



Committee and date  
South Planning Committee  
19 December 2017

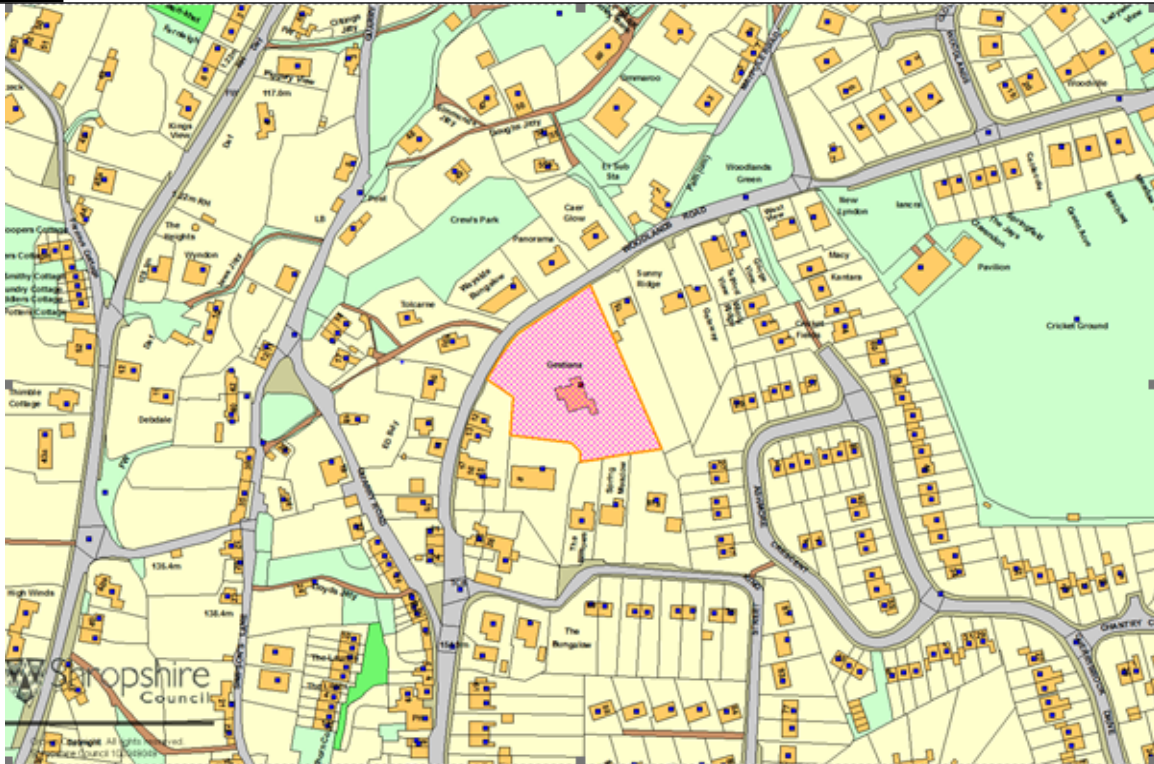
## Development Management Report

Responsible Officer: Tim Rogers  
email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 17/01834/FUL	<b>Parish:</b> Broseley
<b>Proposal:</b> Demolition of existing dwelling and construction of 5no. bungalows with rooms in roof space (Amended description)	
<b>Site Address:</b> Gestiana Woodlands Road Broseley Shropshire TF12 5PU	
<b>Applicant:</b> Mr David Poyner	
<b>Case Officer:</b> Richard Fortune	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 367193 - 302604



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

Contact: Tim Rogers (01743) 258773

**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.****REPORT****1.0 THE PROPOSAL**

- 1.1 This application relates to a site which was granted outline planning permission on 19<sup>th</sup> March 2009 (ref 09/0023) for the erection of three dwellings on land at this property. The existing Gestiana bungalow would have been retained in that development. All matters were reserved for later approval in that application, with the exception of an altered access, with visibility splays, onto Woodlands Road. No reserved matters were submitted and a further outline application was made in 2014 for the erection of three dwellings in 2014 (ref 14/01605/OUT). That application also retained the existing Gesttana bungalow. The layout of the site was not reserved for later approval in that application. It was resolved, following consultation with the Shropshire Council Division Member, to grant outline permission subject to the completion of a Section 106 Agreement to secure an affordable housing contribution. The outline planning permission issued, with layout approved, is dated 14<sup>th</sup> December 2015 and remains extant, with appearance, access, scale and landscaping reserved matters needing to be submitted by 14<sup>th</sup> December 2018.
- 1.2 The present application, as originally submitted, proposed the erection of six dwellings on this site after the demolition of the existing Gestiana bungalow. The new dwellings would have comprised of five 1.5 storey two bedroomed dwellings (Each with an ensuite bedroom and store room in the roof space), with a full two storey four bedroomed dwelling (plot 6) at the southern end of the site. A number of concerns were raised with the applicant and agent about the impact of the proposed development layout and the design of the dwellings on the amenities (privacy/overlooking and overbearing impacts) of adjacent residential properties, the appropriateness of the proposed scale, density, pattern and design of the six dwelling scheme for this location, the impact on trees and hedges of dwellings in the positions proposed. It was suggested that a number of these issues could potentially be addressed if the proposed number of units is reduced by the removal of plot 6. This in turn would allow for the plot 5 dwelling to be moved further back and away from the east boundary hedgerow, allow for retention of the existing trees close to the southern boundary and a larger rear, private garden to plot 4, for the turning area to be moved to create larger curtilages for plots 2 and 3 (And potentially remove the conflict of the detached garage proposed for that plot with the tree noted on site), and increase their separation distances from retained trees on the site frontages, and for the realignment of the drive right of way to no. 8 that would allow the proposed dwelling to plot 1 to be moved out from under the canopy of the trees on the site boundary with no. 12. It was suggested also that the dwelling designs for the area of the site shown for proposed plots 4, 5 and 6 should be single storey only to address both the privacy and overbearing impact concerns.
- 1.3 In response, amended drawings have been submitted amended drawings. The number of dwellings proposed has been reduced to five. The proposed dwelling mix has been changed from two type A, three type B and one type C dwelling to four type A and one type B dwelling. The large two storey (type C) dwelling has been removed.

- 1.4 The single type B dwelling would occupy plot 1, which is situated at the western end of the site road frontage. It would be sited in the same position relative to the road (Some 5.8 metres back) and further from the trees than the dwelling shown on the approved layout in the extant outline permission 14/01605/OUT for this part of the site. The vehicular access position would be essentially the same position as the access in the approved layout for 14/01605/OUT.
- 1.5 The type A dwelling on plot 2 would be set back some 8.5metres from Woodlands Road with the three existing trees on the site road frontage retained. It would be orientated with its principal elevation facing west onto the internal access road. The rear elevation would be some 3.6 metres from the eastern site boundary and the east facing elevation would not contain any first floor windows, with the bedroom in the roof space being lit by a dormer on the south facing side elevation. The plot 3 dwelling would be a handed version of that on plot 2 and positioned in line with it. Again there would be no first floor windows in the east facing rear elevation and the bedroom within the roof space would be lit by a dormer on the south facing side elevation.
- 1.6 Plot 5 would be situated at the southern end of the application site and would retain the existing tree in the south eastern corner of the site. The rear elevation gable projection at the closest point would be some 2.8 metres to 4.8metres from the 1.8m high close boarded fencing on the southern site boundary( Due to the angling of the dwelling on the plot) with the south west rear corner some 4 metres and with no first floor openings to that elevation. The east facing dormer lighting the bedroom in the roof space would be some 9.5 metres from the eastern site boundary, beyond which are the bottom sections to the long rear gardens of adjacent dwellings.
- 1.7 The plot 4 dwelling would be bounded by the existing leylandii tree screen and a 1.8m high close boarded fence to the south, the internal access road to the north/northeast, plot 5 to the east and the access drive to an existing dwelling, accessed through the application site, to the west. The principal elevation would face north east onto the internal access road and turning head, with the dormer lighting the first floor bedroom accommodation on the south east facing side elevation.
- 1.8 Both of the proposed house designs would be dormer bungalows. The type A design would have 'T' shaped plan comprising of a rectangular plan, dual pitched roof full gabled central element, providing a hallway, dining kitchen, utility and lounge with ensuite bedroom over, with single storey hipped roof wings on either side. The smaller of these wings would contain a second bedroom and a bathroom, and the larger wing would contain a double garage. The Type B dwelling floor plan would be the same, but omits the double garage wing and would light the first floor bedroom accommodation by a window in the rear elevation gable, rather than the side elevation dormer that would feature in the Type A design. Both designs would feature a short projecting front gable that would contain part of the stairway and an open porch. The external facing materials would include red brindled facing brick, vertical tile hanging, Staffordshire blue plain tiles with a banding detail, blue cant headers to the window openings and lead cladding to the dormers. Each plot would

have two parking spaces, with plots 2 to 5 also having double garages in addition to these spaces. The garden boundaries within the site and to Woodlands Road would be defined by hedging.

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 Site is located in a residential area within the town boundary. It is situated adjacent to the Broseley Conservation Area which borders the western side of the site. Woodlands Road runs along the north western site boundary, on the opposite side of which are existing dwellings. Existing dwellings and their gardens border the western, southern and eastern site boundaries. The existing Gestiana bungalow is positioned approximately central on the application site, through which there is a right of way to an existing dwelling to the south. There are hedges and trees within the site, with three trees on the Woodlands Road frontage (A sycamore, birch and cherry) being the subject of a Tree Preservation Order dated 1<sup>st</sup> November 2017 on a temporary basis and remains in force for a period of 6 months, during which time it will be decided whether the order should be confirmed and given permanent status.

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

3.1 Town Council view contrary to Officer recommendation; call-in request from Shropshire Ward Member for determination by Committee. The Committee Chairman, in consultation with the Principal Planning Officer, consider that the sensitivity of the site and its locality raise material planning considerations that warrant Committee consideration of the proposed scheme.

## **4.0 Community Representations**

- Consultee Comments

4.1 Broseley Town Council (01-08-17) - Object to amended proposals:

Density of development – the density of the proposed development is inappropriate for this semi-rural location.

Access and highway safety – the proposed development is located on a blind bend, on a narrow road with no pavement. The development would increase traffic to the site as well as in the local area.

Overlooking – Councillors were concerned that neighbouring properties would still be overlooked, because of the elevated position of the development site.

4.1.1 Broseley Town Council (26-05-17) – Object to original proposals:

Overlooking – Gestiana has a higher ground level than adjacent properties and the proposed dwellings would overlook and overshadow them, impacting on their privacy.

Density of development – the density of the proposed development is inappropriate for this semirural location.

Access and highway safety – the proposed development is located on a blind bend, on a narrow road with no pavement. We would draw the attention of planners to the recommendation of refusal in the interest of highway safety submitted by the highway authority in relation to the original outline application.

Loss of boundary features - the development site is located adjacent to the Conservation Area.

The application proposes the removal of established hedges and an old brick wall, contrary to the Broseley Town Plan.

#### 4.2 SC Highways Development Control ( 01-08-17) No Objection:

The site is the existing bungalow, Gestiana, Woodlands Road, Broseley Wood. Woodlands Road is a narrow, two-lane road of varying width but is without footways. Although classed as urban, Woodlands Road, the U6711 is of semi-rural appearance and operates as a shared space for highway users. It is governed by a system of low-level street lighting and a 30mph speed limit.

The proposal is to demolish the existing bungalow and its swimming pool and replace it with a group of five dwellings, one being a four bedroom house and the other four are to be two bedroom, dormer bungalows with integral garages.

The parking and turning for the two bedroom bungalows is adequate, with the ability to park four vehicles at each plot (two in the garage) with some visitor parking apparent within the development. Plot 1, the four bedroom house has no garage and parking is in-line on a driveway. It is preferable that parking is side by side to negate the need for unnecessary reversing manoeuvres into the shared service road.

Sight-lines provided are adequate as provided by the moving back of the hedge and the grass-only verges. Mature trees being left on site or new trees planted behind the boundary must not be allowed to encroach into the visibility splay and must be maintained at all times.

As tracking has been added to the plan it is expected that refuse and recycling wagons will enter the development service road to perform their services and delivery trucks will do the same. With this in mind it may be judicious to kerb the radii up to the highway boundary to prevent rutting in case of over-running of the verge.

#### 4.2.1 SC Highways Development Control (30-05-17) – Insufficient information to make a technical assessment.

#### 4.3 SC Archaeology – No comments to make in respect of archaeological matters.

#### 4.4 SC Regulatory Services – Comment:

Due to historic land use and features noted on historic maps the following condition is recommended:

Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

[http://shropshire.gov.uk/committeeservices/  
Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-  
%20Appendix.pdf](http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf)

4.5 Severn Trent (07-08-17) – No Objections:

As the applicant is proposing to discharge all foul sewage to the public foul sewer, and all surface water is to discharge to a soakaway, we'd have no objections for the discharge of the drainage related condition.

4.5 Severn Trent – No Objections:

With Reference to the above planning application the company's observations regarding sewerage are as follows. I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or avoid exacerbating any flooding issues and to minimise the risk of pollution.

4.6 SC Affordable Housing – Comment:

If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.7 SC Conservation - Comment that overall the scheme would appear to have a neutral effect on the setting of the Conservation Area, which subject to detailing to be controlled through conditions, has the potential to be an enhancement.

4.8 SC Trees (02-11-17) – Provisional Tree Preservation Order made in respect of trees on land adjacent to Gestiana, Woodlands Road, Broseley.  
No changes made to the scheme and recommendation of refusal stands: The proposal will seriously harm important trees, does not align with current best practice and is contrary to local policy.

4.8.1 SC Trees (14-09-17) - Recommend Refusal (Revised scheme):

Outline planning permission has been granted for the erection of 3 dwellings 14/01605/OUT.

Unfortunately the tree team was not consulted and did not comment on this application.

I have assessed the arboricultural information submitted to support the proposal for 5 dwellings and make the following comments:

Trees located within the site boundary make a significant contribution to the amenity of the area. I am concerned that important trees will be harmed and/or lost if the current proposal is given consent. Little space would remain for mitigation planting and the proximity of dwellings to existing trees would put pressure on them to be onerously pruned or removed.

More specifically:

Root protection areas (RPA) of T2, 3, 4, 18 - rooting for these trees is limited by the highway therefore it is not appropriate to represent RPAs as circles as shown on AIA drawing REV A Aug 2017. RPAs should be adjusted to represent the most likely area of soil where roots will be found e.g. where root growth is not inhibited by

site conditions (Refer to BS5837:2012; 4.6.2/3).

Houses in plot 1, 2 & 5 are well within minimum recommended RPAs. Construction activity in these areas will harm trees and is not acceptable or sustainable.

Houses in plot 1, 2 & 5 are in very close proximity to trees shown as retained (within the site and offsite). This is not sustainable and puts pressure on them to be onerously pruned or removed.

Other issues:

There are inconsistencies with the tree schedule and the conclusion of the arboricultural report.

The arboricultural impact of the development has not been fully considered.

No tree protection/removal plan provided.

A clear tree pruning specification is not provided

- 4.8.2 SC Trees (01-08-17) – Recommend Refusal - Insufficient details have been submitted to make a technical assessment.

To ensure trees are given adequate consideration specialist arboricultural advice is required. This should demonstrate that the scheme is viable/sustainable and that public amenity or the character of the area will not be adversely affected.

Requirements:

An arboricultural implications assessment (AIA) (in accordance with BS5837:2012)

Tree protection plan/removal plan (in accordance with BS5837:2012)

An arboricultural method statement (AMS)\*

A detailed landscaping/mitigation scheme \*

\* These may be dealt with by way of planning condition, subject to prior approval of a satisfactory

AIA/ Tree protection plan/removal plan.

- 4.8.3 SC Trees (19-06-17) – Object in the absence of further arboricultural information and analysis as being contrary to Core Strategy policy CS6 and SAMDev Plan policies MD2 and MD12.

The site is bounded by numerous established and mature trees of a variety of species, both coniferous and deciduous. Some of these I consider to have high public amenity value and others have a more specific screening role between neighbouring properties. Such trees can be considered to be natural assets in the context of adopted SC SAMDev Policy MD12 (Natural Environment). The basic principle should be to ensure that significant trees on and adjacent the site are not damaged or harmed as a result of the proposed development.

Although the submitted Design & Access Statement (Thorne Architecture, 17017/LA/JT, 19 April 2017) states that specimen mature trees will be retained to the frontage and beyond, consider that this will be impossible with the number of properties and layout as currently submitted. Construction will entail removal of such a large proportion of the canopy and roots of many of the road front trees as to make their safe retention unviable. Even if the properties could be constructed



without directly killing the trees, consider that the juxtaposition of trees and dwellings would be unsustainable, with inevitable pressure from future occupants leading to further excessive pruning or removal of the trees. Further, the proposed site plan shows all the trees on the eastern boundary and two apparently offsite trees in adjacent properties to the south as being removed.

In order to take proper account of the trees and hedges on and adjacent this site it is necessary for a competent arborist to undertake a tree safety survey in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. The trees and hedges should be accurately plotted on a topographical plan and an assessment made of their species, size (height, canopy spread, stem diameter and root protection area), health, condition and suitability for retention in light of the proposed development. The constraints posed by the trees should be evaluated and used to inform site layout and design.

It is expected that an application should be able to show how it has responded to the constraints and opportunities posed by the existing trees, bearing in mind the impacts of development upon the trees and vice versa. An arboricultural impact assessment should be undertaken to evaluate the implications of the proposed development, taking account of trees and hedges to be lost, those to be retained and any new planting associated with the development.

Any unavoidable loss of significant trees and hedges should be quantified and justified in light of the proposed development, with suitable mitigation and compensation measures proposed in accordance with SAMDev Policies MD2 (Sustainable Design) and MD12.

- 4.9 SC Ecology (13-09-17) – No Objection:  
A Preliminary Ecological Appraisal and Bat Survey was carried out on this site in August 2017 by Gerald Longley Ecological Consultants.

#### Habitats

Habitats on the site consist of a bungalow, a shed, amenity grassland, native and non-native hedgerows, a line of *Leylandii* trees, mature and immature trees (both broadleaved and coniferous), non-native shrubs, a swimming pool, a brick wall and a section of stone wall.

Replacement and enhancement hedgerow, tree and shrub planting should be carried out, using native species of local provenance.

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.

#### Bats

No potential roosting opportunities were identified in the buildings and no evidence was observed. An emergence survey was carried out on 10th August and no roosting behaviour was recorded. Small numbers of common and soprano

pipistrelles foraged in the site during the survey, 'particularly along the south edge where shrubs and trees created a sheltered area with plenty of insects.'

'None of the trees on or adjacent to the site offered suitable roosting habitat for bats.'

The lighting scheme for the site must be sensitive to bats and follow the Bat Conservation Trust's guidance.

Bat boxes should be erected on the new dwellings to provide potential roosting opportunities for bats.

### Birds

The buildings and vegetation provide potential nesting opportunities for birds.

'A wren was recorded flying out of the base of a window trough on the south side of the bungalow and a small hollowed out nest in the moss was found.'

Removal of the buildings and vegetation should take place between September and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Bird boxes should be erected on the new dwellings to provide potential nesting opportunities for birds.

### Herptiles

Limited terrestrial habitat exists 'under rocks and slates in shrub beds and in longer vegetation along the bases of hedges.'

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

Removal of debris should take place during the active season for reptiles (approximately 31st March to 15th October) when the weather is warm.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.

### Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

### Conditions and informatives

The following conditions and informatives are recommended for inclusion on the decision notice:

### **Bat and bird boxes condition**

Prior to first occupation / use of the buildings, 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 3 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 3 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes) and/or sparrows (32mm hole, terrace design).

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 maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 118 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, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014). 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

General site informative for wildlife protection

Landscaping informative

4.9.1 SC Ecology (08-07-17) – Ecological Assessment required before a decision can be made.

4.10 SC Drainage – No Objection:  
The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

- Public Comments

4.11 9 Neighbours have objected to the original proposals. Their comments are summarised below and can be read in full on the application file:

- Understood permission had been granted for single storey bungalows only.
- All six dwellings are in reality two storey.

- Overlooking of rear garden and loss of privacy.
- Overshadowing as the land at Gestiana is at a higher level than adjoining properties.
- Will prevent children playing in a safe environment.
- Noise levels will increase in what is a peaceful and quiet area.
- Security risk to neighbouring properties.
- Loss of property values and making neighbouring properties harder to sell.
- Affect outlook from neighbouring properties.
- Trees under the control of neighbours will impact on light to the proposed dwellings.

- Six dwellings replacing one not in keeping with existing nature of Broseley Wood. Broseley Wood is referred to in the Town Plan as an area with a “strong rural character” and a density of 10 dwellings per acre would be more in keeping with an urban setting.

- Need to retain and protect open spaces.
- Loss of hedge at entrance harmful to conservation area and a loss of wildlife habitat.
- Some mature trees missing from the developers plans.
- Adverse impact on sycamore tree and wall on boundary at 12 Woodlands Road.

- Additional pressure on Woodlands Road, which is narrow, without pavements and contains blind bends.

- Construction traffic is a serious safety concern.
- Potential parking on Woodlands Road by residents and visitors.
- Double yellow lines required along both sides of Woodlands Road.
- Have a legal right of access over the existing site access in its current position, there is no current problem with visibility that could be improved with a relocation of the entrance.

- Additional strain on electricity supply and drainage system.

- There has been no community consultation.

- Question need for housing with the Dark Lane development building c.90 additional homes, which are not all sold/reserved; assume that the town Plan housing policy limit of 36 additional homes over and above the Dark Lane development is being approached, 9 years ahead of the 2026 schedule.

- Limited impact on the local economy.
- Concerned about land stability and the plugged mineshaft below the existing dwelling.

- Not factually correct for supporting statement to describe application as entirely sustainable.

-Proposals should be revised to be less dense and single storey, less intrusive to neighbours and retaining existing walls and hedges to be more sensitive to the character of Broseley Wood and the adjacent conservation area.

4.12 9 Objections to amended proposals:

-Changes do not address previous objections submitted.

-New access would be on inside of a blind bend in narrow road with no pedestrian pavement.

-Will add to volume of traffic accessing and exiting site, increasing highway safety issues.

-Outline application in 2014 originally objected to by the Highways Authority.

-No provision for visitor parking and no immediate safe off-site parking available.

-Acknowledge revised design has made efforts to minimise impact on adjacent properties, but 5 units still seem excessive in this semi rural area.

-Not a suitable site for housing, detrimental effect on the tourism initiative in Broseley.

-Properties are still not single storey bungalows.

-Acknowledge the proposal has considered local amenity by intending to preserve many of the mature trees, but how can it be ensured this is kept after the development is completed?

-Meeting Highways recommendations would remove much of the mature hedge and trees and historic walls along site frontage.

-The ground is still moving and development could cause further movement, endangering neighbouring property.

-Affects neighbour privacy and outlook; overshadowing and overlooking.

-Dormer window on one dwelling would overlook garden or property, invading privacy.

-Disruption from construction traffic.

-Water mains of 27 Woodlands Road and Sunny Ridge within the area that would be plot 2.

-Fails to address concerns raised by Planning Officer about original proposals.

-Bats are present at the Gestiana property and all UK bats and their roosts are protected by law.

## 5.0 THE MAIN ISSUES

Principle of development

Design, scale and character

Landscaping and Trees

Affordable Housing

Highway Safety  
Residential Amenity  
Drainage  
Biodiversity  
Land Stability and Contamination

## **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. 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.
- 6.1.2 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.
- 6.1.3 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters'), as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. on sites outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.
- 6.1.4 The proposed site falls within the Key Centre of Broseley in which the principle of erecting open market 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. Greater self containment is the key objective of the Market Town revitalisation programme. SAMDev Policy S4 identified that housing developments should be small scale to reflect local character and meet the design principles in Policies DS1 – DS9 of the Broseley Town Plan. The indicative housing development guideline for Broseley for the period to 2026 is around 200 dwellings and, at the time of publication of the SAMDev Plan at the end of 2015, there was a requirement remaining for 24 homes to be met through windfall developments. The permission for three dwellings on this

site was included in the housing supply calculations. Policy MD3 of the SAMDev Plan sets out criteria to be taken into account in situations where settlement housing would be exceeded and the net addition of one unit on this site compared to the extant planning permission would not be a sustainable basis to refuse the principle of housing development on this windfall site.

6.1.5 Both the National Planning Policy Framework (NPPF) and LDF Core Strategy Policies CS6 and CS17 direct that a high quality development should be created whilst contributing to local character, and protecting and enhancing the natural, built and historic environment.

6.1.6 Broseley Town Plan supports new housing within its development boundary and within its Conservation Area, provided that 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 compliments the surrounding townscape (Policy H.3). Additionally, the Broseley Design Statement which forms part of the Town Plan, but which can be taken as a separate document, requires proposed designs to be in keeping with the form and materials that define the town's heritage (DS.1), and blend in with the town vernacular, including in DS.2:

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

6.1.7 Therefore there is no in principle planning policy objection to new housing in this location, as it is positioned within the development boundary of the Key Centre of Broseley, the surrounding environment is predominantly residential, the plot has been previously residential and has an extant Planning Permission for construction of three dwellings on it with the existing bungalow retained. The acceptability or otherwise of the proposal therefore rests with the consideration of the detailed matters in the following sections of this report.

## **6.2 Design, scale and character**

6.2.1 Paragraph 60 of the NPPF states that:

'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness'.

6.2.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have regard to the desirability of preserving or enhancing the character or appearance of conservation areas and their setting in exercising statutory functions. Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built, natural and historic environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable

design will be achieved, specifically stating that for a development proposal to be considered acceptable it is required to:

2. 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.

LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets. Policy MD13 of the SAMDev Plan sets out criteria by which Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored. Policy MD12 of the SAMDev Plan sets out criteria by which the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved. The design principles set out in the Broseley Town Plan seeks to ensure that proposed designs are in keeping with the form and materials that define the town's heritage.

6.2.3 The amended proposed dwelling designs would feature a materials palette that would be in keeping with the immediate site surroundings and the precise details would be the subject of conditions on any approval issued. The proposed form and massing of the dwellings, with combinations of hipped and gabled roofs, projecting short gables, and a low set form achieved through first floor accommodation being within only part of their roof spaces, would not be out of scale with the locality, and would accord with the Design Principles set out in the Broseley Town Plan. The layout, as amended with the reduction in the number of dwellings from six to five, would provide adequate private amenity space for each dwelling. The informal layout, with hedging enclosing the garden areas, retention of existing trees on the roadside and eastern site boundaries and a road layout similar to that of the extant permission would result in a development of a density comparable with parts of the Broseley Conservation Area to the bulk of the residential development to the south and east of the plot. It is considered that the proposed development would not detract from the character of the locality or the setting of the Broseley Conservation Area.

### **6.3 Landscaping and Trees**



- 6.3.1 Policies CS17 and MD12, alongside CS6 and MD2 support NPPF policies and seek to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. There are a number of established trees and hedges bordering and within the application site. The original site layout proposal for six dwellings would have sited three of the dwellings partly under the canopy of existing trees along the site road frontage, which would have required pruning/lopping works to be carried out to them and would be likely to impact upon the root systems of the trees. The close proximity of the trees to the dwellings would also be likely to lead to pressure for the removal of trees in the future. The amended site layout for five dwellings reduces the number of dwellings on the site road frontage from three to two and repositions the two dwellings so that they would be further from the trees. The existing hedging to the roadside is a mix of cypress, privet and berberis, with that to the eastern boundary including hazel, privet and damson. A scots pine on the eastern site boundary would be retained and the revised site layout has deleted a detached garage that was originally proposed close to this tree. Trees within the site that would be removed comprise of a small cherry tree on proposed plot 1, an apple tree on plot 3, a goat willow and apple tree on plot 5, a magnolia on plot 4, and a larch and holly on plot 1. It is considered that the removal of these specified trees would not detract from the character or appearance of the area.
- 6.3.2 While the current planning application has been under consideration, the Council's Trees Team has made a provisional tree preservation order in respect of a sycamore, birch and cherry tree on the site road frontage with Woodlands Road. All these trees would fall within the garden of plot 2 in the amended proposed site layout. The tree report submitted with the application advises that the birch tree would require some pruning for the development to proceed, but that the sycamore and cherry can be retained in their present form. Plot 2 would have the largest garden of the five dwellings in the proposed redevelopment and part of the garden, with a southern aspect, would be clear of the tree canopies.
- 6.3.3 It is noted that the Council's Trees Team are maintaining an objection to the revised site layout. However, account must be taken of the extant planning permission 14/01605/OUT which includes an approved site layout. The making of the tree preservation order does not prevent that planning permission being implemented once the remaining reserved matters are approved. It is considered necessary therefore to compare the likely impact of the approved site layout on the trees now subject to the provisional tree preservation order with that of the site layout now proposed. With regard to the Sycamore tree, identified as T1 in the preservation order, the proposed position of the access into the development is effectively the same in the two layouts, with the current proposal having the advantage of not including visitor parking under the canopy of this tree. The Birch Tree, identified as T2 in the preservation order, would be a similar distance from the dwelling that would be plot 2 in both schemes, and the current proposal would have no greater impact on that tree than the permitted site layout. With regard to the Cherry Tree, identified as T3 in the preservation order, would have an access drive to plot 1 in the approved site layout of planning permission 14/01605/OUT passing close to its trunk and aligned under the eastern side of its canopy, but in the current proposal there is not such a drive and the area would be garden land to plot 2. While not the subject of the tree preservation order, the trees on the

southern boundary to plot 1 would benefit from the proposed dwelling on that plot being some 5 metres from them and the construction method and surfacing of the proposed tandem drive at the side of the dwelling would be conditioned on any approval issued to ensure that account is taken of their root systems. On balance it is considered that the site layout now proposed is preferable to that shown in planning permission 14/01605/OUT in respect of securing these trees for the future. An arboricultural method statement and tree protection plan would be required through a planning condition on any approval issued to ensure that the impact of the proposed development on the health of these trees is minimised during the construction period.

## **6.4 Affordable Housing**

- 6.4.1 LDF Policy CS11 seeks to meet the diverse housing needs of Shropshire residents now and in the future and to create, mixed, balanced and inclusive communities by securing an affordable housing contribution on all new open market residential development. For a development which would be a net increase of four dwellings on this site it would equate to a financial contribution.
- 6.4.2 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sq m), or 5 units or less in designated protected rural areas.
- 6.4.3 Reading and West Berkshire Councils sought to challenge the WMS at the High Court (Case Ref 76.2015) and on 31<sup>st</sup> July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 6.4.4 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on 11<sup>th</sup> May 2016 (Case Ref C1/2015/2559). Consequently the WMS still applies and reflected in amended NPPG of the 19<sup>th</sup> May 2016. In addition to this the Housing & Planning Act gained Royal Assent on May 12<sup>th</sup> 2016 and this gives power to Government to make secondary legislation to achieve the same result – i.e. set minimum thresholds for affordable housing contributions.
- 6.4.5 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not automatically require an AHC for applications for 10 or less dwellings and less than 1,000m<sup>2</sup> floor area in the majority of cases where the site is not located in a designated rural area.
- 6.4.6 However this cannot be a blanket rule and as such there may be exceptions to this. The Court of Appeal judgement referred to a statement made by the Government's Counsel in the High Court that:-

*“(i) As a matter of law the new national policy is **only one of the matters which has to be considered under section 70(2) of TCPA 1990 and section 38(6) of TCPA 2004 when determining planning applications or formulating local plan policies (section 19(2) of PCPA 2004), albeit it is a matter to which the Secretary of State considers ‘very considerable weight should be attached’;**”*

The Court of Appeal agreed with this proposition and confirmed that the development plan remains the starting point for decision taking although it is not the law that greater weight must be attached to it than other considerations. The WMS is policy, not binding law and does not countermand the requirement in s38(6) of the 2004 Act or s70(2) of the 1990 Act.

- 6.4.7 The Council’s position is therefore that the WMS is a significant material consideration but it does not replace or automatically override the development plan as the starting point for planning decisions. Consequently there may still be cases where the Council considers that its adopted policy attracts greater weight in the planning balance than the WMS.
- 6.4.8 The development plan remains the starting point for decision taking, and this includes Policy CS11 of the Core Strategy which requires an affordable housing contribution on all new open market residential development and the applicant has indicated a willingness to provide such a contribution by submitting an Affordable Housing Contribution Proforma and entering in to the Section 106 Agreement process. The WMS is a significant material consideration and postdates the Core Strategy therefore can be regarded as more up to date in relation to affordable housing contributions, but does not replace or automatically override the development plan as the starting point for taking decisions. This development proposes a provision of five dwellings, a net gain of four, which is below the thresholds in the WMS. The proposed development site is not within a designated protected rural area and there is no exceptional evidenced need for affordable housing in Broseley, compared to other areas, which would outweigh the Government advice. For these reasons, it is considered that greater weight can be given to the WMS than the development plan and the affordable housing contribution would not be required in this case having regard to the material change in national policy discussed above.

## **6.5 Highway Safety**

- 6.5.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to secure safe developments.

- 6.5.2 There would be adequate space within the application site for service vehicles to enter, turn and leave in a forward gear, as demonstrated by the vehicle tracking

drawings supplied. The provision made of on site parking within each plot and the space available for visitor parking should ensure that there would be no 'overspill parking' onto the adjacent local highway network. The proposed access into the site is in the same position on the site road frontage as that shown in the approved layout for planning permission 14/01605/OUT. While it would serve five properties rather than four in the development now proposed, Highways Development Control remain content that the local road network and the access would be able to accommodate safety the type and scale of traffic likely to be generated. The visibility splays shown at the access would require a realignment of part of the existing wall and hedgerow boundary, the details of which can be controlled through condition on any approval issued to ensure that adequate visibility is provided and that the means of enclosure on the visibility splay lines does not detract from the appearance of the street scene.

6.5.3 It is considered that a refusal on highway safety grounds could not be sustained in this case.

## **6.6 Residential Amenity**

6.6.1 Policy CS6 requires that development should safeguard residential and local amenity. The house designs and site layout originally proposed would have resulted in the privacy of adjacent properties being significantly affected. It was suggested to the agent that the dwelling designs on the southern half of the site (Plots 4, 5 and 6 as originally proposed) should be single storey only to address both the privacy and overbearing impact concerns. In response the large, full two storey dwelling at the southern end of the site has been deleted from the scheme. The remaining dwellings, while retaining accommodation in the roof space, have been re-designed to avoid having gable end windows directly overlooking neighbouring properties and their gardens and to avoid mutual loss of privacy conflicts within the development itself. While there would still be some oblique views from the dormer windows over parts of the rear gardens to neighbouring properties, the impact would be lessened and would not unduly harm neighbour amenity. Permitted development rights for extensions and the insertion of new doors and windows would be withdrawn on any approval issued to safeguard neighbour amenity.

6.6.2 There is a gentle slope to the site and the proposed finished ground floor level of the dwellings, relative to existing ground levels, would also be controlled by condition on any approval to ensure that the outlook from ground floor windows, coupled with any necessary reinforcement of boundary treatments, would not unduly impact on neighbour amenity.

6.6.3 It is inevitable that there will be some temporary disturbance to residential amenity during the construction period. This temporary impact can be mitigated satisfactorily by the condition requiring the submission, approval and implementation the construction management plan and a condition on construction working hours.

## **6.7 Drainage**

6.7.1 Core Strategy policy CS18 seeks to achieve a reduction in surface water run off by

the use of sustainable drainage systems within developments. The application proposes the use of soakaways for surface water drainage. The Drainage Team is content that the detailed drainage design can be dealt with through a pre-commencement condition. Foul drainage is proposed via main sewer connection and the Drainage team raise no objections to this, although a separate consent of the main sewer provider will be required and who would ensure there is capacity.

## **6.8 Biodiversity**

6.8.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev policy MD12 reflects the obligations placed by Wildlife Legislation to ensure the protection and enhancement of ecological interests.

6.8.2 This application is accompanied by a Preliminary Ecological Appraisal and Bat Survey, dated August 2017. The report concludes that the retained trees would remain food and potential nest sites for birds and foraging for bats; the lawn area is of low ecological value; the site contains no suitable breeding habitat for great crested newts and, with no ponds within 250m of the site, great crested newts are unlikely to be present; no reptiles were found during the survey and there is little suitable habitat for them. The inspection of the existing bungalow on site that would be demolished and evening bat survey confirmed the bungalow was not being used by bats for roosting. There was no sign of activity by other protected species. The report recommends that existing hedges be retained where they are not part of the new access and that new planting be of domestic species; retained trees are protected during the works; that bat boxes are incorporated into the walls of at least two of the new dwellings. The Council's Ecology Team is content with the findings of this report and raise no objections, but recommends an additional condition with respect to external lighting to minimise disturbance to bats.

## **6.9 Land Stability and Contamination**

6.9.1 The National Planning Policy Framework (NPPF) at paragraph 120 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. It continues, with respect to land stability, that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, and any proposals for mitigation. It states also that adequate site investigation information, prepared by a competent person, should be presented.

6.9.2 The previous applications for residential development on this site have included a Coal Mining Report from the Coal Authority and a mining report by M and J Drilling Services Ltd who sunk five boreholes, three of which were within the current application site. This report was checked by ARUP who were retained by Bridgnorth District Council to review such reports. They concurred with the conclusion of the mining report that there was no evidence of past mining, and that development could take place without further consideration to shallow mine

workings. They endorsed the recommendation that the mine shaft may require further investigation/treatment prior to the development taking place, and were satisfied that the applicant had adequately demonstrated the mining stability of the application area. (A letter from the Coal Authority confirmed that the 1.2m diameter clay mineshaft was treated under supervision in 1979, in accordance with the NCB western area specification). M and J Drilling Services have reviewed their original report produced in 2007 relating to the rotary site investigation boreholes drilled across the application site and it is their view that this information and their report findings can still be relied upon today.

- 6.9.3 A condition has been attached to the previous planning approvals for residential development on this site stating that:

*“Before development commences an investigation into the mine shaft on site, together with details of any necessary treatments to ensure the structural integrity of the site, shall be submitted to and approved in writing by the Local Planning Authority. Any works required by this report shall be completed before any of the dwellings hereby permitted are occupied.”*

It would be appropriate to repeat this condition on any approval issued in respect of the current proposal. The Council’s Regulatory Services Team, in their comments at 4.4 above, have identified a potential for contamination but are content that this matter can be addressed satisfactorily through the planning condition which they recommend.

## 7.0 CONCLUSION

- 7.1 There is no in principle planning policy objection to new housing in this location. The proposed built form of the amended scheme in terms of the design and scale of the proposed dwellings and the site layout would be in keeping with the locality and would not detract from the setting of the adjacent conservation area. The proposed development would retain the existing significant trees on the site and, in comparison with the extant planning permission for three new dwellings on the site which would also retain the existing bungalow, would be preferable in respect of the prospects for the retention of these trees in the future. Significant weight must be attached to the possibility of implementing the extant planning permission that was granted before the three roadside trees were made the subject of the provisional tree preservation order.
- 7.2 The amended site layout and house designs, coupled with conditions withdrawing permitted development rights for subsequent external alterations and extensions; site levels and boundary treatments would ensure that the residential amenities of adjacent properties would not be unduly harmed by the proposed development. The proposals would not be detrimental to highway safety. Drainage and ecological interests can be safeguarded through planning conditions, as can measures to address land stability and an investigation into potential contamination. The development would make a positive contribution to the three dimensions of sustainable development: Economically during the construction period and subsequently through the occupiers’ use of local services and facilities; Socially by providing an addition to the supply of two bedroomed accommodation in the town in an accessible location and Environmentally through being in sympathy with the site

surroundings and being in a location where the occupants would not be dependent upon the use of the private car to access local services and facilities.

## 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

Shropshire Core Strategy and SAMDev Plan policies:  
CS3 The Market Towns and other Key Centres  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD12 Natural Environment  
MD13 Historic Environment  
S4 Broseley Area

SPD on the Type and Affordability of Housing

Broseley Town Plan 2013-2026

### RELEVANT PLANNING HISTORY:

14/01605/OUT Outline application (layout included all other matters reserved) for the erection of 3 dwellings GRANT 14th December 2015  
BR/APP/OUT/09/0023 Outline application (including vehicular access) for the erection of three dwellings GRANT 19th March 2009  
BR/78/0394 The erection of a single storey front and side extension to provide enlarged living room and private garage GRANT 17th July 1978



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)

Design and Access Statement

Ecology Report

Arboricultural Impact Assessment

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Simon Harris

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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.

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Before development commences an investigation into the mine shaft on site, together with details of any necessary treatments to ensure the structural integrity of the site, shall be submitted to and approved in writing by the Local Planning Authority. Any works required by this report shall be completed before any of the dwellings hereby permitted are occupied.  
  
Reason: This is a pre-commencement condition to secure the safe development of the site.
4.
  - a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agencys Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
  - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
  - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation

**is necessary a** remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: This is a pre-commencement condition to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

5. 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 (which ever is the sooner).

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

6. Before development commences details of the proposed finished ground floor levels of the dwellings and garages, relative to existing ground levels, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: This is a pre-commencement condition in the interests of the visual amenities of the area and to safeguard neighbour amenity.

7. Prior to the above ground works commencing samples and/or details of the roofing materials, the materials to be used in the construction of the external walls and hard surfacing 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: In the interests of the visual amenities of the area.

8. 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.
- g) Details of the appearance, positioning, height and materials for garden boundary walls (Including those on the alignment of the visibility splays), fences and gates.

The plan shall be carried out as approved, with garden boundary walls and fences constructed/installed before the dwellings that they are associated with are first occupied.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design and in the interests of the visual and residential amenity.

9. The access, turning area, parking areas and visibility splays shall be constructed in accordance with details to be approved in writing by the Local Planning Authority, with the access and turning area constructed to at least base course macadam level and the visibility splays provided before any dwelling is first occupied. The turning and parking areas shall thereafter be retained for those purposes and the visibility splays shown on the approved drawings kept clear of obstruction.

Reason: In the interests of highway safety.

10. No ground clearance, demolition, or construction work shall commence until a scheme (Tree Protection Plan and Arboricultural Method Statement) has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.

11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - wheel washing facilities
  - measures to control the emission of dust and dirt during construction
  - a scheme for recycling/disposing of waste resulting from demolition and construction works
  - a Traffic Management Plan

Reason: This is a pre-commencement condition to avoid congestion in the surrounding area and to protect the amenities of the area.

12. Demolition, construction works or deliveries shall not take place outside 7.30am - 6.00pm Monday to Friday, and 8.00am - 1pm Saturdays, with no work taking place on Sundays, Bank or Public holidays.

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

### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

13. Prior to first occupation / use of the buildings, the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority and installed. A minimum of 3 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes 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 boxes shall thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

14. Prior to first occupation / use of the buildings, the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority and installed. A minimum of 3 artificial nests, of either integrated brick design or external box design, suitable for swifts, sparrows, house martins, starlings, and/or small birds shall be erected. The boxes 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 118 of the NPPF.

15. Before the dwelling on plot 1 is first occupied details of the form of construction for the parking area and path within the curtilage of that dwelling shall be submitted to and approved in writing by the local planning authority, and the work carried out in accordance with the approved details. No changes shall be made subsequently to the parking area and path without the written approval of the local planning authority.

Reason: In order to mitigate the impact of the development on the adjacent trees, in the interests of the visual amenities of the area.

## **CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

16. All hard and soft landscape works shall be carried out in accordance with the approved plan, with all new planting carried out in the first planting and seeding seasons following completion of the development, or in accordance with a timetable which has first been approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall 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.

17. 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, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). 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.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A - F shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

### **Informatives**

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.
2. 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.

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

3. 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 for reptiles (approximately 31st March to 15th October) when the weather is warm. Any 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 reptiles or amphibians are present.

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.

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.

4. 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.
5. In the Design and Access Statement, it states that the proposed surface water drainage from individual plots will discharge into Tobermore Hydropave system. No drainage details, plan and calculations have been provided. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in

100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval.

6. Consent is required from the service provider to connect into the foul main sewer.
7. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
8. In determining this application the Local Planning Authority gave consideration to the following policies:

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

Shropshire Core Strategy and SAMDev Plan policies:  
CS3 The Market Towns and other Key Centres  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD12 Natural Environment  
MD13 Historic Environment  
S4 Broseley Area

SPD on the Type and Affordability of Housing

Broseley Town Plan 2013-2026