



Appeal Decision

Site visit made on 11 July 2025

by **O Tresise MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 October 2025

Appeal Ref: APP/W1850/W/25/3361656

Rock Cottage, Broken Bank, Kington, Herefordshire HR5 3NE

- 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 Ben Macleod-Needs against the decision of Herefordshire Council.
 - The application Ref is 241573.
 - The development proposed is to create a new parking area and access onto A44 from Rock Cottage and an access bridge over the Gilwern Brook.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description in the heading above from the application form, omitting superfluous wording.
3. While some development may have been undertaken, the appeal is decided on the basis of the plans before me and its own merits.

Main Issue

4. The main issue is the effect of the proposal on the safety of pedestrians, cyclists and drivers using the A44.

Reasons

5. The appeal site is located immediately to the south of the A44, a strategic route and bypass, which connects Kington with Wales. A public footpath, which is currently subject to a temporary closure, connects Rock Cottage to the wider Kington area, however properties within the closure area retain a right of way. To the west of the appeal site, there is a metal footbridge over Gilwern Brook, providing a pedestrian access from the public footpath to the edge of the A44.
6. The site was subject to an appeal in the past. The previous appeal case¹ was related to a planning application to retain a temporarily formed private parking area and footbridge serving Rock Cottage. The Inspector considered the use of the site by delivery drivers causing the potential for disruption to the free flow of traffic whilst vehicles were stationary in the carriageway. The Inspector considered the previous scheme would improve this unsatisfactory arrangement. However, much of the land for the required visibility splay is not in the control of the appellant. Furthermore, no legal agreement was provided at that time and the Inspector did

¹ APP/W1850/W/23/3320040

not consider the use of a condition to be suitable to address the matter. As such, the appeal was dismissed.

7. The appeal before me is similar to the scheme that was dismissed. The appellant highlights the following key points: (i) there is evidence to demonstrate that the area for the required visibility splay falls within the Council's responsibility to maintain regularly, and (ii) a betterment to the previous scheme was automatically achieved following a localised speed reduction to the A44.
8. I note that both main parties referred to Section 1.5 of the Council's Highways Design Guide for New Developments July 2006 (HDG). It is County policy to require access to the existing highway network taking into account the function of the roads within the hierarchy, and that any new private accesses to a Secondary Distributor or higher category of road will only be considered where they result in an improvement to an existing unsatisfactory situation.
9. The A44 is a strategic road, which is designed for vehicles travelling unhindered and for drivers do not expect to slow, or stop, to access a private access. The route is also used by heavy good vehicles. Whilst the appellant suggests that the appeal proposal may allow vehicles to park within the site that may help to provide a free flow of traffic, drivers would need to slow or stop to access the proposed access and park their vehicles within the site.
10. Furthermore, the Highway Authority states that the speed limit on the A44 at this location was reduced to 50mph due to the road's accident history. The two accidents mentioned in the Council's evidence indicate that they were caused either by a vehicle being unable to stop in time or by one vehicle slowing to turn into another road. Although the speed limit at this location was reduced, there is insufficient evidence to demonstrate that vehicles would be able to stop in time when another vehicle slows down to enter the appeal site.
11. The works necessary to achieve the proposed visibility splays would extend across highway land maintained by the Council. In the appellant's evidence², the Council confirmed that the Kington bypass will be add to the list for an enhanced management regime. On top of regular monthly maintenance inspections for the A44, the whole site will have specific quarterly safety inspections that will include the side road and the footpath. However, the Council has only confirmed the enhanced management for 2024/25, and it does not indicate any continuation beyond this specific period. In any event, the existence of such a management plan, in itself, does not justify the proposal.
12. The appellant asserts that the proposed parking area and direct access onto the A44 are necessary due to the closure of the public footpath and the appeal proposal would resolve an ongoing and dangerous situation. However, the information provided indicates that the closure is only temporary. Whilst the western section of the footpath is relatively steep and narrow, and parts of it are in poor condition, properties within the closure area still retain a right of way. Consequently, the temporary closure of the footpath, in itself, would not result in an unsatisfactory situation as suggested by the appellant.
13. The appellant also mentioned that services such as bin lorries, heating fuel deliveries and foul waste have historically parked on the A44 verge to serve Rock

² Freedom of Information Act Request FOI2024/00879 dated 4 June 2024

Cottage. However, I have little information before me, therefore these points can be afforded limited weight.

14. With regard to the presence of other private accesses along this section of road, I have not been provided with full details of those accesses or the circumstances under which they were constructed. There is no evidence to suggest that they are directly comparable to the appeal proposal.
15. The appellant suggests that the appeal proposal would free up parking spaces in Castle Hill and Champion Lane. However, there is little evidence to demonstrate that Rock Cottage has previously benefited from its own designated parking spaces.
16. For the reasons above, I conclude that there is no demonstrable existing unsatisfactory situation that would justify the formation of a new access onto the A44, a strategic route. As such, the proposal would not result in an improvement to an unsatisfactory situation. The appeal proposal would have an unacceptable and detrimental impact on highway safety of pedestrians, cyclists and drivers using the A44. Consequently, the proposal conflicts with Policies SS1, SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031 Adopted October 2015 (Core Strategy), which seek, in part, to prevent a severe detrimental effect on road safety, unless measures can be introduced to mitigate against potentially detrimental conditions.
17. I note reference has been made to Policy SS6 of the Core Strategy. However, as this policy specifically relates to environmental quality and local distinctiveness, it is not relevant to this decision.

Other Matters

18. I have considered the need for additional accommodation for the appellant's family and the amount of support received. Accordingly, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's mobility.
19. In this regard, the proposed development may provide a vehicular access and a parking area for the appellant and his family. Notwithstanding this important consideration, it does not follow from the PSED that the appeal should succeed. Whilst I can appreciate the concerns of the appellant, it is not shown that there are no alternative means of addressing the need that would avoid the harm identified above, in respect of highway safety of all users of the A44. Balancing these effects with the appellant's need for the development, I am satisfied dismissing the appeal would be a proportionate response in this case.
20. I note the appellant's concerns over the Council's handling of the application. However, this is not a matter that I can consider under this appeal, and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Conclusion

21. 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. Therefore, the appeal is dismissed.

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INSPECTOR