions which the appellant broadly agrees to. I have considered those conditions, and the comments received, against the

Framework and Planning Practice Guidance. As a result, I have made some amendments to the wording for clarity and consistency.

21. I have, in the interests of certainty, attached conditions specifying that the development is carried out in accordance with approved plans.
22. In consideration of the ground conditions and the known risks arising from land instability, I have imposed a condition that requires the submission and approval of a Ground Investigation Report and a scheme of permanent stabilisation works. I have added a clause requiring the implementation of the approved stabilisation works. It is a pre-commencement condition to ensure that such works are approved by the Council before any further development takes place.
23. In recognition of the risks of surface water flooding and pollution, I have imposed a condition to secure a scheme of foul and surface water drainage. It is a pre-commencement condition because the satisfactory delivery of suitable site drainage could be prejudiced if resolved later.
24. To minimise risks to the occupants of the site, neighbouring occupiers and the environment, conditions are required to ensure that contamination is appropriately addressed. I also impose conditions to ensure that the construction process is suitably controlled and its effects on the surroundings are minimised. These are pre-commencement conditions to ensure that appropriate measures are agreed and in place before development commences. I have, however, omitted reference to demolition works, as none are proposed.
25. To ensure the satisfactory appearance of the appeal proposal, I have attached conditions relating to facing materials and the roof windows. Whilst I don't consider that it is necessary for the details to be submitted prior to commencement of development, I have, for the same reason, attached a condition relating to landscaping and boundary treatments.
26. In the interests of nature conservation, a lighting plan and the installation of bird and bat accommodation are required.
27. I have imposed conditions relating to provision of parking to ensure that the development does not adversely impact on highway safety or the living conditions of future and existing occupiers.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0000.6 Location Plan and Block Plan, 0000.7 Rev B Proposed Site Plan, 0000.8 Rev A Elevation 01, 0000.9 Rev A Elevation 0.2, 0001.0 Rev A Elevation 03, 0001.1 Rev A Elevation 04, and 0001.2 Rev A Proposed Floor Plan.
- 3) No development shall take place until a Ground Investigation Report, detailing ground investigation to a greater depth than has previously been carried out at the site, and a scheme of permanent stabilisation works, have been submitted to and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved scheme.
- 4) No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner)
- 5)
 - a) No development shall take place until a Site Investigation Report (Report) has been undertaken to assess the nature and extent of any contamination on the site. This shall include a separate mine gas risk assessment having regard to CL:AIRE 'Good Practice for Risk Assessment for Coal Gas Emissions; ISBN 978-1-905046-93-3, October 2021'. The Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance – Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the local planning authority before development commences.
 - b) In the event of the Report finding the site to be contaminated a further report detailing a Remediation Strategy (Strategy) shall be submitted to and approved in writing by the local planning authority. The Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Strategy.
 - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the local planning authority.
 - e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the local planning authority that demonstrates that contamination has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- 6) No development shall take place until a Construction Method Statement (Statement) has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- The parking of vehicles of site operatives and visitors.
 - Loading and unloading of plant and materials.
 - Storage of plant and materials used in constructing the development.
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - Wheel washing facilities.
 - Measures to control the emission of dust and dirt during construction.
 - A scheme for recycling/disposing of waste resulting from construction works.
 - A Traffic Management Plan.
- 7) Construction works shall not take place outside 8am to 5pm Mondays to Fridays, and 9am to 1pm on Saturdays, and at no time on Sundays or Bank Holidays.
- 8) Details and samples of all the materials to be used externally on the dwelling hereby permitted and on hard surfaced areas, shall have been first submitted to and approved by the local planning authority in writing before being used in the development. The development shall be carried out in accordance with the approved details.
- 9) Prior to commencement of above ground works, a scheme providing full details of both hard and soft landscaping and boundary treatments to be implemented on the site shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a Planting Plan and specification (including cultivation and other operations associated with plant establishment) providing schedules for all new planting and seeding, noting species, mixes, planting sizes and proposed numbers/densities where appropriate, and a timetable for implementation. All new planting shall be implemented in accordance with the approved details and implementation programme. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow or any replacement planting is removed, uprooted or dies or becomes seriously damaged or diseased, replacement planting of the same species and size shall be planted in the same location in the next planting season.
- 10) Prior to their installation, full details of the roof windows shall be submitted to and approved in writing by the local planning authority. The installation of the windows shall be carried out in complete accordance with the approved details.
- 11) Prior to first occupation/use of the dwelling and garage hereby approved, the makes, models and locations of the following bat and bird boxes shall be submitted to and approved in writing by the local planning authority:
- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 2 artificial nest of either integrated brick or external brick design, suitable for swifts (swift bricks or boxes).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall be installed prior to first occupation/use of the dwelling and shall thereafter be maintained for the lifetime of the development.

- 12) Prior to the erection of any external lighting on the site, a Lighting Plan shall be submitted to and approved in writing by the local planning authority. The Lighting Plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
- 13) The development hereby permitted shall not be brought into use until the car parking shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designed use.