



Committee and date
South Planning Committee
30 July 2019

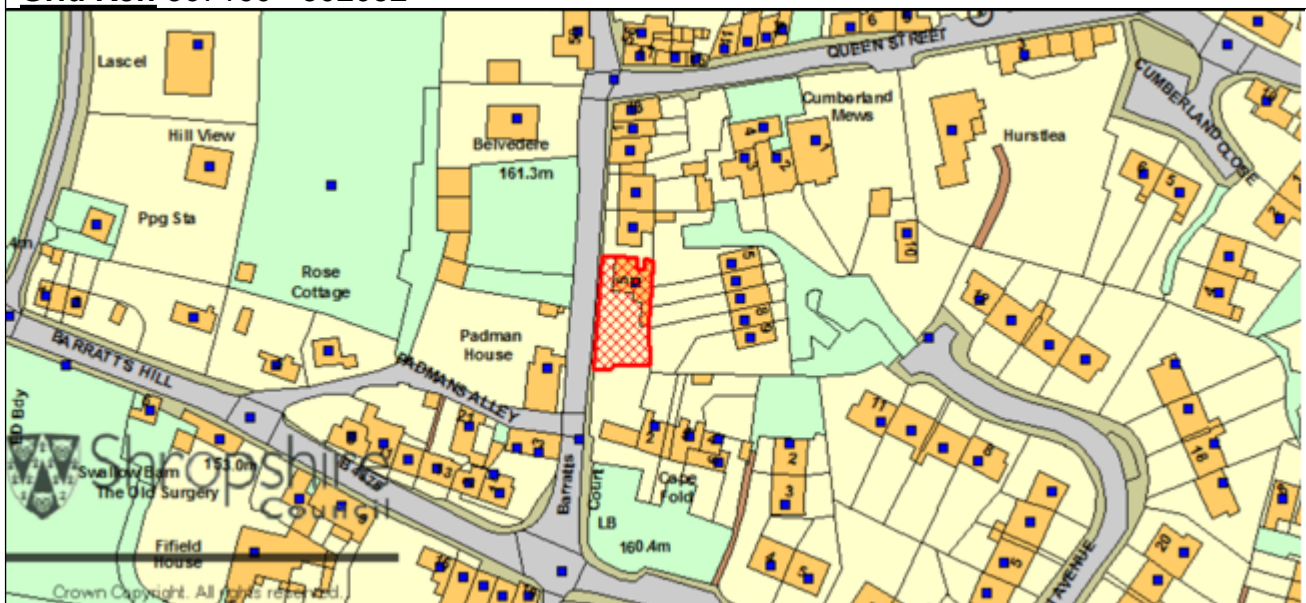
Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 18/05657/FUL	Parish:	Broseley
Proposal: Application under Section 73A of the Town and Country Planning Act 1990 for the erection of a front extension (amended description)		
Site Address: 5 Cape Street Broseley Shropshire TF12 5NQ		
Applicant: Mr John Taylor		
Case Officer: Emma Bailey	email: planningdmse@shropshire.gov.uk	

Grid Ref: 367160 - 302052



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

1.1 This application seeks retrospective consent for the construction of a front extension on the dwellinghouse known as 5 Cape Street, Broseley.

1.2 Please note that the application was originally submitted describing the development as a 'greenhouse'. This matter was raised with the planning agent during the course of the decision-making process and agreement was given to amend the description of the development.

2.0 SITE LOCATION/DESCRIPTION

2.1 Cape Street is a residential through-road within the settlement boundary of Broseley. It is characterised by a mix of buildings of varying scale and design and of mostly historic interest. Some dwellings have off-street parking provision, others do not.

2.2 The front extension of 5 Cape Street is of a lightweight design and positioned behind a boundary wall previously granted consent under planning ref: 16/02992/FUL (Erection of part replacement front boundary wall to a maximum height of 2.2m).

2.3 The site lies within the Broseley conservation area.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The Town Council view is contrary to the officer recommendation. The Chair and Vice- Chair of the South Planning Committee, in consultation with the Principal Officer, consider that by virtue of its position within the Broseley conservation area the material planning considerations raised on this site warrants consideration by Committee.

4.0 COMMUNITY REPRESENTATIONS

Please note that all comments are available to view in full on the Shropshire Council website.

4.1 Consultee CommentsBroseley Town Council

Recommend refusal to this development as the proposal was not a greenhouse but a conservatory and living space. The application incorrectly describes the proposed development and some concern was

expressed that it may not meet building regulations.

Shropshire Council (Conservation)

The application seeks retrospective permission for the erection of a front extension to 5 Cape Street a property within the Broseley conservation area. The property has been subject of extensive alterations and extensions in the past, most recently the erection of a replacement front wall which appears to form the western wall of the front extension. The property has already been subject to an amount of extension more than sufficient for this size of property, it is considered that any further additions including this to the front elevation do not have sufficient justification. The erection of an extension of this type to the front elevation is not considered to be in keeping with the character of the property and the conservation area and would in fact result in a detrimental impact upon both.

From a conservation perspective the application is not considered to either preserve or enhance the character of the conservation area and would therefore not be in accordance with policies, guidance and legislation as outlined above.

Shropshire Council (Archaeology)

No comment

4.2 Public Comments

A site notice was placed at the application site 10.01.2019, a press notice was published in the Shropshire Star 15.01.2019 and neighbour letters have been sent. One letter of representation has been received at the time of writing this Report, raising the following key points:

- ☐ The application is retrospective
- ☐ Development is not a greenhouse

5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Design, scale and character of the proposal
- ☐ Impact of the development on the Broseley conservation area
- ☐ Letters of representation
- ☐ Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'.

- 6.1.2 Paragraph 11 of the revised National Planning Policy Framework (2018) builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework (NPPF) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 The building lies within Broseley Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when deciding whether to grant consent for development which affects a conservation area, Local Planning Authorities should have special regard to the desirability of preserving the character or appearance of that area.
- 6.1.5 Part 12 (Conserving and Enhancing the Historic Environment) of the NPPF states that local planning authorities should take account of:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality
 - The desirability of new development making a positive contribution to local character and distinctiveness
 - Opportunities to draw on the contribution made by the historic environment to the character of a place
- 6.1.6 Alterations and extensions to dwellings are acceptable in principle provided that they meet the following key policies.
- 6.2 Design, scale and character of the proposal**
- 6.2.1 SAMDev Policy MD2 ‘Sustainable Design’ and Core Strategy Policy CS6 ‘Sustainable Design and Development Principles’ require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. This is echoed within Broseley’s Design Statement of the Broseley Town Plan. Furthermore, proposals are required to preserve and enhance the amenity value of the wider area to which they relate including the safeguarding of residential and local amenity.
- 6.2.2 The extension is of a design and scale that is appropriate and proportionate to the existing building. While it is acknowledged that the proposal would maximise the potential of the plot, it would not constitute overdevelopment of it. External materials match the existing building to ensure that it appears cohesive in its setting.

6.2.3 The proposal is therefore acceptable in this regard.

6.3 Impact of the development on the Broseley conservation area

6.3.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when deciding whether to grant consent for development which affects a conservation area, Local Planning Authorities should have special regard to the desirability of preserving the character or appearance of that area.

6.3.2 Further, SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. This is expanded upon within SAMDev Policy MD13 (Historic Environment) which stipulates that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored where appropriate. Development is required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.

6.3.3 Shropshire Council's Conservation team were consulted as part of this application, who have made the following comments:

The application seeks retrospective permission for the erection of a front extension to 5 Cape Street a property within the Broseley conservation area. The property has been subject of extensive alterations and extensions in the past, most recently the erection of a replacement front wall which appears to form the western wall of the front extension. The property has already been subject to an amount of extension more than sufficient for this size of property, it is considered that any further additions including this to the front elevation do not have sufficient justification. The erection of an extension of this type to the front elevation is not considered to be in keeping with the character of the property and the conservation area and would in fact result in a detrimental impact upon both.

From a conservation perspective the application is not considered to either preserve or enhance the character of the conservation area and would therefore not be in accordance with policies, guidance and legislation as outlined above.

6.3.4 While the Conservation Officer's comments are noted, it should be made clear that planning ref: 16/02992/FUL for the Erection of part replacement front boundary wall to a maximum height of 2.2m (granted consent in 2016) has already resulted in a level of harm to this part of the conservation area. No other dwellinghouse on this stretch of road has such a tall boundary treatment fronting it. This harm therefore pre-exists, regardless of whether or not there is an extension behind it.

6.3.5 It is noted that the property has been previously extended. However the development as proposed here is considered modest and a logical area to infill between the dwellinghouse and the tall brick wall that it faces.

6.3.6 Views of the extension from the public realm are restricted, however what can be seen matches that of the existing dwellinghouse and does not appear disproportionate or out of character with it. Critically, the bulk of the extension is hidden behind this wall. Officers in consultation with the Area Planning Manager are therefore of the view that the harm of the extension upon the conservation area does not significantly worsen the existing situation, to the extent where it should be refused.

6.4 **Letters of representation**

6.4.1 At the time of writing this Report, one letter of representation has been received, objecting to the development. The key points raised are briefly discussed below:

6.4.2 The application is retrospective

This matter is noted. The submission of this application seeks to regularise the development as built.

6.4.3 Development is not a greenhouse

This matter was raised with the planning agent during the course of the decision-making process and agreement has been given to amend the description of the development.

6.5 **Other matters**

6.5.1 Enforcement

It is noted from examining previous consents on the site and comparing them with photographs taken during a site visit that previous developments have not been built in accordance with the approved plans. This would need to be investigated separate to the determination of this application.

6.5.2 Building Regulations

Comments made by Broseley Town Council in relation to Building Regulations are noted, however this matter would need to be addressed outside of the determination of this application.

7.0 **CONCLUSION**

7.1 On balance, the scheme is considered to be acceptable and accords with the principal determining criteria of the relevant development plan policies.

7.2 Approval is therefore recommended subject to conditions.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

MD13 - Historic Environment

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

09/00193/CON Take down existing garden retaining wall and clean off bricks for use in rebuilding GRCON 29th December 2009

10/03194/FUL Erection of two storey side extension following demolition of conservatory and erection of first floor side, including extension above existing study, new dormers and rooflights GRANT 7th October 2010

10/05263/FUL Variation to planning permission 10/03194/FUL dated 26.07.2010 to amend the drawings to include the erection of a porch GRANT 27th January 2011

12/02622/FUL Change of use of land to form part of domestic curtilage to include extension to an existing boundary wall and fencing and erection of a Summer House GRANT 18th September 2012

15/04501/FUL Erection of a two storey extension following demolition of existing ground floor masonry built store room GRANT 21st December 2015

16/02992/FUL Erection of part replacement front boundary wall to a maximum height of 2.2m GRANT 26th August 2016

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BR/APP/CAC/09/0149 DEMOLITION OF RETAINING WALL REC

BR/APP/FUL/07/0264 Erection of a rear two storey extension REFUSE 28th June 2007

BR/TRE/TCA/06/0002 1 atlas cedar & 1 robinia to be removed and dug out NOOBJC 17th March 2006

BR/86/0646 ERECTION OF WOODEN FENCING AND GATE GRANT 22nd September 1986

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)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler

Local Member Cllr Simon Harris

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. 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.

Informatives

1. 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 by the National Planning Policy Framework, paragraph 38.

2. 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 Council Core Strategy policies:
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan policies:
MD2 Sustainable Design
MD13 Historic Environment

Broseley Town Plan 2013 - 2026

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