



Committee and date

South Planning Committee

11 August 2015

### Development Management Report

Responsible Officer: Tim Rogers

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#### Summary of Application

<b>Application Number:</b> 14/05209/FUL	<b>Parish:</b>	Barrow
<b>Proposal:</b> Proposed side kitchen extension		
<b>Site Address:</b> Hazeck The Mines Benthall Broseley TF12 5QY		
<b>Applicant:</b> Mr Paul Craven		
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 366960 - 302719



**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a single storey extension to the south east facing side elevation of the dwelling at Hazeck, The Mines, Broseley. It is proposed to provide an enlargement of the kitchen/dining area and will measure 3.5m wide x 2.9m in depth x 2.7m high, 2.4m to eaves. The extension is designed with a single pitched glazed roof, brick walls to the front and rear elevations, and glazing to the side (southeast facing) elevation. Doors into the garden are located on the north-east facing front elevation inserted into the brick wall. The proposed extension shares the position of a single storey, tiled roof sun room with storage area within the roof space proposed as part of the development refused under Planning Ref: 14/01341/FUL. The extension now proposed is of a slightly smaller scale and 'sits' under the Juliet balcony already approved under Planning Ref: 13/02940/FUL.
- 1.2 Facing brick is proposed to match that of the existing dwelling, the roof, south east elevation and openings are indicated to be glazed. There are no alterations to accesses or parking. An adjacent mature Norway Spruce would be retained.
- 1.4 During the course of the application at officers' request, an Arboricultural Impact Assessment, Tree Constraints Plan and Tree Protection Plan have been submitted in relation to the adjacent Norway Spruce tree.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site falls within the Key Centre settlement of Broseley and is located to the north of the main service area. The dwellings in this part of Broseley are largely older stone and brick dwellings of historic merit associated with the Industrial Revolution period, hence the site falls within Broseley Conservation Area. However, the dwelling at Hazeck was a latter half 20th Century bungalow with accommodation in the roof. Apart from the historical buildings, the area is characterised by steep winding narrow streets off which access is directly gained.
- 2.2 The extensions and alterations approved under Planning Ref: 13/02940/FUL are already virtually completed, the upper portions are clearly visible to neighbouring properties as well as from across the Benthall valley to the east. Landscaping works have also already been carried out at the site including the erection of boundary fencing retrospectively approved under Planning Ref: 13/03694/FUL on 6th January 2014, and removal and replanting of trees at the site. A retained tall, prominent Norway Spruce tree is visible from some distance away, positioned as it is on the south east boundary of the site where the land falls away steeply below it. The land is level around the dwelling and access, however, it rises up to the west and slopes more steeply down to the south east. Thus the gardens are landscaped to reflect the change in ground level and there is a lower lawn to the south east of the dwelling which is itself positioned above the road. There are wide views from this side of the dwelling across the valley. Access is gained into the site from a track which also serves a number other properties, however, it is close to its junction with the road.

2.3 There are adjacent dwellings on all sides of the property, but no rational patterning is formed. The dwelling to the north west at no. 54 is approximately 35m away, its rear garden sharing a boundary with the access track. Dwellings across the road at nos. 51, 52 and 53 directly face towards the application property, however, the frontage of Hazeck is angled to face north east towards garaging and front gardens. To the south east no. 48 is approximately 10m away but set at a higher level and there is brick outbuilding between the two properties. The rear elevation of Hazeck faces towards the north west corner of no. 48 whose main garden area slopes gradually down to the south east. No. 47 to the south is approximately 20m away beyond the garden of no. 48 and faces directly east so that its side gable is closest to Hazeck. There are also dwellings beyond the road to the east, but these are set at a much lower level and only their roof tops are clearly visible from Hazeck.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 Applications requested to be referred, by the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

### **4.0 Community Representations**

4.1 - Consultee Comments

4.1.1 Barrow Parish Council - We object to this application.

The proposed changes to the existing permitted building would add to the over-development of the site. The existing footprint of the permitted building is already too large for its position within the Conservation Area and for its impact on neighbouring properties. The style of the proposed development is not in sympathy with the Conservation Area.

In view of the number of applications submitted for this property, we would request that when decisions are made, the changes due to previous successful applications are taken into account and that in addition the new applications are all considered at the same time.

4.1.2 SC Conservation – No Conservation objections.

4.1.3 SC Archaeology - No comments to make on this application with respect to archaeological matters.

4.1.4 SC Trees (14-01-15) – It is noted that the application form states in response to question 7 that there are no trees or hedges within falling distance of the proposed development. This is inaccurate and misleading. There is a mature Spruce located within a few metres of the south-eastern elevation of the existing dwelling. This tree (protected by virtue of being located within a Conservation Area) and its root system are likely to impose a severe constraint to the proposed development and the submitted material makes no reference as to how the extension is to be designed and constructed so as to avoid causing damage or harm to the tree.

Therefore an arborists report should be provided in order to assess the constraints posed by the tree and the implications of the proposed development upon it. An understanding of the arboricultural constraints should influence design and construction, entailing the use of specialist techniques as necessary to enable implementation without harm or damage to the tree.

As the application currently stands refusal would be recommended on the grounds of insufficient information to properly assess the arboricultural impacts of the proposed development and the likely damage to the existing mature, protected Spruce tree.

SC Trees (08-06-15) – A site visit has been carried out and the arboricultural information submitted reviewed, notably the Arboricultural Impact Assessment (Eden Arboriculture, 08/02/15).

The major arboricultural consideration with this application relates to the Norway Spruce (T1), located in close proximity to the proposed kitchen extension. It is not agreed with the report's classification of this tree as category 'C1' i.e. trees 'of low quality with an estimated life expectancy of at least 10 years – unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories'. It is a prominent tree visible from near and across the valley and it has recently been made subject to a Tree Preservation Order, following receipt of a Section 211 notice to fell it. SC Trees consider it to be a category 'B1' ie trees of moderate quality with an estimated remaining life expectancy of at least 20 years – trees lacking the special quality necessary to merit category 'A' designation'.

Although the Spruce tree is in apparently reasonable health and condition, SC Trees agree with the report's statement (Appendix 3 – Tree Survey, p16) that it does not relate well to the locality and is somewhat out of context with the character of the Conservation Area. However, local residents' have submitted comments expressing contrary opinions as to the amenity value of the tree and its removal was cited amongst the reasons for refusal of a previous application at the site (ref: 14/01341/FUL): *'The proposed development, by reason of its massing and inappropriate design and the loss of trees would result in overdevelopment of the site, would detract from the character and appearance of the built and historic environment and would have an adverse impact on neighbouring amenities'*.

In these circumstances it is considered appropriate to attempt to retain the tree and protect it from damage during construction, should the current application be approved. In this regard, although the report expresses a preference for removal of T1 (with appropriate replacement planting), it also states in section 4.1.1 – Option 2 (p8) that a condition could be used to 'Install the extension on a specialist tree friendly foundation such as housedeck. The specification of such a foundation would need to be provided by a competent person.'

This eventuality would require the Tree Protection Plan to be amended, to reflect the retention of Spruce tree T1. An Arboricultural Method Statement will also be required, to address the times listed i – xii in section 4.3.1 (p10) of the Eden Arboriculture Report.

Tree protection conditions are therefore recommended to be attached to any permission for this application.

#### 4.2 - Public Comments

4.2.1 Eight letters of public representation have been received from six different addresses expressing objection. These can be viewed in full online, however are summarised as follows;

- o The proposed extension was at one point refused as a sun room under a sit on balcony – are we to receive a further application in future for a first floor room?
- o Extensions to the existing development have already been refused on the grounds that the 'bungalow' (now a 5 bedroom house) is not in keeping with its surroundings and too large for the site. I fail to see how this proposed extension would not be rejected on the same grounds.
- o When Hazeck was a small single storey bungalow with a room in the roof accessed by a ladder and surrounded and screened by greenery, it was of a scale not to impact on its setting.
- o The residents have had to endure nearly 3 years of constant change of plans for this property with disruptions in the lane by big lorries delivering ever more materials to cater for Mr Craven's grandiose plans. Surely there must be a limit to what can be accommodated on this site.
- o This construction is completely inappropriate in the Conservation Area.
- o Its modern design is incongruous in a small rural hamlet surrounded by mainly cottage style properties.
- o The proposal shows an unpleasant lean-to of poor architectural quality when compared with the existing building.
- o We are of the opinion that no further building should take place on this site.
- o There are 3 other planning applications in for this site and the overall impact of each or all applications would add to the problems of an already overdeveloped site.
- o This will require the removal of the Norway Spruce.
- o The plans do not show the Norway Spruce which was previously proposed to be removed. There is no mention of it in this application.
- o The loss of the Norway Spruce would constitute the loss of a tree that is very prominent in views up The Mines and from many vantage points on the east side of the valley.
- o As such extreme site clearance including removal of boundary hedging has already taken place. The remaining trees have become considerably more significant.
- o We have concerns that over the impact that the removal of the Spruce tree will have on our lower garden area including retaining wall, summer house and orchard.
- o My property will be overlooked by these new extensions.

#### 5.0 THE MAIN ISSUES

- o Principle of development
- o Design, scale and character and impact on conservation area
- o Impact on neighbours/residential amenity
- o Norway Spruce tree

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets. The principle of residential extensions is acceptable in this location.

### **6.2 Design, scale and character and impact on conservation area**

6.2.1 This proposed extension increases the footprint of the dwelling by a further 10.15m<sup>2</sup>. Taken together with the amount of extension already constructed and/or approved, it is considered that the plot is of a size capable of absorbing this minor increase without significant loss to the level of outside amenity space afforded to the property and projects under 3m into a smaller section of the garden to the south east side of the dwelling. The simple monopitch form of the proposed extension would be subservient to the dormer bungalow and the proportions and extensive use of glazing would be in character with the existing dwelling.

6.2.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local authorities to have regard to the desirability of the preservation and enhancement of the character or appearance of Conservation Areas and their setting in carrying out statutory functions. It is considered that the proposed extension, by reason of its form, scale and positioning would not have a detrimental impact on the Conservation Area setting of the dwelling in this case, preserving the character and appearance of the area. It is noted that SC Conservation have no objection to the proposed extension.

### **6.3 Impact on neighbours/residential amenity**

6.3.1 It is not felt that the proposed single storey extension of 10.15m<sup>2</sup> footprint will not result in any additional overbearing or overlooking impacts. Glazing has been carefully located on elevations facing towards neighbouring properties of at least 23m away from the proposed extension, and the addition is small scale in relation to the impact of the existing property. There will be no more potential for overlooking than the minimal which could be achieved from the Juliet balcony already approved under Planning Ref: 13/02940/FUL.

6.3.2 Whilst the concerns of the neighbours are noted, issues raised relating to the design of the extension and disproportionate amount of development are discussed in paragraphs 6.2.1 and 6.2.2 above. The matter of the prominent Norway Spruce tree is discussed below.

### **6.4 Norway Spruce tree**

6.4.1 Under Planning Ref: 15/01952/TCA relating to the proposed felling off 1no. Norway Spruce and 1no. Apple Tree within Broseley Conservation Area which was

determined on 2<sup>nd</sup> June 2015, a split decision was made. It was determined that the apple tree may be felled, but objection was made to the felling of the Spruce tree as it is considered to be of reasonable health and condition and of high public visibility. The case was not proven that it is causing damage to a nearby timber retaining wall. A Tree Preservation Order has been raised to prevent its removal as a result of this decision.

- 6.5.2 It is acknowledged that local residents' consider that the Spruce tree has amenity value. Additionally its removal was cited amongst the reasons for refusal of Planning Ref: 14/01341/FUL. It is therefore considered that appropriate to retain the tree and protect it from damage during construction which can be achieved through installing the extension on a specialist tree friendly foundation noted under Option 2 within the submitted Arboricultural Impact Assessment. It is considered that this construction method can be successfully managed through pre-commencement conditions which have been recommended by SC Trees.

## 7.0 CONCLUSION

- 7.1 It is considered that this proposal is not contrary to adopted policies and will not adversely affect the existing building, the site, the amenities of adjacent neighbours, or the surrounding Conservation Area. Additionally, it is felt that the prominent Norway Spruce tree adjacent to the site and on which a temporary Tree Preservation Order has been raised, can be successfully retained during construction with careful management through conditions.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

## 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

## 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework  
National Planning Practice Guidance

Core Strategy and Saved Policies:  
CS6 Sustainable Design And Development Principles  
CS17 Environmental Networks  
Broseley Town Plan 2013 - 2026

### RELEVANT PLANNING HISTORY:

15/01952/TCA - To fell 1No Norway Spruce and 1No Apple Tree within Broseley Conservation Area. Split Decision 2nd June 2015



14/05212/FUL - Revisions to existing planning approval for side extension. Granted 20<sup>th</sup> May 2015.

14/05210/FUL – New chimneys to existing roof. Granted 11th February 2015.

14/01341/FUL - Erection of two single storey extension to side elevations; increase in roof height to allow for first floor accommodation to include insertion of dormer windows and rooflight to front and rear roofline (amended description). Refused 29th October 2014.

13/03694/FUL – Application under Section 73a of the Town and Country Planning Act 1990 for the erection of close boarded perimeter fencing. Granted 6<sup>th</sup> January 2014.

13/02940/FUL – Erection of single storey extension to include balcony; replacement of existing roof to include dormer windows. Granted 21<sup>st</sup> November 2013.

Pending decision:

14/05211/FUL – Erection of a new double garage with external staircase to room above.

#### 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

**List of Background Papers** (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Arboricultural Impact Assessment by Eden Arboricultural dated 8<sup>th</sup> February 2015

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr David Turner

**Appendices**

APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

**CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to commencement of development a final Tree Protection Plan shall be provided to the written satisfaction of the Local Planning Authority, providing details of those trees to be felled and those to be retained and protected during implementation of the approved development. The tree protection measures shall be installed as specified on the plan to the written satisfaction of the Local Planning Authority, prior to delivery of materials or access of construction vehicles onto the site. Thereafter they shall be maintained in a satisfactory condition throughout the duration of the development.

Reason: This information is required prior to the commencement of the development to avoid causing damage or harm to a significant retained tree during implementation of development. As such the details need to be confirmed before the development proceeds in order to ensure a sustainable development.

4. Prior to commencement of development a final Arboricultural Method Statement shall be provided to the written satisfaction of the Local Planning Authority, addressing the following items:
  - i. Site construction access
  - ii. The intensity and nature of construction activities.
  - iii. Contractor's car parking.
  - iv. Phasing of on-site operations.
  - v. Welfare facilities (requirement and siting)
  - vi. Storage and mixing areas.
  - vii. Tree Protection (barriers and ground protection)
  - viii. Tree Protection Plan (final version)
  - ix. Installation of specialist foundations if required.
  - x. Removal of materials, facilities, and protective measures for the final phase
  - xi. Post construction tree works and landscaping.
  - xii. Monitoring

The development shall not be implemented unless and until item ix above - 'specialist foundations' has been expressly addressed to the written satisfaction of the Local Planning Authority, so as to ensure that the approved development is implemented without causing harm to the nearby protected Norway Spruce tree. Thereafter the development shall be implemented strictly in accordance with the approved Arboricultural Method Statement.

Reason: This information is required prior to the commencement of the development to avoid causing damage or harm to a significant retained tree during implementation of development. It is necessary to ensure that foundation construction of the extension will prevent damage to the protected Norway Spruce tree. As such the details need to be confirmed before the development proceeds in order to ensure a sustainable development.

### **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

5. The external materials shall be as specified on the submitted application form to match those of the existing building and there shall be no variation.

Reason: To ensure that the works harmonise with the existing development.

6. No windows or other openings shall be formed in the south west facing side elevation without the prior consent of the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties.

### **Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.

4. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.