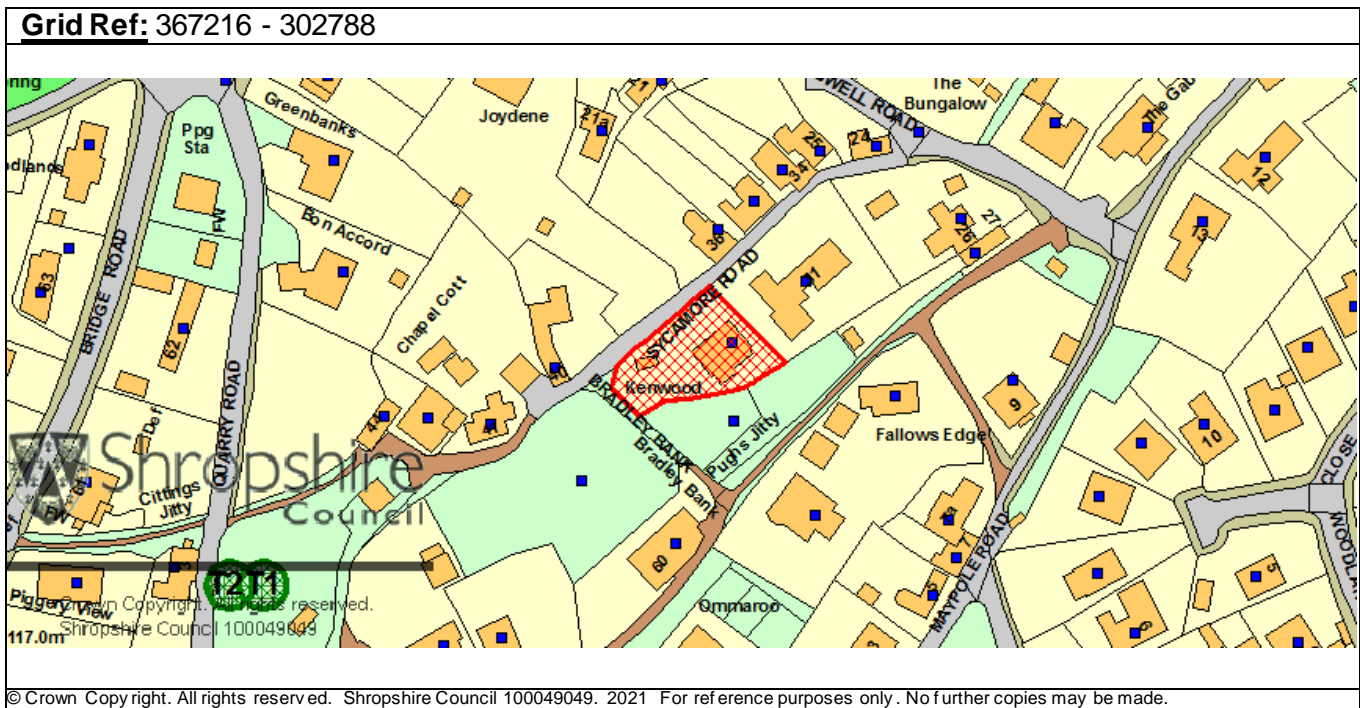


## Development Management Report

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

### Summary of Application

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



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application is for the demolition of an existing dwelling and erection of a replacement dwelling at Kenwood, Sycamore Road, Broseley. The existing property is a bungalow of 1950s construction and simple rectangular form, with some previous conservatory extension to the rear which has resulted in a squarer footprint of approximately 90m<sup>2</sup>.

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

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

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

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

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

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

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

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

#### 4.0 Community Representations

##### 4.1 - Consultee Comments

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

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

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

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

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

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

or proximity of the new house to the side boundaries.

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

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

## 5.0 THE MAIN ISSUES

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

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

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



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

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

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

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

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

6.2 Design, scale and character

6.2.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity.

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

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

6.2.3 LDF Core Strategy Policy CS17 is also concerned with design in relation to its

environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environments and does not adversely affect the values and function of these assets.

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

Policy DS.2

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

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

Policy DS.4 Architectural features

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

Policy DS.5 Doors and Windows

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

Policy DS.6 Chimneys

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

Policy DS.7 Innovative Individual Proposals

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

- 6.2.5 The replacement dwelling now proposed has been reduced in depth by approximately 1.5m from that previously Refused and this has allowed the building to be set further back to the south east into its plot. This additionally reduces the footprint of around 142m<sup>2</sup> formerly indicated, by around 14m<sup>2</sup> to the footprint of approximately 128m<sup>2</sup> now proposed. A further advantage of these amendments is that the garden areas surrounding the property would be a little larger, better connected and more in keeping with the existing layout of the gardens currently serving the bungalow. Therefore whilst the ridge height would remain as previously at approximately 6.75m high, these factors combine to lessen the visual and physical impact of the mass of the proposed dwelling. The scale of the dwelling in relation to the plot size is therefore considered to be acceptable.
- 6.2.6 The proposed dwelling is regularly shaped with a steep pitched of traditional

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

### 6.3 Impact on the historic environment

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

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

### 6.4 Impact on neighbours/residential amenity

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

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

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

and distance from the road.

## 6.6 Drainage

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

## 6.7 Land contamination/stability

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

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

## 7.0 CONCLUSION

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

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

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

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

recommendation.

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

LDF Core Strategy Policies:

CS1 Strategic Approach

CS3 The Market Towns And Other Key Centres

CS6 Sustainable Design And Development Principles

CS11 Type And Affordability Of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

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

MD1 Scale and Distribution of development

MD2 Sustainable Design

MD12 Natural Environment

MD13 Historic Environment

S4 Broseley

Supplementary Planning Documents (SPDs):

Type And Affordability Of Housing

Broseley Town Plan 2013-2026 including the Broseley Design Statement

RELEVANT PLANNING HISTORY:

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

## 11. Additional Information

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

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

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

Cabinet Member (Portfolio Holder)  
Councillor Ed Potter

Local Member

Cllr Dan Thomas

Appendices  
APPENDIX 1 - Conditions



## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

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

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

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

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

3. Details and samples of all the materials and finishes to be used externally on the dwelling and hard surfacing hereby approved, shall have been first submitted to and approved by the Local Planning Authority in writing before being used in the development. The development shall be carried out in accordance with the approval details.

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

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

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

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

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

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

6. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

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

7. No development shall take place, including any works of demolition, until a Construction Method Statement and Construction Traffic Management Plan have been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement and Plan shall provide for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Environment.

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

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

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

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

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

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

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

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

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

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

### **CONDITION THAT IS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

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

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

### **Informatives**

1. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Broseley Town Plan 2013-2026 including the Broseley Design Statement

12. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 38.