

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 28 March 2022

Committee:
Southern Planning Committee

Date: Tuesday, 5 April 2022
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Members of the public will be able to access the live stream of the meeting by clicking on this link:
<https://shropshire.gov.uk/SouthernPlanningCommittee5April2022>

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:
<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard
Interim Assistant Director – Legal and Democratic Services

Members of the Committee

David Evans (Chairman)
Robert Tindall (Vice Chairman)
Caroline Bagnall
Andy Boddington
Nigel Hartin
Nick Hignett
Hilary Luff
Nigel Lumby
Richard Marshall
Tony Parsons

Substitute Members of the Committee

Julia Buckley
Geoff Elner
Richard Huffer
Kevin Pardy
Dave Tremellen
Claire Wild

Your Committee Officer is:

Tim Ward / Ashley Kendrick Committee Officer

Tel: 01743 257713 / 01743 250893

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 5.00 pm on Wednesday 30 March 2022

3 Minutes (Pages 1 - 4)

To confirm the minutes of the Southern Planning Committee meeting held on 8 March 2022

Contact Tim Ward (01743) 257713.

4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 Kenwood Sycamore Road Broseley TF12 5QG (21/04687/FUL) (Pages 5 - 28)

Demolition of existing bungalow and construction of new replacement dwelling (re-submission)

6 Proposed Barn Conversion At Rowan House Gravels Bank Minsterley Shropshire (21/05411/FUL) (Pages 29 - 52)

Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling and installation of septic tank (re-submission)

7 Schedule of Appeals and Appeal Decisions (Pages 53 - 64)

8 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday 3 May 2022 in the Shrewsbury Room, Shirehall.

This page is intentionally left blank



Committee and Date

Southern Planning Committee

5 April 2022

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 8 March 2022

2.00 - 3.15 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Tim Ward / Ashley Kendrick

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk Tel: 01743 257713 / 01743 250893

Present

Councillor David Evans (Chairman), Caroline Bagnall, Andy Boddington, Nigel Hartin, Nick Hignett, Hilary Luff, Nigel Lumby, Richard Marshall, Ted Clarke (Substitute) (substitute for Tony Parsons) and Edward Towers (Substitute) (substitute for Robert Tindall)

85 Apologies for Absence

Apologies for absence were received Councillors Robert Tindall and Tony Parsons

Councillor Edward Towers substituted for Councillor Tindall and Councillor Ted Clarke substituted for Councillor Tony Parsons

86 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 8 February 2022 be approved as a correct record and signed by the Chairman.

87 Public Question Time

There were no public questions

88 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

89 1 Crown Barn Hopton Wafers Cleobury Mortimer Shropshire DY14 0HA (20/04929/FUL)

The Planning and Enforcement Officer introduced the application which was an application under Section 73A of the Town and Country Planning Act 1990 for the retrospective erection of 3.3m high boundary fence and with reference to the

drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

The Planning and Enforcement Officer confirmed that a site visit had been held and drew Members attention to the late representations.

Dyanne Humphreys, (Agent), spoke in support of the proposal on behalf of the applicant in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members generally considered that the fence was very dominant but that given the exceptional circumstances of the applicant, a temporary granting of permission would allow time for other matters to resolve themselves

RESOLVED

That contrary to the Officer recommendation Temporary Planning Permission be granted for a period of 24 months, and that any subsequent application for the retention of the fence should be brought back to the Southern Planning Committee for determination.

90 Proposed Residential Development Land North of Bache Arms off Coronation Street Highley Shropshire (21/04561/FUL)

The Planning Services Manager introduced the application which was for the erection of 2no detached dwellings., and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

The Planning Services Manager confirmed that a site visit had been held and that there were no late representations.

Joe Salt, (Agent), spoke in support of the proposal on behalf of the applicant in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees. In response to a question, he confirmed that the land was no longer in the ownership of the Bache Arms.

Members supported Officers concerns regarding the loss of amenity to the public house and its potential effect on the viability of the business and the proximity of the houses to the public house and the potential for noise and other disturbance.

RESOLVED

That in accordance with the Officer recommendation planning permission be refused for the following reasons: -

1. The loss of the Bache Arms PH garden would result in erosion of this existing community facility, with no equivalent or improved provision secured and it has not

been demonstrated sufficiently that this loss would not undermine the viability of the Bache Arms PH. As such the proposal would conflict with the requirements of Policy CS6 and CS8 of the Core Strategy and paragraph 84 of the NPPF with regards to the retention of community facilities as part of a prosperous rural economy, as PH's in rural areas.

2. Whilst it is acknowledged that the development would be constructed under modern construction regulations, insufficient information has been submitted with this application to demonstrate that the proposed dwellings in such proximity to the Bache Arms PH would provide acceptable accommodation and that the development be appropriate for its location. Furthermore, neither has it been demonstrated that the development would not lead to noise complaints which may in turn place unreasonable restrictions on the established PH business which may harm the viability of the PH. As such the proposal would be contrary to the requirements of Policy CS6, and para.185 and 187 of the NPPF.

91 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 8 March 2022 be noted.

92 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 5 April 2022

Signed (Chairman)

Date:

This page is intentionally left blank



Committee and date

Southern Planning Committee

5 April 2022

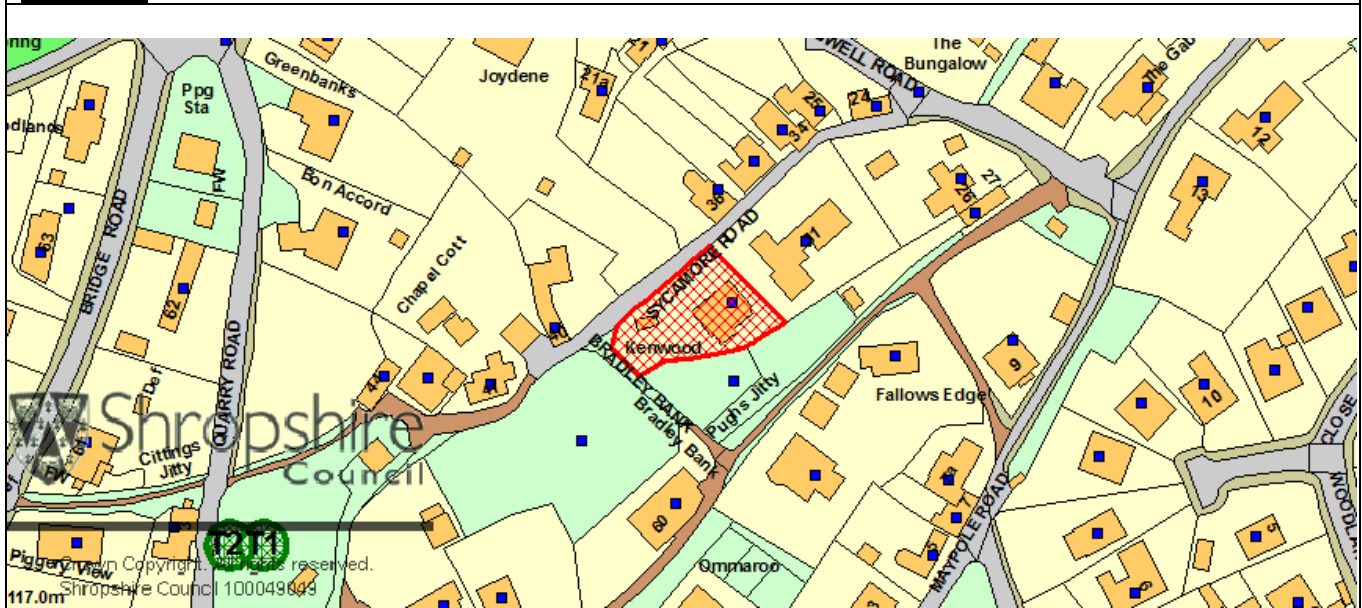
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 21/04687/FUL	Parish:	Broseley
Proposal: Demolition of existing bungalow and construction of new replacement dwelling (re-submission)		
Site Address: Kenwood Sycamore Road Broseley TF12 5QG		
Applicant: SS Developments		
Case Officer: Lynn Parker	email	: lynn.parker@shropshire.gov.uk

Grid Ref: 367216 - 302788



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2021 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 This application is for the demolition of an existing dwelling and erection of a replacement dwelling at Kenwood, Sycamore Road, Broseley. The existing property is a bungalow of 1950s construction and simple rectangular form, with some previous conservatory extension to the rear which has resulted in a squarer footprint of approximately 90m².

1.2 This application is a resubmission of Planning Application Ref: 21/00939/FUL, Refused on 4th August 2021 for the following reasons:

1) Whilst there is no in principle planning policy objection to the development of a replacement dwelling on the application site, the key determining issue relates to the scale, design and impact on the Broseley Conservation Area. Whilst during the course of the determination of the application, the height of the building has been reduced by 0.6m and there have been amendments to the detailing, the overall design concept remains otherwise unchanged with no fundamental alteration to over size and footprint of the building in terms of the length, width or general proportions. The amended design fails to address the fundamental objection to the proposal in that it fails to comply with design principles set out in the Broseley Town Plan and does not offer any conservation gain. It would give rise to 'less than substantial harm' and would therefore be contrary to paragraph 202 of the NPPF (2021) with no demonstrable 'public benefits' that would outweigh this harm. As such the proposal cannot be considered to be acceptable in terms of its scale, design and impact on the Broseley Conservation Area, and must therefore be considered to be contrary to paragraphs 126, 128, 134, 197 (i.e. not making a positive contribution to the character and appearance of the conservation area, nor to that of local distinctiveness), and 202 of the NPPF (2021), Principles C1, C2, I1, I2 and I3 of the National Design Guide, the principles of the National Model Design Code, Policies CS6 and CS17 of the Core Strategy, Policies MD2 and MD13 of SAMDev, emerging policies SP1, SP5 and DP23 of the Submission Local Plan and the principles set out in the Broseley Conservation Area Appraisal (use of materials etc).

2) Because of the height of the dwelling, retention of large areas glazed panels and the elevated position of the building within the plot, combined with the loss of established landscaping, there is potential for the building to have an overbearing impact on the amenity of the properties to the north and north-west, particularly if the building were to be located close to the front of plot. Inadequate detail has been submitted to demonstrate that the proposal would not have an unacceptable amenity impact and therefore also that it would be compliant with Core Strategy Policy CS6 and NPPF (2021) paragraph 130.

3) Inadequate detail has been submitted to demonstrate that the proposal is acceptable in terms pedestrian and highway safety including the provision of adequate car parking and turning or how safe construction access will be provided and therefore that it would not amount to over development of the site and

therefore also that it would be compliant with Core Strategy Policy CS6, the NPPF (2021) paragraphs 110-112 and SAMDev Policy S4.

- 1.3 The dwelling now proposed is similar to that previously refused. It would be essentially rectangular measuring approximately 12.75m wide x 9.5m in depth x 6.78m max ridge height and result in a footprint of 121m². The dwelling is designed to have two floors with the first floor accommodation largely within the roof space, however a north west facing front and south east facing rear eaves gable are included in addition to the south west facing side gable formed by the dual pitched roof. Large areas of glazing are indicated to the front and south east side elevations. Internal accommodation is proposed as a hall, living room, kitchen/family room, utility, WC, and bedroom 1 with ensuite at ground floor level, and 3 further bedrooms and a bathroom at first floor level. The proposed dwelling would be constructed over the footprint of the existing and approximately 2m further forward to the north west and 1.5m to the north east within the plot.
- 1.4 Materials are proposed as Broseley brick plinth, soldier course and eaves treatment/details, and resin render walls, red plain clay roof tiles and Crittal low profile double aluminium black framed windows. Foul sewage would be disposed of to the mains sewer. The existing access would be increased to provide a turning space and parking provision also increased from 1 to 3 spaces by the removal of existing outbuildings and the application of new hardstanding.
- 1.5 During the course of the application and with regards to advice provided by officers at a site meeting, amended plans have been submitted. These reduce the proportions of the larger areas of ground floor glazing and change their emphasis from horizontal to vertical, remove the first floor glazing within the front gable, and reduce and reposition the side gable glazing into the apex. Other minor alterations have been made including an increase in the width of the proposed dwelling to approximately 13.45m and the addition of an ensuite within the first floor.
- 1.6 A Site Investigation Report has additionally been submitted during the application process for consideration by The Coal Authority.
- 2.0 SITE LOCATION/DESCRIPTION
- 2.1 The site is within the Key Centre of Broseley to the north of the Town Centre and is accessed via minor roads from the B4375 which runs through the town. This part of Broseley is characterised by its tangle of streets and lanes and mix of dwellings on irregular plots, linked by pathways and flights of steps known as the jitties, as the land is essentially the eastern slope of a valley side. The growth of the settlement was instigated in the late 16th Century when the Lord of the Manor, James Clifford allowed miners to build cottages on plots in the unenclosed commons and wastes north of the ancient village. The site falls within Broseley Conservation Area.
- 2.2 The plot is roughly rectangular in shape and amounts to approximately 525m². Vehicular access is gained at the western corner where there are outbuildings including a single garage which are currently being removed. The main sections of garden are located in between the south west facing side elevation of the dwelling

and the outbuildings, and to the front of the dwelling. The existing bungalow is located within the eastern half of the site, set back from the front boundary by approximately 8.5m and the eastern side boundary by 2.9m minimum. It has a north west facing front elevation onto the road where there is pedestrian access via a gate with steps and a path up to the centrally positioned front door. The road is set below the level of the dwelling as the land slopes upwards from the south west to the north east. The perimeter of the site is currently defined by mature landscaping, particularly along the front boundary with the road from which the bungalow is largely screened.

- 2.3 There are neighbouring properties to the north east and across Sycamore Road to the north although there is no dwelling directly opposite the bungalow as it faces towards a side garden belong to Joydene, a cottage approximately 56m from Kenwood and with its principal elevation and access orientated to Cobwell Road. Other neighbours across Sycamore Road are no. 36 which is approximately 12m from the northern corner of the existing bungalow and no. 40, 9.5m away to the west from the access at Kenwood - 26m between the dwellings.
- 2.4 No. 31 Sycamore Road is the closest neighbour, located on the north east side and sharing a side boundary. This property is a two storey cottage of linear format which has been much extended with a series of single storey additions since around 1990. The dwelling is positioned approximately 3m from the side boundary and 7.8m from the bungalow at Kenwood. It has two ground floor kitchen windows and a patio door, and a small first floor bedroom window facing towards the site.
- 2.5 To the south side is a plot at no. 29 Sycamore Road which is the subject of Planning Permission Ref: 17/01239/FUL granted on 25th August 2017 for the erection of one dwelling and a car port. This is a site where fire had destroyed the original dwelling around 40 years ago and which prior to the 2017 applicant had an extant Planning Permission for a dwelling. Construction work was commenced on the 2017 scheme, however is currently halted due to it causing the collapse of Pugh's Jitty to the south east, and the work required to restore it resulting in financial issues for the applicant. This adjacent plot is therefore an unresolved building site.
- 2.6 Land across an access track/jitty to the south west is also a privately owned empty plot currently consisting of rough ground and overgrown foliage.
- 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION
- 3.1 The proposed development is considered to accord with the requirements of the Councils relevant adopted policies, however a contrary opinion from the Parish Council has been received. The Service Manager with responsibility for Development Management in consultation with the Committee Chairman/Vice Chairman has confirmed that based on material planning reasons, a Committee decision is necessary under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Broseley Town Council - The previous application for this site, 21/00939/FUL, was rejected on grounds that included, in summary:

1. The scale and design of the building would give rise to 'less than substantial harm' to this part of Broseley's Conservation Area, therefore failing to comply with paragraph 202 of the NPPF, and fail to meet the requirements of Broseley's Town Plan for developments within the Broseley Conservation Area.
2. Because of the height of the dwelling, retention of large areas glazed panels and the elevated position of the building within the plot, combined with the loss of established landscaping, there is potential for the building to have an overbearing impact on the amenity of the properties to the north and north-west.

Broseley Town Council considers that the revised application fails to address these issues, is little altered from the previous application and should be rejected. Specifically:

- The design and materials fail to meet the requirements of policies DS 1 and DS 2 of Broseley's Town Plan and the emerging Neighbourhood Development Plan. Furthermore, this is not an 'innovative high-quality approach' that might meet policy DS 7 of these Plans. The fact that other similarly inappropriate buildings were constructed nearby many years ago, before the Conservation Area was designated, as claimed in the Design and Access Statement, provides no justification. The application therefore fails to meet the requirements of paragraphs 189-190 of the NPPF.
- The proposed two-storey replacement for the existing bungalow, with full-height windows in the gable ends, stands in an elevated position with respect to the properties on three sides of the site. It will cause a loss of privacy for properties to the north and east, and has the potential to reduce daylight to one neighbouring property.
- This area has suffered several recent problems of land instability. Work on a development at an adjacent site, 29 Sycamore Road, was halted following the collapse of public rights of way and caused severe disruption to residents. Such is the extent of these problems that Broseley Town Council believes that no development should be approved in this area without a thorough prior investigation of ground stability and an agreed method of eliminating the risks of ground movement, rather than leaving this as a condition for discharge at a later stage. The Design and Access Statement refers to a Coal Mining Risk Assessment, which has not been provided as part of the application.
- Nearby locations in this steeply sloping area have suffered problems of localised flooding due to surface groundwater run-off and the presence of underground springs. It is considered that the application provides inadequate detail to demonstrate that these problems will not be exacerbated by this proposal.
- The only vehicular access to this site is Sycamore Road, which is approximately 2m wide at its narrowest point. The (so-far abortive) attempts to develop the adjacent site at 29, Sycamore Road utilised the same access, causing significant disruption to residents and reports of damage to property and infrastructure. Such

has been the severity of these past problems that Broseley Town Council wishes to see a detailed Construction Method Statement, showing how such problems will be avoided, provided as part of the application, rather than leaving this as a condition for discharge at a later stage.

- 4.1.2 SC Affordable Housing - No objection subject to meeting the requirements of the Type and Affordability of Housing SPD which at paragraph 2.23 requires replacement dwellings to be sympathetic to the size, mass, character and appearance of the original building.
- 4.1.3 SUDs - Informative recommended in relation to a sustainable drainage scheme for the disposal of surface water from the development.
- 4.1.4 SC Highways - In connection with the earlier application more detailed information was requested in respect of access and parking arrangements and the new boundary proposals. The current submitted Block & Site Plan Drawing no. 21-015/09/02.1 appears to have been based on a topographical survey. The detail shown is considered to have adequately addressed these matters.
- 4.1.5 SC Public Rights of Way - Consulted. No comments received to date.
- 4.1.6 SC Conservation - It is considered that the revised submitted drawings are satisfactory, where previous objection is now withdrawn.
- 4.1.7 SC Archaeology - No comments to make on this application in respect of archaeological matters.
- 4.1.8 The Coal Authority - The Coal Authority concurs with the recommendations of the Site Investigation Report that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority therefore withdraws its previous objection to the proposed development subject to the imposition of the pre-commencement conditions as recommended.
- 4.2 - Public Comments
- 4.2.1 Confirmation received that site notice was displayed from 15th October 2021. Proposal advertised in the Shropshire Star on 19th October 2021 as being within a Conservation Area.
- 4.2.2 Nineteen public representations have been received from fourteen different households all objecting to the proposed development. These can be viewed in full online, however are summarised as follows:
- Object for the same reasons put forward on the previous application.
 - The revised proposal does nothing to address the substantive issues of the previous refusal.
 - The proposed elevations do not accurately reflect the severe slope of the land

or proximity of the new house to the side boundaries.

- There is considerable inaccurate and conflicting measurement information.
 - The current property is 3m from the boundary, the new will be 2m away. It should be pushed back further away if the height is to be increased.
 - The developer has shown further lack of care for his neighbours by installing more windows on the ground floor which will look directly into our property.
 - The primary amenity area of the adjacent garden would be severely overlooked by the proposed rooms resulting in a serious invasion of privacy.
 - A full height window will look down from a height into the neighbouring property.
 - The increase in footprint and change to a 2 storey house is not sympathetic to the existing bungalow.
 - The property looks vast in comparison to the size of the current single storey bungalow and will dominate the landscape.
 - It would represent overdevelopment of a sensitive site.
 - The house will dominate the street and is not in keeping with the Broseley Conservation Area.
 - The proposed development does not respect local context and street pattern, or the scale and proportions of surrounding buildings.
 - The minor changes made to the application do not make it comply with design principles set out in the Broseley Town Plan.
 - The design of the development will be entirely out of keeping incorporating design features in a style unlike any other neighbouring property.
 - There are no properties on Sycamore of a contemporary style other than Kenwood itself.
 - It is argued that a chimney will not be built, yet every house photographed shows a chimney.
 - No information has been provided on how access for demolition and building vehicles is to be managed.
 - Living in fear of damage to our frontage, windows, gates and walls having been through it all before is not welcoming.
 - Sycamore Road is extremely narrow with brick walls of houses and gardens either side and not footpaths. It is a dead end with limited turning at its junction with Bradley's Bank.
 - Delivery vans are too large to access Sycamore Road.
 - The area has a high water table with underground springs and wells. This plot has always been affected by water lying on the land.
 - The hillside integrity and stability must be of paramount importance when deciding this application.
 - The house on the adjacent plot was never built as it was too big for the site and caused major landslips resulting in jitty collapse.
 - The plans to build a property on the adjacent site have resulted in blocked/collapsed drains, excess flooding and running water, internal burst pipes, land slide to the historic jitty and garden collapse.
 - Asbestos is present within the construction fabric of Kenwood.
-
- The minor alterations do not change anything material.
 - The revised plans are worse than previously submitted ones.

- I wish my previous challenges to be carried forward. The dwelling is too large, light and privacy will be compromised.
- Continue to object on the grounds of the design, scale and impact on the Conservation Area and neighbouring properties.
- The new plans actually increase the footprint of the dwelling.
- There is still a loss of privacy, loss of daylight, overlooking and overshadowing.
- The lounge window would look directly into our lounge.
- The new higher, wider, closer dwelling will cast a shadow onto our dwelling for several hours a day.

5.0 THE MAIN ISSUES

- Principle of development
- Design, scale and character
- Impact on the historic environment
- Impact on neighbours/residential amenity
- Access
- Drainage
- Land contamination/stability

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and needs to be given weight in the determination of planning applications.
- 6.1.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.
- 6.1.3 For the purposes of the assessment of this application the development plan presently comprises the adopted Shropshire Council Local Development Framework Core Strategy 2011, the Site Allocations and Management of Development (SAMDev) Plan, and a range of Supplementary Planning Documents.
- 6.1.4 The site falls within the Key Centre of Broseley in which the principle of erecting new dwellings is supported by LDF Core Strategy Policy CS3 – The Market Towns and Other Key Centres, as a more sustainable form of development. The Market Towns and other key centres are identified in LDF Core Strategy Policy CS1 – Strategic Approach as maintaining and enhancing their traditional roles in providing services and employment and accommodating around 40% of Shropshire's residential development over the plan period. Therefore the replacement of an existing dwelling is acceptable in principle.

6.1.5 The Broseley Town Plan is silent on replacement dwellings, but references development within the Conservation Area under its Housing Policies as follows:

H.3 Development within the Conservation Area will only be permitted if specific proposals offer a conservation gain; either by sympathetic restoration of a heritage feature or property, or via an infill development or conversion with a design that complements the surrounding townscape.

H.4 Development within the Conservation Area must not create an unacceptable additional load on the narrow streets of the town; it follows that all such development must have adequate off-street parking and suitable road access.

It is considered that whilst the proposed development would be a replacement dwelling, it would result in a conservation gain through visual improvement of the site over the appearance of the existing 1950s bungalow which is of no particular merit and which would require similarly significant works, including the removal of asbestos, to achieve the same level of enhancement.

6.1.6 Whilst the principle of a replacement dwelling on this plot within a CS3 Key Centre is acceptable, the development proposed in this resubmitted application additionally needs to overcome the previous reasons for Refusal. These matters are discussed in the paragraphs below.

6.2 Design, scale and character

6.2.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built 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.

6.2.2 Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved. For a development to be considered acceptable it is required to contribute to and respect locally distinctive or valued character and existing amenity value by:

- i) Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale density, plot sizes and local patterns of movement; and
- ii) Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
- iii) Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; and
- iv) Enhancing, incorporating or recreating natural assets in accordance with MD12.

6.2.3 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 built, natural and historic environments and does not adversely affect the values and function of these assets.

- 6.2.4 The design principles within the Broseley Design Statement (Broseley Town Plan) include that proposed design must be in keeping with the form and materials that define the town's heritage (Policy DS.1). The following design policies are additionally relevant:

Policy DS.2

Designs and building materials must enable new builds and extensions to blend in with the town vernacular as set out in its conservation statement, taking note of:

- a) Floor area, roof pitch and roof height;
- b) Size of windows and facades;
- c) Style and colour of brickwork and roof tiles.

Policy DS.4 Architectural features

The use of brick and/or stone headers with keystones or blocks is a recurring motif in Broseley, as is the use of decorative corbels, cornices and patterned/alternating brickwork on building frontages. Design proposals which incorporate elements of these distinctive local features will be supported.

Policy DS.5 Doors and Windows

The prevailing consideration will be the design, and how successfully the proposal complements the building and its surroundings, rather than the materials used.

Policy DS.6 Chimneys

Existing chimneys must be preserved. The inclusion of functioning, brick built, chimneys in design proposals will be supported.

Policy DS.7 Innovative Individual Proposals

Design proposals for individual plots that attempt innovative high quality approaches to meeting the criteria set out in this document will be considered.

- 6.2.5 The replacement dwelling now proposed has been reduced in depth by approximately 1.5m from that previously Refused and this has allowed the building to be set further back to the south east into its plot. This additionally reduces the footprint of around 142m² formerly indicated, by around 14m² to the footprint of approximately 128m² now proposed. A further advantage of these amendments is that the garden areas surrounding the property would be a little larger, better connected and more in keeping with the existing layout of the gardens currently serving the bungalow. Therefore whilst the ridge height would remain as previously at approximately 6.75m high, these factors combine to lessen the visual and physical impact of the mass of the proposed dwelling. The scale of the dwelling in relation to the plot size is therefore considered to be acceptable.
- 6.2.6 The proposed dwelling is regularly shaped with a steep pitched of traditional

proportions. Design changes have been made to take the policies of the Broseley Design Statement into consideration. A functioning chimney of traditional character has been added to the north east side elevation of the proposed dwelling in accordance with Policy DS.6. The proportions of the windows have been altered from a horizontal to vertical emphasis and panes divided into small sections to reflect a more traditional character. Materials are proposed which it is considered would not be out of place in this built environment as they include a Broseley brick plinth, soldier course and eaves treatment/details, plain roof tiles and aluminium windows. The walls are indicated to be rendered, but again, this is not an uncommon finish in this part of Broseley provided it would be of an appropriate colour which will be subject to condition. The choice of materials did not form part of the previous reasons for Refusal. Whilst the proposed appearance would be regarded as more contemporary than the existing bungalow, its shape is based on traditional form and proposed within an area comprising a mix of traditional cottages and modern dwellings of varying scales. Many of these have modern extensions and features which have been added to their original forms and are significantly larger than their original sizes. Within the Broseley Design Statement, Policy DS.7 states that design proposals for individual plots that attempt innovative high quality approaches to meet the criteria set out in this document will be considered. Therefore, it is difficult to see how the design and materials would not be suited to this built environment as suggested by Broseley Town Council, as they would be of a high quality which reflects local characteristics and the amendments have taken on board the requirements of the Broseley Design Statement policies DS.1 to DS.7

6.3 Impact on the historic environment

6.3.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in exercising planning functions.

6.3.2 The proposal site lies within the Broseley Conservation Area, affecting an existing hipped roofed bungalow that dates from the 1950s. SC Conservation have no objection in principle to the demolition of the existing bungalow as it is not considered to make a positive contribution to the existing character and appearance of the Conservation Area. There have previously been concerns in relation to proposed elevation treatments, however the plans, as amended, are now considered to appropriately reflect the more traditional fenestration pattern typical to Broseley which tends to be a more vertical emphasis. Many buildings in the area have sashes or simple casement windows and it is acknowledged that this has been reinterpreted in a contemporary fashion as part of the overall design of the proposed dwelling. The development, as now proposed, would protect the attributes of the surrounding historic environment.

6.4 Impact on neighbours/residential amenity

6.4.1 As noted in paragraph 6.2.5 above, amendments have been made to the depth of the proposed dwelling which have allowed it to be repositioned further back within its plot. The front elevation of the proposed dwelling would now be sited

approximately 6.5m back from the road whereas the Refused scheme was 5m back. For context the neighbouring dwelling at no.31 to the north east is set back from the road by approximately 4.5m. In combination with the repositioning, first floor windows have been replaced by roof lights on all but the south west facing side elevation which faces towards a vacant plot. There are now no large areas of first floor glazing proposed to the north west facing front elevation and ground floor glazing has been further reduced by splitting it into smaller more traditionally sized panes. Drawing no. 20_015/01/05.2 has been included in the submission which indicates how the proposed dwelling would sit lower within the land level compared to the adjacent property to the north east. For these reasons, it is considered that any overbearing or overlooking impacts on the properties across the road to the north and north west has been minimised.

- 6.4.2 The positioning of the proposed dwelling is now closer to no.31 to the north east side than is the existing bungalow. However, it would set down lower by approximately 2m than the land level of this neighbouring plot resulting in the two proposed narrow vertical lounge and WC windows being screened behind a retaining wall and boundary fencing. The neighbouring dwelling on that side is located 3m from the boundary line, the proposed dwelling a minimum 1.5m from it (maximum 1.9m at the rear corner) resulting in a minimum distance of approximately 6.5m between the properties. It is therefore unlikely that there would be any resulting overlooking from the proposed dwelling into the windows or garden of the neighbouring property to the north east side.
- 6.4.3 Windows on the south east facing rear elevation are at ground floor level only and again would be set behind a wall to retain the land as it rises to the south extending into the adjacent unresolved building plot. The proposed dwelling is positioned such that it would be adjacent to the end of what would be the rear garden of the building plot.
- 6.5 Access
- 6.5.1 One of the previous reasons for Refusal was that inadequate detail had been submitted to demonstrate that the proposal would be acceptable in terms of pedestrian and highway safety. Details which were required included the provision of adequate car parking and turning and how safe construction access would be provided.
- 6.5.2 Within the current application information has been included to show that the existing access would be increased to provide a turning space and increase parking provision through the removal of existing outbuilding and formation of new hardstanding. SC Highways have confirmed that the submitted Block Plan which shows this information is considered to have adequately addressed the previous concerns. Broseley is a town in which much residential and householder development takes place, even given the difficulties presented by the tangle of streets and the narrowness of its lanes and jitties. Nevertheless, the submission of an acceptable Construction Method Statement with Construction Traffic Management Plan will be required by condition, along with details of the retaining wall proposed to the rear of the parking area which is perpendicular to the road and may require technical approval according to the Highways Act 1980 - Section 167, depending on its height

and distance from the road.

6.6 Drainage

6.6.1 Surface water drainage and flooding issues have been highlighted within the public representations. SC Drainage consider it sufficient to apply an informative relating to the provision of a sustainable drainage scheme for the disposal of surface water from the development. However given the neighbours concerns, it is considered prudent to apply a foul and surface water condition requiring details of the proposed methods of disposal prior to the commencement of the development.

6.7 Land contamination/stability

6.4.1 The application falls within the defined Development High Risk Area where there may be coal mining features and hazards which need to be considered in relation to determination. The Coal Authority records indicate that the site is in an area of likely historic unrecorded underground coal mine workings at shallow depth. The current application is supported by a Site Investigation Report, which confirms that shallow coal mine workings are considered to pose a stability risk. Accordingly, recommendations have been made that in order to mitigate the risk and to characterise the depth/condition of any coal seams/workings, intrusive ground investigations are required. The Coal Authority have reviewed the Site Investigation Report and concurs with the recommendations made. Therefore in order to establish the exact situation regarding coal mining legacy a set of recommended robust pre-commencement conditions can be imposed.

6.4.2 Paragraph 6.5.1 of the submitted Design and Access Statement , as amended, advises that the existing dwelling will be carefully dismantled by a professional licensed asbestos removal and demolition company. A Pre-Construction Phase Health and Safety Plan will be produced by a Principal Designer (to be appointed by the client) and appropriate notices to the HSE (F10) and adherence to method statements and agreed construction traffic management plans will essential requirements and suitably qualified site manager will be appointed to ensure that all that is stated as required will be followed. A risk of asbestos contamination on the site has been clearly identified, and indication that its removal would be managed correctly has been provided.

7.0 CONCLUSION

7.1 The proposed site is located in the Key Centre of Broseley where the principle of a replacement dwelling is acceptable as a sustainable form of development and where it would result in a conservation gain through visual improvement of the site over the appearance of the existing 1950s bungalow which is of no particular merit and which would require similarly significant works, including the removal of asbestos, to achieve the same level of enhancement.

7.2 It is considered that this proposal, as amended, has suitably overcome the three reasons for Refusal applied to Planning Ref: 21/00939/FUL. The proposal is for a high quality replacement dwelling of a contemporary design but which is based on traditional forms and proportions. The scale and position of the dwelling within its plot is improved to better relate to the existing layout. The proposal includes design

features and materials which respect the character and appearance of the surrounding Conservation Area and consider the requirements of the policies within the Broseley Town Plan. Satisfactory separation distances, positioning and the location and size of its openings are now proposed which would minimise any adverse impact from overlooking, overbearing or overshadowing from the proposed development on the residential amenities of neighbouring dwellings. Additionally access to and parking at the site can now be satisfactorily achieved. Any shallow mine workings or mine gas discovered via intrusive pre-commencement investigations and the asbestos present can be satisfactorily managed by condition with the intention of making the site safe and stable.

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 six weeks 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

LDF Core Strategy Policies:

CS1 Strategic Approach

CS3 The Market Towns And Other Key Centres

CS6 Sustainable Design And Development Principles

CS11 Type And Affordability Of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

MD1 Scale and Distribution of development

MD2 Sustainable Design

MD12 Natural Environment

MD13 Historic Environment

S4 Broseley

Supplementary Planning Documents (SPDs):

Type And Affordability Of Housing

Broseley Town Plan 2013-2026 including the Broseley Design Statement

RELEVANT PLANNING HISTORY:

22/00483/FUL - Application of external render to all four elevations. Approval Recommended.
21/00939/FUL - Demolition of existing bungalow and erection of replacement dwelling. Refused
4th August 2021.

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R05OVBTDIL600>

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

Amended Design and Access Statement received on 11th November 2021.
Site Investigation by ASL dated July 2021 and received on 8th December 2021.

Cabinet Member (Portfolio Holder)
Councillor Ed Potter

Local Member

Cllr Dan Thomas

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.

3. Details and samples of all the materials and finishes to be used externally on the dwelling and hard surfacing hereby approved, 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 approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

4. No construction works, demolition and associated deliveries in relation to the development shall take place outside the hours of 7.30am to 6.00pm Mondays to Fridays; 8.00am to 1.00pm on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

6. 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).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

7. No development shall take place, including any works of demolition, until a Construction Method Statement and Construction Traffic Management Plan have 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 and Plan shall provide for:

- Arrangements for parking of vehicles of site operatives and visitors.
- Loading and unloading of plant and materials.
- Storage areas for plant and materials used in constructing the development.
- The location of site compounds.
- The erection and maintenance of security hoarding, where appropriate.
- Details of wheel washing facilities for the cleaning of wheels of vehicles leaving the site, including location and type.
- Suitable road sweeping measures.
- A programme of measures for the control of (construction) traffic to and from the site, including a routing plan, and within the site during construction.
- Measures to control the emission of dust and dirt during construction.
- Details on hours of construction, deliveries, types of machinery to be used, noise mitigation and details of any monitoring and compliance with relevant standards.
- Details of any activities which may result in excessive vibration e.g. piling and details of monitoring to be carried out. Location of monitoring positions should be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on mitigation.
- Details on artificial lighting and measures which will be used to minimise impact, such as restrictions in hours of operation, the location and angling of lighting.
- A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

8. No development shall commence (excluding demolition) until;

a) A scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to

ensure that the site is safe and stable for the development proposed.

No development should be carried out prior to details of the intrusive investigation carried out being submitted to and approved in writing by the Local Planning Authority. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that risks from the coal mining legacy in the area to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other off-site receptors. This information is required prior to the commencement of the development as the undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that risks from the coal mining legacy in the area to the future users of the land and neighbouring land are minimised.

10. Where the distance from the highway boundary to the retained wall is 3.66 metres or less and the effective retained height of the wall is 1.37m or above, the structure is considered to be a 'Highway Related Structure'. In this circumstance it will require technical approval in accordance with Highways Act 1980 - Section 167 and details should be submitted to and approved in writing by the Local Planning Authority prior to the relevant part of the work commencing. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the development would not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

11. Prior to the commencement of the relevant work, details of the roof construction including the eaves, undercloaks, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Historic

Environment.

12. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the architectural and historic interest and character of the Historic Environment.

13. Prior to first occupation/use of the dwelling, the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The box shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The box shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 180 of the NPPF.

14. Prior to first occupation/use of the dwelling, the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups) shall be erected on the site. The box shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 180 of the NPPF.

15. Prior to the installation of any external lighting in connection with the development hereby approved, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate that the proposed lighting will not adversely impact on ecological networks and/or sensitive features, and shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK and any future update to that document. The lighting shall be installed in accordance with the approved details and to a timetable which has been approved in writing by the Local Planning Authority.

Reason: To minimise disturbance to bats, which are European Protected Species.

16. 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 designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

CONDITION THAT IS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

17. No first floor windows or openings, other than the rooflights as shown on the approved drawings, shall be formed in the north west facing front elevation or the north east facing side elevation of the dwelling hereby approved.

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

Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. 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.
3. 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 or from the Local Planning Authority. The fee required is £116 per request, and £34 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.

4. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the Council's website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-fordevelopers.pdf>.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365.

Connection of new surface water drainage systems to existing drains/sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

5. The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.
6. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (footway or verge) or
 - carry out any works within the publicly maintained highway, or
 - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
 - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway.

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

7. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
8. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
9. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>
10. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected

under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

[Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.]

11. In determining the application the Local Planning Authority gave consideration to the following policies:

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

LDF Core Strategy Policies:
CS1 Strategic Approach
CS3 The Market Towns And Other Key Centres
CS6 Sustainable Design And Development Principles
CS11 Type And Affordability Of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:
MD1 Scale and Distribution of development
MD2 Sustainable Design
MD12 Natural Environment
MD13 Historic Environment
S4 Broseley

Supplementary Planning Documents (SPDs):
Type And Affordability Of Housing

Broseley Town Plan 2013-2026 including the Broseley Design Statement

12. 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 38.



<u>Committee and date</u>
Southern Planning Committee
5 April 2022

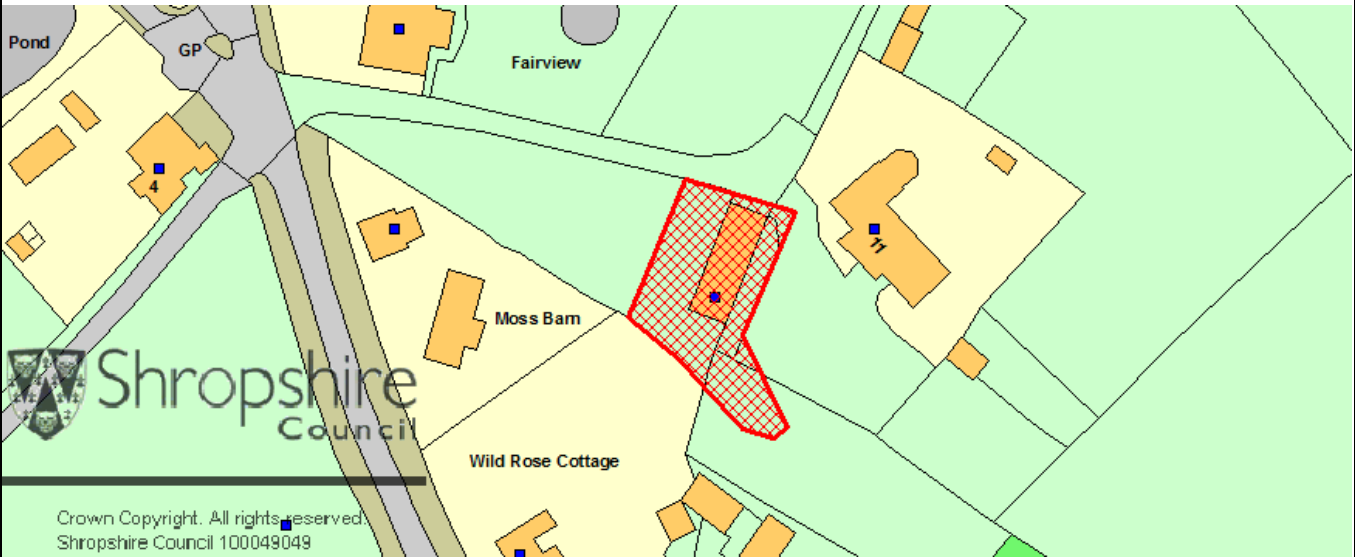
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

<u>Application Number:</u> 21/05411/FUL	<u>Parish:</u>	Worthen With Shelve
<u>Proposal:</u> Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling and installation of septic tank (re-submission)		
<u>Site Address:</u> Proposed Barn Conversion At Rowan House Gravels Bank Minsterley Shropshire		
<u>Applicant:</u> Mr and Mrs M Butcher		
<u>Case Officer:</u> David Jones	<u>email</u>	:

Grid Ref: 333225 - 300499



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is made to convert the existing building into two single storey self-contained 1-bedroom holiday units. In addition, a workshop is proposed within the building which would be used on an ancillary basis to the applicant's residential property.
- 1.2 Externally the walls of the converted building would be clad with larch cladding and roof would be finished with corrugated metal cladding in a green colour. Doors and windows would be timber and painted with linseed oil. Existing hedge boundaries on the application site would be reinforced with additional landscaping. Solar panels are proposed on the roof of the building.
- 1.3 Foul drainage would be disposed of via a treatment plant and the effluent would be discharged into an adjacent ditch. Amended plans were received while processing the planning application which reduced the extent of the red line area of the application site and also re-sited the proposed treatment plant in closer proximity to the building being converted.
- 1.4 The planning application is supported by an arboriculture assessment and none of the trees present in proximity to barn are proposed to be felled as part of the development.
- 1.5 The planning application is also accompanied by an amphibian survey which identified that Great Crested Newts were present within two ponds outside the applicant's land and mitigation measures are recommended to mitigate impacts of the development on these protected species.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located centrally in Gravelsbank. Vehicular access is via a track has an access with the public highway in proximity to a junction opposite. The public highway in the vicinity is generally single carriageway in width.
- 2.2 The proposal relates to an open sided dutch type barn which has a corrugated metal type roof measuring around 18.4 metres in length 6 metres in width and having a height of 4.7 metres. The building is located within the curtilage (which amounts to an area of around 0.6 hectares) of an existing residential property which also has an annexe which it is understood is let for holiday purposes.
- 2.3 There are existing residential properties abutting to the south, east north west of the application site.
- 2.4 There are two trees (ash and an oak) in proximity to the barn. There are

existing trees and hedges present along the south western boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Although the development is compliant with relevant development plan policies, the Parish Council has objected to the application and the application is being referred to the Committee for determination.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Parish Council

06.12.2021 Objects

Gravels Bank was a small settlement located in a protected historic landscape. It is considered that if consent is given for this application it would result in a negative impact on the character of this ever-increasing settlement.

Gravels Bank sits within the AONB. The Natural Environment Policy (SAMDev MD12) aims to provide a level of protection to Shropshire's natural assets, including trees, woodland, hedgerows and the Shropshire Hills AONB. This Parish Council does not consider that permitting this development would be compatible with protecting and enhancing the natural, built and historic environment.

The proposal would have a material adverse impact on the landscape quality and character and setting of the Shropshire Hills AONB.

The proposal would create over massing in this location and further add to the over development of Gravels Bank.

The access to the site is not in good condition and highways safety in this location must be a consideration.

There is an infrequent bus service in this location and shops and/or other amenities are not accessible by foot. Therefore, this proposal would create additional traffic on these rural lanes.

4.1.2 Drainage & SUDS

01.02.22 The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.
Informative Notes:

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the

Councils Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

09.03.22 Similar comments to the above were provided in relation to the amended details submitted.

4.1.3 Shropshire Fire service

30.11.2021 part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Services Fire Safety Guidance for Commercial and Domestic Planning Applications which can be found using the following link:

<https://www.shropshirefire.gov.uk/safety-at-work/planning-application>

4.1.4 Shropshire Hills AONB Partnership

01.12.2021 The Shropshire Hills AONB Partnership is a non-statutory consultee and does not have a role to study the detail of all planning applications affecting the AONB. With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision and should take account of planning policies which protect the AONB, and the statutory AONB Management Plan. Our standard response here does not indicate either an objection or no objection to the current application. The AONB Partnership in selected cases may make a further detailed response and take a considered position.

07.03.22 Similar comments to the above were provided in relation to the amended details submitted.

4.1.5 Affordable Housing

10.12.2021 There are no affordable housing obligations associated with the proposed development.

4.1.6 SC Ecology

13.12.2021 Recommendation:

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

I have read the submitted Amphibian Survey (Treetec, July 2021). I am happy with the level of survey work and recommend that the following conditions and informatives are included on the decision notice:

Ecological Clerk of Works condition

Prior to first occupation / use of the building, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the GCN RAMMS, as set out in sections 6 and 8 of the Amphibian Survey (Treetec, July 2021).

Reason: To demonstrate compliance with the GCN RAMMS to ensure the protection of great crested newts, which are European Protected Species.

Bat and bird boxes condition

Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat box or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) and/or house martins (house martin nesting cups).

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 thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

Lighting Plan condition

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 Trust's 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.

Reason: To minimise disturbance to bats, which are European Protected Species.

Nesting birds informative

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests, then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

4.1.7 SC Conservation (Historic Environment)

14.12.2022 The building in question would not be considered a heritage asset therefore we have no comments to make in relation to conservation matters.

07.03.22 We have no further comments.

4.1.8 SC Highways

15.12.2021 The current application is a resubmission of previous planning application 21/02096/FUL which was withdrawn. From a highway's perspective, it is considered that the development would be unlikely to cause severe harm to the surrounding highway network and a highway objection to the proposed development could not be sustained.

Although access is existing, it is considered that the first 5 metre from the rear of the adjoining highway carriageway would benefit from surfacing in

a bound material.

Conditions Parking and Turning The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

Informative notes

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

4.1.9 **Environment Agency**

No observations received at the time of writing.

SC Regulatory Services

No observations received at the time of writing

SC Trees

28.02.2022 In principle the Tree Team have no sustainable objection to the proposed development. There are two trees in close proximity to the development these are identified on the Treetec arboricultural report as being T1 (oak) & T2 (ash) both are identified for retention and a reasonable interpretation of the rooting areas' is given on the tree constraints plan (Ref. AAS_TCP_23_9_21 Rev.1).

The plans appear to show that the development would for the most part be contained within the existing building footprint and use the existing concrete slab thus negating the need to excavate new footings, but if this is not the case then there would need to be further arboricultural detail on the type and form of footings or piles to be used and how arboricultural implications would be addressed.

Excavations for the provision of services, foul and surface water drainage have potential arboricultural implications that require consideration and delivery through an approved arboricultural method statement. It will be necessary to carry out works from within the root protection area of the ash tree (T2) therefore to reduce the potential for soil compaction and root damage, measures for these works need to be addressed / supported through an arboricultural method statement.

RECOMMEDED CONDITIONS:

Arboricultural Method Statement (AMS)

Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any site clearance or development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works / service runs / SUDS schemes will be carried out, shall be submitted to the Local Planning Authority. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.

Reason: To ensure that permitted work within an RPA is planned and carried out in such a manner as to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

Tree Protection notification

No demolition ground clearance or construction works will commence until the Local Planning Authority has approved in writing that the approved Tree Protection Measures have been established in compliance with the final approved tree protection plan (Photographs of it in place might suffice).

Reason: To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan.

4.2 Public Comments

4.2.1 This application was advertised via notice at the site and the publicity period expired on 16.12.22 amended plans were subsequently received and the publicity and the publicity period for these expired on the

04.04.2022. Five objections have been received have been received at the time of writing on the following grounds:

Principle of Development

Core Policy Strategy documents are interpreted to fit a narrative that the development will benefit the local community (employment/economic benefits). No justification for more tourism accommodation in the area. There has already been an increase from 9 to 18 properties since 2018. The inclusion of car charging points suggests that guests arriving by car as opposed to being accommodation aimed at walkers/cyclists. There are no shops or bus routes.

Siting, scale and design

The design not sympathetic in its context which is a historic mining settlement and is overdevelopment

Residential Amenity

The proximity to existing properties, loss of privacy due windows facing adjacent properties, vehicular movements and lighting issues, noise generation, loss of amenity/enjoyment of property, these concerns are will be exacerbated with the target audience including equestrians and glider enthusiasts.

Area of Outstanding Natural Beauty

Exploitation of the landscape for commercial purposes, cumulative impacts in association with other planning applications granted in the locality. AONB should be protected and preserved.

Other Matters

Single roads around this area cannot support any further traffic. The roads are at a very dangerous point and collapsing into the verges with broken drainage systems also queried who will repair these. Accommodation for equine and glider purposes will add to congestion.

Property already benefits from an annexe/cottage which is already being used for holiday let purposes without planning permission.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design

Residential Amenity

Area of Outstanding Natural Beauty "AONB"

Other Matters

6.0 OFFICER APPRAISAL**6.1 Principle of development**

- 6.1.1** The relevant development strategy policy is that set out in the Shropshire Local Development Framework Adopted Core Strategy (March 2011) “Core strategy” and the adopted Shropshire Council Site Allocations and Management of Development Plan “SAMDev” (December 2015).
- 6.1.2** Policy CS4 Core Strategy explains that in rural areas communities will become more sustainable by permitting development subject to the criteria listed in the policy and the following are of relevance to the proposal under consideration:
- Allowing development in community clusters such as Gravels Bank that helps rebalance rural communities by providing facilities, economic development or housing for local needs, and is of a scale that is appropriate to the settlement.
 - Ensuring that all development in community clusters is of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies policy CS6.
- 6.1.3** Policy MD1 (Scale and Distribution of Development) of the SAMDev states sufficient land will be made available for the plan period to enable the delivery of development planned in the Core Strategy. Further that sustainable development will be supported in accord with the hierarchy of settlements listed and the policies and guidelines listed. Gravels Bank is designated a community cluster under schedule MD1.1 (Settlement Policy Framework) of policy MD1.
- 6.1.4** Policy CS16 (Tourism, culture and leisure) of the Core Strategy seeks to deliver high quality sustainable tourism development that its appropriate to their location to enhance and protect the existing offer in Shropshire. Considerations include promoting and supporting developments with connections to the natural environment including the AONB. The policy supports schemes that that are aimed at supporting and diversifying the rural economy that are appropriate in terms of their scale location, scale and nature and which retain and enhance existing natural features. In rural areas, proposals must be of an appropriate scale and character for their surroundings, be close to or within settlements, or an established and viable tourism enterprise where accommodation is required. Where possible, existing buildings should be re-used (development must also accord with Policy CS5).
- 6.1.5** Policy MD 11 (Tourism facilities and visitor accommodation) of the SAMDev requires that tourism related development that require a countryside location will be permitted where the proposal complements the character and qualities of site’s immediate surrounds and meet the

requirements of the policies listed. The policy also requires that proposals should be well screened and sited to mitigate the visual quality of the area through the use of natural on-site features, layout and design and landscaping. Further that proposals within the AONB should pay particular regard to landscape impact and mitigation.

6.1.6 The application site is located centrally within a community cluster under the provisions of the development plan. There are no retail or other facilities present in the settlement. Bus stops are located on the A488 to the south providing access to higher order settlements. Notwithstanding the limited sustainability credentials of the location the proposal is located within a community cluster and as the lowest category settlement in the hierarchy development of appropriate scale and character to the settlement is permissible to sustain these rural communities. Two holiday small holiday is considered to comprise small-scale development which is not considered inappropriate in principle in this settlement. Supporting information accompanying the planning application explains that the proposed holiday units will be targeted at walkers, bikers and horse riders and others who require low-cost overnight accommodation. It is considered that this aligns with the with the policy direction which seeks to promote and support appropriate developments associated with the natural environment, the AONB, support and diversify the rural economy. Positive weight under the provisions of policy CS 16 can also be attributed to the fact that the proposal entails the conversion of an existing building and acceptability of this aspect of the proposal is considered in detail below.

6.2 Siting, scale and design

6.2.1 As well as the policies in the preceding section which require developments to generally be of an appropriate scale and character, policies CS6 and MD2 require consideration of the local character and context, responding appropriately to the form and layout of existing development including streetscape, scale and proportion.

6.2.2 Core Strategy Policy CS5 requires conversion schemes to contribute positively to the character of the building and its surroundings.

6.2.3 The proposal entails the re-use of an existing building which is located centrally within a designated community cluster. The existing building subject to the proposal is an open sided former agricultural building of around 18 metres in length, and as such it is of a functional utilitarian type character and appearance. SC Conservation (Historic Environment) have confirmed that the building would not be considered a heritage asset.

6.3 New external walls are proposed behind existing steel columns in association with a limited number of openings for doorways and windows. The palette of material proposed is limited and rustic including wooden cladding and a roof finished with green corrugated sheets. The character and appearance of the resultant building would thus be reflective of the utilitarian character and appearance of the existing building. It is

considered that this would be appropriate for this building within an infill site in a recognised rural settlement, further that the resultant building would have a positive contribute to the visual amenities of this rural settlement.

6.4 Residential Amenity

6.4.1 Policy CS 6 (Sustainable Design and Development Principles) amongst other matters seeks to ensure that all development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Concern is raised in objections received on residential amenity grounds including proximity, overlooking and general disturbance.

6.4.2 Due to the distances and orientation of proposed windows in the development relative to the boundaries and the presence of established trees and hedging along the south eastern boundary it is not considered that the proposed development will result in any unacceptable overlooking.

6.4.3 Vehicle lights maybe discernible from the adjacent properties in the evening but the presence of existing close boarded fencing and landscaping along the boundaries with adjacent properties would mitigate impacts. The number of vehicle movements likely in connection with this small-scale development would also not lead to an objection to the proposal on this basis.

6.4.4 Small scale holiday development of the type being applied for is not an inherently noise activity and is generally a relatively quiet use of land. However, outdoor activities sometimes have the potential to cause and do cause occasional disturbance to residential amenity. Given that the development is of a small scale it is not considered that an objection could be sustained to this proposal on residential amenity grounds. It is, however, considered reasonable and necessary to attach a planning condition requiring the submission and implementation of a management plan, to manage outdoor activities associated with the holiday use which could be enforced if there were recurring problems.

6.5 Arboriculture

6.5.1 There is an ash and an oak tree in proximity to the development which would be retained as part of the proposed development. Having assessed the submitted arboriculture report no objections are raised by the council's Tree Team to the development subject to the planning conditions recommended which require details of excavations in connection with drainage and services to ensure that the roots of the trees are not damaged during construction.

6.6 Area of Outstanding Natural Beauty "AONB"

6.6.1 The application site is located within the AONB. On this basis the Shropshire Hills AONB Partnership were consulted and have stated that they do not have any observations on the proposal.

6.6.2 The NPPF states great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB.

There is also a statutory requirement to have regard to the AONB Management Plan. Policy P8 (Tourism and recreation development) of the Shropshire Hills AONB Management Plan 2019-24 (July 2019) states:

- i) The siting, design and specification of new developments for tourism and recreation should be to a high standard of environmental sensitivity and sustainability.

A guideline in the policy states that built facilities for recreation should only be allowed where their location and the activities they support are compatible with the special qualities of the AONB.

- ii) Smaller, low key tourism developments designed in sympathy with local character will blend better into the area and spread economic benefits more widely than larger facilities.

6.6.3 The proposed development is located on an infill site which is within a recognised settlement under the provisions of the development plan. It is surrounded by existing residences including relatively recently constructed dwellings. It is also considered that the proposal is small scale and that the use is of a low-key type which is sympathetic and appropriate in this rural settlement.

6.6.4 It is considered that the design of the proposed building including the palette of external materials would be of a high standard of environmental sensitivity and sustainability. A planning condition has been recommended to ensure that any lighting and fencing installed in connection also meets these policy requirements. As detailed in the preceding section the existing trees on the application site would be retained and additional planting would be undertaken, which would also align with the aforementioned policy requirements.

6.6.5 Having regard to all material considerations above it considered that the proposed development is compatible with the special qualities of this part of the AONB and aligns with the policy and statutory requirements applicable in this statutorily protected landscape.

6.7 Other Matters

6.7.1 Objections have been received on the basis of highway safety and convenience based on the surrounding roads being single carriageway in width. The council's Highway Section, however, advice that it is considered that the proposed development would be unlikely to cause severe harm to the surrounding highway network and a highway objection

to the proposed development could not be sustained.

6.7.2 It is clarified that the workshop element of the proposal is being sought on an ancillary basis to the existing residential property. This means that the use of this part of the converted building would not constitute development such that it requires planning permission because it is being used on an incidental basis to the enjoyment of the existing residential property.

6.7.3 It appears that the existing residential property benefits from an existing annexe and that this part of the property is being let out for holiday purposes. The use of a residential property for holiday letting in general circumstances does not amount to a material change of use which requires planning permission.

7.0 CONCLUSION

7.1 The proposal entails conversion of an existing building located within a settlement designated as a community cluster under the provisions of the development plan. This small-scale development is considered appropriate in a lower order settlement given the more limited sustainability credentials and aligns with policies which seek to support and diversify the rural economy. The design and external appearance of the proposal is considered to meet the high standard of environmental sensitivity and sustainability in this rural settlement within an AONB.

7.2 As the planning application is located in the AONB which is a sensitive area under the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 screen the proposal and a screening opinion is enclosed in Appendix 2.

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 six weeks 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 HISTORY:

21/02096/FUL Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling WDN 24th August 2021
 21/05411/FUL Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling and installation of septic tank (re-submission) PDE
 17/03901/FUL Internal alterations to incorporate annex into the main dwelling. GRANT 25th September 2017
 21/02096/FUL Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling WDN 24th August 2021
 21/05411/FUL Conversion of (part of) Dutch Barn into 2No holiday lets with the remainder of the Dutch barn used for purposes ancillary to the main dwelling and installation of septic tank (re-submission) PDE
 SS/1/345/P/ Erection of a two storey extension to existing dwelling. PERCON 18th May 1990
 SS/1/98/009465/F Erection of an annexe to dwelling. PERCON 14th February 2000

11. Additional Information

View details online: <https://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)
Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member Cllr Mrs Heather Kidd
Appendices APPENDIX 1 - Conditions

APPENDIX 1 – CONDITIONS AND INFORMATIVES**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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To ensure that the development is completed in accord with the approved details.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. Notwithstanding the plans hereby approved no development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
 - a) Planting plans, creation of wildlife habitats and features and ecological enhancements [e.g., hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots];
 - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
 - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
 - d) Native species used are to be of local provenance (Shropshire or surrounding counties);
 - e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
 - f) Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

Reason: To ensure the provision of amenity, biodiversity and to conserve the Area of Outstanding Natural Beauty.

4. Notwithstanding the plans hereby approved no development shall commence until full details of a scheme indicating all the proposed means of enclosure which shall include the use of hedging and landscaping have been submitted to and approved in writing by the Local Planning Authority. The details so approved under the provisions of this condition shall be used in the implementation of the development hereby approved.

Reason: To ensure that the development conserves the Area of Outstanding Natural Beauty and to protect the residential amenity of neighbouring residential occupiers.

5. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any site clearance or development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works / service runs / SUDS schemes will be carried out, shall be submitted to the Local Planning Authority. The AMS shall

include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.

Reason: To ensure that permitted work within an RPA is planned and carried out in such a manner as to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

6. No demolition ground clearance or construction works will commence until the Local Planning Authority has approved in writing that the approved Tree Protection Measures have been established in compliance with the final approved Tree Protection Plan (Photographs of it in place might suffice).

Reason: To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan.

CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION/PRIOR TO OCCUPATION OF THE DEVELOPMENT

7. Prior to the first occupation of the development hereby permitted, a management plan setting details of the management and control of any outdoor activities undertaken on the site by visiting occupiers of the holiday accommodation, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of how any such activities shall be managed and controlled so as not to cause disturbance or adversely affect the residential amenity of neighbouring and nearby residential occupiers and shall include details of how any reported incidents or complaints are to be managed to ensure that there is no recurrence of any such incidents and review of the management plan in the event of any such recurrence.

Reason: To ensure adequate site management and supervision and to protect the residential amenity of neighbouring and nearby residential occupiers in accordance with Core Strategy Policy CS6 and the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) (2015) Policy MD11.

8. Prior to first occupation / use of the building, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the GCN RAMMS, as set out in sections 6 and 8 of the Amphibian Survey (Treetec, July 2021).

Reason: To demonstrate compliance with the GCN RAMMS to ensure the protection of great crested newts, which are European Protected Species.

9. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The following boxes shall be erected on the site:
 - a minimum of 1 external woodcrete bat box or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - a minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) and/or house martins (house martin nesting cups).
 - 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 thereafter be maintained for the lifetime of the development.

Reason: to ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

10. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: to ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

11. 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 Trust's 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.

Reason: To minimise disturbance to bats, which are European Protected Species and to ensure that that the development conserves the Area of Outstanding Natural Beauty.

12. The holiday unit(s) shall be occupied for holiday purposes only; the holiday unit(s) shall not be occupied as a person's sole, or main place of residence; the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the holiday unit(s), and their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: To define the scope of this permission and ensure that inappropriate uses do not take place in the locality.

INFORMATIVES

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway

(footway or verge) or

- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public

highway including any new utility connection, or

- undertaking the disturbance of ground or structures supporting or abutting

the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Appendix 2 - Screening Opinion

Introduction

This report constitutes the written justification of the council's decision in relation to a screening request received in connection with planning application 21/05411/FUL under the Town and Country Planning (Environmental Impact Assessment "EIA") Regulations "2017 Regulations"

Summary of proposed development

The proposal is made to convert the existing building into two single storey self-contained 1-bedroom holiday units. In addition, a workshop is proposed within the building which would be used on an ancillary basis to the applicant's residential property.

Supporting Information

Information was supplied by the applicant in an email of the 25.01.22 to enable to the planning application to be screened under the EIA Regulations. The planning application is accompanied by an arboriculture assessment and an amphibian survey.

Consultation Responses

The consultation responses received in connection with planning application 21/05411/FUL are listed in section 4.0 of the committee report above.

Screening Opinion of the local planning authority

The proposed development has been considered against the selection criteria in Schedule 3 of the 2017 Regulations and in relation to advice contained in Planning Practice Guidance on Environmental Impact Assessment. It is not considered that the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Therefore, under Regulation 6 of the 2017 EIA Regulations, Shropshire Council hereby adopts the Screening Opinion that the proposed development is not EIA development and that Environmental Impact Assessment is not required.

Reason for Screening Opinion

The development does not constitute Schedule 1 development under the 2017 Regulations. The 2017 Regulations define ‘Schedule 2 development’ as development of a description mentioned in Column 1 of the table in Schedule 2 where any part of the development is to be carried out in a sensitive area, or any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively exceeded or met.

The relevant extract from the table in Schedule 2 is set out below and highlights the thresholds and criteria for the proposals.

Table 2 - Schedule 2 of the EIA Regulations	
Column 1	Column 2
Description of development	Applicable thresholds and criteria
12. Tourism and leisure	
(c) Holiday villages and hotel complexes outside urban areas and associated developments	The area of the development exceeds 0.5 hectares

The proposed development is below the threshold criteria above and does not need to be screened on this basis.

(ii) Indicative thresholds and criteria

The Annex to the Planning Practice Guidance on Environmental Impact Assessment sets out the indicative criteria and thresholds to help determine whether significant effects are likely. These are listed as major new tourism and leisure developments which require a site of more than 10 hectares. Holiday villages or hotel complexes with more than 300 bed spaces, or for permanent camp sites or caravan sites with more than 200 pitches.

The PPG states that when considering the thresholds, it is important to also consider the location of the proposed development. It states that it should not be presumed that developments above the indicative thresholds should always be subject to assessment.

Is the Proposal likely to have “Significant Effects on the Environment?”

Regulation 5 (8) states that where a LPA have to decide under the Regulations whether Schedule 2 development is EIA development, the authority must take into account in making that decision:

- a) any information provided by the person minded to carry out the development.
- b) the available results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
- c) such of the selection criteria set out in Schedule 3 as are relevant to the development.

It is confirmed that there are no other environmental assessments (b) above which it is considered need to be taken into account.

(iii) Selection criteria for screening Schedule 2 development the selection criteria for screening Schedule 2 development are set out in Schedule 3 of the 2017 Regulations. These are considered below.

Characteristics of development

It is not considered that the proposed development would give rise to significant effects in terms of waste production; pollution and nuisance; risk or accidents; or risks to human health. The type of development proposed and the specific impacts likely in this location are thus not considered to result in significant effects on the environment.

Location of development

The planning application is, however, being screened because it is in an Area of Outstanding Natural Beauty within a 'sensitive area' as defined within the 2017 Regulations. Given the small scale of the development in EIA terms the location of the development in itself is not likely to result in significant effects on the environment.

Type and characteristics of the potential impact**Introduction**

The potential for the following significant environmental impacts and mitigation to reduce or offset environmental effects from the construction and operation of the proposed development are considered in this section of this Screening Opinion.

Landscape and Visual Impacts

The proposal is small in scale in EIA terms and it is not considered that any significant landscape and visual effects are likely.

It is therefore not considered that the proposed development is likely to have a significant effect on the environment in landscape and AONB terms such that EIA is required.

Protected Species and Sites

The planning application is accompanied by an amphibian survey which indicates that there are Great Crested Newts within the vicinity of the development. The council's SC Ecology are satisfied with the amphibian survey and recommend planning conditions.

It is therefore, not considered that the proposed development will likely have a significant effect on the environment in protected species terms such that EIA is required.

Cumulative Impacts

There are no cumulative impacts associated with the proposed development which will likely have a significant effect on the environment such that EIA is required on this basis.

Proposed measures to avoid or prevent significant adverse effects

As required by regulation 5(5)(b) of the EIA regulations the local planning authority has had regard to the following measures which would avoid, or prevent what might otherwise have been, significant adverse effects on the environment:

- Mitigation measures in the ecological report and conditions recommended by SC Ecology.

Conclusion

It is considered that the proposed development would NOT constitute 'EIA Development' for the following reasons:

- The scale of the proposed development is small in EIA terms.
- Given the small scale of the development in EIA terms the location of this development within the AONB is not likely to result in significant effects on the environment.
- Given the assessed characteristics of the proposed development and that no likely significant effects on the environment have been identified.

Other

(i) Should any details of the proposed development change, or if new information comes to light as part of the application process, then an Environmental Statement may be necessary if the development is then judged to raise significant environmental impacts. If you wish to alter any aspect of the development you are advised to contact the Local Planning Authority to discuss whether this screening opinion would remain valid for the amended development.

(ii) This decision and the reasons for it are provided without prejudice to the outcome of any subsequent planning application.

(iii) A copy of this screening opinion will be placed on the Public Register.

This page is intentionally left blank



<u>Committee and date</u>
Southern Planning Committee
5 April 2022

SCHEDULE OF APPEALS AS AT COMMITTEE 5 April 2022

LPA reference	21/03032/FUL
Appeal against	refusal
Committee or Del. Decision	Delegated
Appellant	Mr jonathan Cox
Proposal	Erection of replacement swimming pool building following demolition of existing
Location	Hammer Hill House Romsley Lane Romsley WV15 6HW
Date of appeal	10.12.2021
Appeal method	Fast Track Appeal
Date site visit	31.01.2022
Date of appeal decision	04.03.2022
Costs awarded	No
Appeal decision	Dismissed

LPA reference	21/01321/CPE
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Dennis Hodgetts
Proposal	Application for Lawful Development Certificate for the existing use as a conservatory granted permission in 1997. This is to be replaced with an oak framed garden building which due to its size is in accordance with The GDPO (2015 - As amended Class A - enlargement, improvement or other alterations of a dwelling)
Location	Cherry Orchard Farmhouse Tuckhill Six Ashes Bridgnorth Shropshire WV15 6EW
Date of appeal	29.10.2021
Appeal method	Written representations
Date site visit	02.03.2022
Date of appeal decision	07.03.2022
Costs awarded	
Appeal decision	Dismissed

LPA reference	21/05218/FUL
Appeal against	Non Determination
Committee or Del. Decision	N/A
Appellant	Mr & Mrs T Smythe
Proposal	Erection of part two storey and part single storey extension following partial demolition; and partially replacing boundary fence with brick wall
Location	Pryll Cottage 19 Burway Road Church Stretton SY6 6DP
Date of appeal	07.03.2022
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/00817/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Bradford Rural Estates
Proposal	Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of hardstanding and buildings (agricultural) to general industrial (Class B2) and storage (Class B8) uses
Location	Tong Hill Farm Hubbal Lane Tong Shifnal TF11 8PW
Date of appeal	23.03.2022
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	



Appeal Decision

Site visit made on 31 January 2022 by A J Sutton BA (Hons) DipTP MRTPI

Decision by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/L3245/D/21/3287557

Hammer Hill House, Romsley Lane, Romsley, WV15 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Cox C/O Evergreen Architects Limited against the decision of Shropshire Council.
 - The application Ref 21/03032/FUL, dated 16 June 2021, was refused by notice dated 8 September 2021.
 - The development proposed is described as 'The proposal is to demolish the existing 1980s pool and build a new modern style pool in the same location, which is slightly larger.'
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for costs

3. An application for costs was made by Mr Jonathon Cox against Shropshire Council. This application is subject of a separate Decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the property which is a non-designated heritage asset; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

5. The Government attaches great importance to Green Belts and the fundamental aim of Green Belt policy, as set out in the Framework, is to prevent urban sprawl by keeping land permanently open.

Whether Inappropriate Development

6. Policy CS5 of the Shropshire Local Development Framework Core Strategy (Core Strategy) and policy MD6 of the Site Allocations and Management of Development Plan (SAMDev) predate the Framework but are generally consistent with national Green Belt policy, stating that development will be strictly controlled.
7. This proposal would not satisfy any of the exceptions set out in the local plan policies. However, the Framework at paragraph 149 provides exceptions for development in the Green Belt. These include the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building, and for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
8. 'Disproportionate additions' is not defined in the local plan policies or the Framework. The Council contends that the current dwelling far exceeds 100% of the original floorspace and this is not disputed by the appellant. The fact that the extensive grounds have space to accommodate this development is not at issue in this consideration. Moreover, the property has the benefit of previously permitted large extensions.
9. However, there is a point when even a small extension, when considered in combination with the other extensive additions, represents a disproportionate addition to the building. Given the substantial cumulative increase in the size of the original dwelling, amounting to a doubling in size of both the original footprint and mass, this is applicable in this case. Accordingly, I find that this proposal would be a disproportionate addition to the dwelling and would therefore not qualify as an exception as set out in paragraph 149 c) of the Framework.
10. The replacement pool would be 33% larger than the size of the existing pool and of a similar height. This would result in a materially larger building and significantly beyond the 10% size increase indicated as potentially acceptable in preapplication discussions with the Council. It would therefore not satisfy the requirements of paragraph 149 d) of the Framework for this reason.
11. In light of the above, the proposal would be inappropriate development in the Green Belt, and harmful in this respect. I attach substantial weight to this harm in this recommendation.

Openness

12. The dwelling is well screened from the road to the front and at its east boundary by high walls. The property is relatively open to the west, bound by a lower wall and with a paddock beyond.
13. The proposed replacement building would be attached to the east wing of the dwelling and would be screened on this elevation by the walled garden. When

viewed from the footpath at the west boundary it would be seen in the context of the collection of buildings that form the dwelling. However, the proposal would extend the built form significantly to the front of the existing pool. Furthermore, whilst it would be a similar height to the building it would replace, the proposed design, with a prominent roof form, and significantly extended footprint, would result in a spatial and visual change to the existing openness at this part of the appeal property.

14. The harmful effect on the openness of the Green Belt would be extremely limited given the circumstances outlined. Nevertheless, substantial weight is attached to this harm in this appeal.

Character and Appearance

15. The non-designated heritage asset was constructed in the 1920s. The Heritage Impact Assessment¹ confirms the original asymmetry composition of the dwelling has been eliminated by recent extensions. However, I consider that the style and detailing, characteristic of early 20th Century architectural style can still be appreciated, and this includes traditional hipped roof forms and full height bay windows. Moreover, the individual design quality, influenced by the Arts and Craft Movement, and its significance as a large rural house, associated with a notable architect, is still discernible. The Loggia, open lawns to the front, walled-garden, gate and coach houses contribute to this positive sense of history associated with this property. For these reasons, despite alterations, the asset retains its heritage interest and significance as a grand period rural dwelling, set in spacious grounds with a commanding elevated position.
16. The Framework, at paragraph 203, requires, in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
17. The pool added in the 1980's is typical of designs of that era. Along with the large extensions to the dwelling, it has contributed to the loss of the asymmetrical pattern of built form and the original site composition. However, the structure, which pierces the walled-garden, only encroaches a small way into the garden. Its pitched glazed roof is set into the wall, but the line of the wall is still apparent above the pool's roof. These features limit the impact of the structure on the historic interest of this part of the property.
18. To the south, the stone façade of the pool is of a traditional architectural form. This appears subordinate in size and sympathetic in both style and materials to the adjacent Loggia and front elevation of the dwelling. To the north the structure appears a generally subservient feature beyond the east wing of the dwelling, with only the protruding octagonal roof lantern standing out as an incongruous feature, in terms of materials and form, against the period dwelling. Therefore, although the existing pool's design is not wholly respectful of the dwelling's original architectural style, with the exception of its roof lantern, which is modest in size, the existing pool appears a recessive structure, when viewed from all elevations and in the context of the wider property.

¹ Ref Heritage Impact Assessment of Replacement Swimming Pool June 2021

19. The corten steel faced southern elevation of the proposed pool would blend both in height and colour with the dwelling and the garden wall. The use of Zinc is a nod to the detail at the bay windows, but the eye would be drawn to the unusual, scalloped roof panels which would create an incongruous form at this aspect of the property. The steel to the east would echo the colour of the sandstone. However, the wide solid expanse of this modern material, crowned by the boxy unsympathetic roof panels, which would extend most of the length of the extended form, above the existing wall, would create a strong urban feature which would be at odds with the period and domestic setting of the walled garden.
20. The proposal would protrude significantly beyond the existing footprint of the pool to the north and further beyond the front elevation of the dwelling's east wing. Consequently, a substantial section of the pool's west elevation would encroach into a part of the property where its rural setting is appreciated. This would result in a prominent structure with an industrial aesthetic which would clash detrimentally with the distinctly rural character of the property.
21. Although adding interest to the proposed north elevation the water feature would not soften the harmful contrast of the proposed roof form. At this aspect its urban form would result in a confusion of roof heights and shapes which would compete and fail to harmonise with the existing hipped roofscape at the front of the period dwelling.
22. Contemporary additions can complement period properties and there is support in principle from the Council in this case. The intrinsic design quality of the proposal is also not in question. However, in this context for the reasons outlined the design, with the imposing roof profile, would be a visually dominant feature that would not respect the period architectural style of the dwelling. Its jarring form would not be subservient in this regard and would diminish the appearance of the property and would further erode its historic significance in this respect.
23. The harmful effect would be localised to the immediate property with only glimpsed views from the footpath at the west. However, the development would not be visually attractive in this context, nor would it be sympathetic to local character or the remaining positive period features of the property. This harm, particularly in respect to the proposed roof, could not be made acceptable by a condition for a landscaping scheme.
24. The proposal would result in an improvement in energy efficiency which would be of small benefit given the scale of the development. The health and well-being benefits of the pool would be limited to the occupants and the family and would be of private benefit. The proposal would remove a structure that is not wholly in keeping with the historic asset, but it would replace it with an incongruous development which would, for the reasons outlined, be more harmful to the period property. Therefore, this matter does not weigh in favour of the proposal. Consequently, I find that the small and limited benefits of this proposal would not outweigh the harm to the appearance of the non-designated heritage asset.
25. I therefore conclude the proposal would have a harmful effect on the character and appearance of the property, which is a non-designated heritage asset. It would in this regard be contrary to policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of the SAMDev, which collectively, amongst other

matters, requires proposals to protect the diversity, high quality and local character of Shropshire's built and historic environment, ensuring where possible proposals avoid harm or loss of significance to non-designated assets. It would also be inconsistent with design and historic environment policies of the Framework.

Other Considerations

26. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
27. Violet House is not in the Green Belt and therefore the conclusions of the Inspector in the appeal decision² is not relevant to the considerations of disproportionate alterations in the Green Belt which is at issue in this appeal. The Inspector's findings in the Guilford decision³ considered whether that proposal was proportionate. However, in that appeal the addition increased the original size of the dwelling by 72%, which is considerably less than the cumulative increases to this property and in this regard the circumstances were distinctly different from this proposal. The decisions have not been determinative for these reasons.
28. I have had regard for the need to renovate the existing pool, the energy efficiency associated with its replacement, and that it would be of benefit to the health and enjoyment of the family, as well as minimising travel to alternative facilities some distance from the property. However, I am not convinced that this harmful development is the only means of securing these benefits and that a less harmful scheme could not be devised. Therefore, these factors do not weigh in favour of this proposal.
29. Development which would not unduly affect the local housing market is to be expected so this is a neutral factor. I note the support from the neighbours, but this alone would not justify development which would be harmful for the reasons outlined.
30. Permitted development rights are separate from development that requires planning permission. Land within Green Belt is not precluded from rights afforded by the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), unlike other designations such as national parks. This has been the position over successive amendments to the GPDO. The option has been available to the Government to disapply permitted development rights for dwellings in the Green Belt, but it has not opted to do so. Having regard to this, it is reasonable to conclude that development permitted by the GPDO is not inappropriate. Moreover, permitted development is subject to restrictions, conditions and limitations and such development would be materially different from this proposal. Therefore, this matter would not provide a justification for inappropriate development in the Green Belt and is not determinative for this reason.
31. The unilateral undertaking (UU) by the appellant not to construct a stable block permitted under an extant permission⁴ if this appeal was allowed passes the necessary tests and I attach weight to it in reaching this recommendation.

² Ref APP/L3245/D/19/3240051

³ Ref APP/Y3615/W/18/3202309

⁴ Ref BR/APP/FUL/04/0969

Although the planning statement indicates that the appellant was prepared to enter into an agreement and this option was highlighted in the officer's report, I am not able to confirm from the evidence before me that the UU was submitted when the planning application was determined. The Council's preapplication advice was clear and it has substantiated its reasons for refusal with relevant policies. Accordingly, I find there is nothing to indicate that it has failed to be proactive in dealing with this application.

32. The stable block in question is an outbuilding separate from the dwelling but does form part of the property in that it straddles the western boundary and is well related to the large estate. The sizeable building, whilst very different in character to this proposal, is also comparable in size and height with the proposed additional floorspace of the pool. Once constructed it will fill an open space at this boundary, adjacent to a paddock, and it would be visible from the footpath which crosses this field. Its impact on the openness of the Green Belt would therefore be greater than the proposed building attached to the dwelling and the walled garden. However, the UU would not address the conflict with paragraph 149c of the Framework, and it would not make the proposal which would result in a disproportionate addition to the building acceptable. Nor would it address the harmful impact of the proposal in terms of the character and appearance of the non-designated heritage asset. Accordingly, I attach moderate weight to this matter.

Whether very special circumstances exist

33. The proposal would be inappropriate development in the Green Belt and would lead to a loss of openness. It would harm the character and appearance of the property and would conflict with development plan policy in this regard. These are matters I give substantial weight and I find this would not be clearly outweighed, either individually or cumulatively, by the other considerations advanced by the appellant for the reasons outlined above. As a result, the very special circumstances that are necessary to justify the development do not exist. Consequently, the UU is unnecessary. The proposal therefore would conflict with Green Belt policies of the development plan and the Framework.

Conclusion and Recommendation

34. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

35. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Caroline Mulloy

INSPECTOR

Appeal Decision

Site visit made on 2 March 2022

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

APP/L3245/X/21/3283108

Cherry Orchard Farmhouse, Tuckhill, Six Ashes, Bridgnorth WV15 6EW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal by Shropshire Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Dennis Hodgetts.
- The application, reference 21/AP01321/CPE was received on 15 March 2021. It was refused by a notice dated 19 March 2021.
- The development for which a certificate of lawful use or development was sought is for the existing use as a conservatory that was granted permission in 1997. It is to be replaced with an oak framed garden building which due to its size is in accordance with the GDPO (2015 - As amended Class A - enlargement, improvement or other alterations of a dwelling).
- The application was made under section 192(1)(a) of the Act for a certificate of lawfulness for the existing use of the conservatory and under section 192(1)(b) for the replacement garden building.

Summary of decision: A certificate of lawfulness is not issued.

Appeal conservatory and proposal

1. The Appellant, Mr Dennis Hodgetts, intends to replace the existing conservatory built on to the southern façade of the detached house at Cherry Orchard Farmhouse, Tuckhill, with a new oak framed building. He described it as a garden building. *N.B. Mr Hodgetts and the Council variously referred to the compass bearing of this façade of Cherry Orchard Farmhouse as the south facing wall and the south-east facing wall. That may be because it is almost south-southeast facing. But for consistency and simplification, this wall is referred to in this decision as the south facing wall. Other external walls are north, east or west facing.*

Appellant and Council cases

2. Mr Hodgetts maintained that the new building would meet all the limitations attached to Class A, (enlargement, improvement or other alteration of a dwellinghouse), of Part 1, (Development within the curtilage of a dwellinghouse), Schedule 2, (Permitted development rights), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, (the Order).
3. The block plan submitted with planning application 97/0219 showed a layout similar to that seen in a 1970's aerial photograph. Positions of doorways into the house were indicated. A porch on the south elevation appeared to show

access into a kitchen from outside. Entrances into the dwelling from the eastern road side and from the west into the central hall were provided. Mr Hodgetts said they would have been the primary entrances into the dwelling.

4. Mr Hodgetts said the plans attached to application BR/APP/FUL/00/0457 showed that from the then existing and proposed layouts, the main entrance into the house was from the east. During their consideration of that application, the Council had not questioned that view.
5. The Council said there were 3 matters upon which the proposed new garden building would fail to meet permitted development criteria outlined in Schedule 2, Part 1, Class A.1 to the Order.
6. First, the garden building would not comply with limitation A.1 (e)(i) and A.3(a) - the enlarged part of the dwellinghouse would extend beyond a wall which — (i) forms the principal elevation of the original dwellinghouse. That was because the Council considered the south elevation, (where the proposed garden room would be sited), to have been the principal elevation of the original dwelling house, ("Original" here means: in relation to a building, existing on 1st July 1948, as existing on that date; 2.-(1) the Order). The Council said the east and west facing walls had been side elevations of the original dwellinghouse.
7. Secondly, condition A.3(a) to Class A would not be met, (the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse).
8. Also, the proposed retaining wall to support the extended patio would be operational development outwith the limits of the Order.

Inspector's considerations

9. That part of the application for a certificate of lawfulness for the use of the existing conservatory was, as the Council pointed out, otiose. Planning permission for the erection of the conservatory was granted on 19 May 1997 under reference BR/97/0219. It appears the conservatory was built in accordance with that permission. The lawfulness of the existing conservatory is confirmed by the 1997 planning permission. No useful purpose is seen in issuing a certificate of lawfulness to that effect.
10. The first of the 3 points of non-compliance with the Order concessions according to the Council, (para. 6 above), was whether or not the proposed garden building complies with limitation A.1 (e)(i) - the enlarged part of the dwellinghouse would extend beyond a wall which — (i) forms the principal elevation of the original dwellinghouse. That depends on which party was right in determining whether the south or the east facing wall of the house was the principal elevation of the original dwelling house - the pre-1948 layout of the house.
11. Where the principal elevation it is not obvious, a combination of the factors may be used to identify the principal elevation. They are: location of main door; windows; relationship to road; boundary treatment and architectural

ornamentation. It is unlikely that any single factor will be decisive. There can only be one principal elevation.

12. Mr Hodgetts's 1970s aerial photograph of Cherry Orchard Farmhouse provides perhaps the best available indication of its original layout. No earlier photographs or plans of this altered and extended house were submitted. The aerial photograph shows the south facing wall with a window at first floor level, a porch with a window facing south, and a south facing window in the small building attached to the eastern side of the house. It shows a wall along the eastern side of the house close to the road that turns 90° to the west, joining the south-eastern corner of the porch on the southern façade. The wall appears to have been an edge to a path to the porch that ran from the eastern wall access through from the road. Mr Hodgetts said the plan attached to application 97/0219 showed a similar layout to the 1970s photograph. That plan is poorly reproduced. However, the porch on the southern façade and the path wall suggest a main door into the house. The openings in the internal walls are also unclear. But I think it unlikely the porch failed to provide access into the whole house.
13. The block plan said to be circa 1979 shows no porch, but there were doorways into the house from the west and from the east and through the small building on the eastern side of the house. The BR/APP/FUL/00/0457 application plan again shows access into the house from the west and east. However, perhaps significantly, the 1970s photograph does not appear to show any paths up to the house on the east or western sides.
14. On balance, I consider the Council were right to conclude that the southern façade of Cherry Orchard Farmhouse was the principal elevation of the original dwelling house.
15. Even if that determination could be changed by adducing clearer evidence, Mr Hodgetts's project fails to satisfy condition A.3(a) to Class A to Schedule 2, Part 1, (the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse). This question was not addressed by the Appellant. Cherry Orchard Farmhouse has red brick walls with white uPVC windows. The roof is covered with red tiles. However, the garden room would have a red sandstone plinth, a visible oak frame, oak fascias and soffits, black framed windows, black bi-fold doors and a tiled mansard roof, with a large flat roof light. Those finishes would be different to those on the existing house. Compliance with limitation A.3(a) would not be achieved.
16. There is also a proposed retaining wall to support a new patio extending outwards from the southern and western sides of the garden room. The patio may not be essential to the construction of the garden room. But it is intended to be an integral part of the project. It would amount to an engineering operation as defined by s.55(1) of the Town and Country Planning Act not permitted by the Order.
17. Permitted development rights only apply when the development fully accords with all the limitations set out in the Order. The case of *Garland v MHLG [1968] 20 P&CR 93* is authority for that position.

Conclusion

18. Where a lawful development certificate is sought, the onus of proof is on the appellant. The standard of proof is the balance of probabilities. In this instance it was not shown that the construction of a replacement garden room and patio would be development permitted by Class A to the Order.

FORMAL DECISION

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development for the construction of an oak framed garden building to replace the existing conservatory at Cherry Orchard Farmhouse, Tuckhill, Six Ashes, Bridgnorth WV15 6EW was correct and that the appeal should fail. I exercise the powers transferred to me in section 195(3) of the 1990 Act as amended.

John Whalley

INSPECTOR