



Committee and date
South Planning Committee
11 November 2014

Development Management Report

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Summary of Application

Application Number: 14/01125/OUT	Parish:	Broseley
Proposal: Outline application to include access and layout (scale, appearance & landscaping reserved) for the residential development of six detached houses; formation of vehicular access and estate roads (amended description)		
Site Address: Land Off Park View Broseley Shropshire		
Applicant: Mrs L Garbett		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 367266 - 301665



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the relevant Affordable Housing Contribution.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for the construction of six residential dwellings on land at Park View, Broseley. The application includes access and layout with scale, appearance and landscaping reserved for later consideration. The proposed development consists of six detached houses with the proposed vehicular access to the site via an existing field entrance off Park View. This entrance is situated in the South East corner of the site and the proposal includes upgrading this access and the provision of a vehicular and pedestrian access to the field and foot path to the West of the site.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site lies just outside the Broseley Conservation area and is located approximately 200 metres from the main High Street of Broseley. The site is part of a field currently used for the grazing of horses situated to the West of Mill Road and Park View. There are dwellings to the North, East and South of the site and to the West is the remainder of the field, in the ownership of the applicant, and countryside beyond.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 **Broseley Town Council:** Object for the following reasons:

1. This development is outside the Development Boundary and Broseley has now exceeded its 2013 - 2026 Place Plan Target.

2. As SC Highways noted on the previously withdrawn application, the access area is inadequate to create a safe junction with Hockley Bank, Park View and the two adjacent property driveways.

3. As several public comments make clear, highway access to the west part of the town is severely restricted and already prone to congestion. A pending decision on 13/02623/FUL could further exacerbate this problem. The Design and Access

Statement suggests a developer contribution to implement a localised area of one-way traffic (in 6.6). Councillors feel this contradicts the assertion (in 6.7): "On this basis it is reasonable to state that the traffic from this development would not adversely affect the operation of the highway network." Councillors are certain that consultation on the introduction of such a system would meet with strong local opposition.

4. Paragraph 2.8 of the Design and Access Statement criticises the Dark Lane development for providing only 5.3% affordable housing "considerably below the figure currently being sought by the Council on other applications." It is not acceptable that the proposed development, that is close to the town centre as the Statement emphasises, provides no affordable housing but rather four, five and six bedroom houses with large gardens that will not supply the local need for starter homes either.

5. Because the proposed development is on higher ground than the two immediate neighbours, Councillors echo the objections of those residents that it would mean their being overlooked and losing privacy.

6. As some residents have noted and as the Town Council objected to the previously withdrawn application, because the development is sited on one of the highest points in town and overlooks an area much enjoyed by walkers, Councillors again object on grounds of loss of visual amenity.

7. The Town Council notes that the application plan includes maintenance vehicle and pedestrian access to a nearby playground. In the Broseley Town Plan 2013-26 the Town Council indicated that it is seriously concerned that this play area does not meet safeguarding standards and should be replaced with another site as soon as practicable.

8. The Council hope that full account will be taken of archaeology, contamination, drainage and sewerage.

4.1.2 **SC Drainage:**

Suggests that drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage.

4.1.3 **SC Ecology :**

Great crested newts

On the withdrawn application 13/02846/OUT we commented that the nearest pond is around 200m from the site but judging from the photographs the application site is churned up by horses and would not be good great crested newt (GCN) terrestrial habitat. Suggests an informative in the unlikely event of a GCN being found.

Bats

The trees and hedgerows on site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour.

Nesting birds

The trees and hedgerows on the site are likely to be used by nesting birds and recommends a condition and informative.

4.1.4 **SC Highways: 03.07.14**

Principle of Development

Shropshire Council as Highway Authority raise no objection to a residential development at the proposed location in consideration of the reduced scale of development compared to the previously withdrawn application for 32 dwellings (Application 13/02846/OUT), however remain concerned with regard to the restricted width and visibility for vehicles emerging from the site.

Access to the Development

It is considered that there is insufficient width within the existing access to the development to the site to accommodate an acceptable access to the proposed development. It is recommended that prior to commencement details of the proposed access, with dimensions are submitted to demonstrate that sufficient width and visibility splays can be achieved.

Surround Highway Network

As per previous highway comments submitted in association with withdrawn application, 13/02846/OUT. Transport Statement makes reference to the existing road network between the site and the B4375 High Street, and numerous historical constraints. There are several routes linking the site to the High Street, however all routes have been identified as having restricted carriageway width with limited footway provision.

Section 6.6 of the revised Design and Access Statement makes reference to the option to introduce a one-way system at the Western End of Hockley Road. This would be subject to statutory consultation and the outcome would be determined separate to the outcome of this planning application. It is considered that the proposed one-way system is unlikely to be supported by the local community and therefore cannot be considered as an option to facilitate development at this location.

27.10.14

Principle of Development

Shropshire Council as Highway Authority raises no objection to a residential development at the proposed location in consideration of the reduced scale of development compared to the previously withdrawn application for 32 dwellings (Application 13/02846/OUT).

Access to the Development

Previous Highway comments submitted raised concerns with regard to access to the development and encroachments on to third party land. Revised details have now been submitted and from a highways perspective we are satisfied that a suitable access within the development boundary can be provided.

4.1.5 **SC Conservation (Historic Environment):**

The application site lies adjacent to the Broseley conservation area.

Principles of Scheme:

The proposal needs to be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

Details:

The application proposes the erection of six detached houses, the application is in outline with no details of scale or design at this stage, therefore only the principle of development can be considered. The principle of the proposed development on this site is not considered to have any considerable detrimental impact on the conservation area. The design should reflect local vernacular detail in terms of scale, details and materials. These comments relate only to the potential impact upon the conservation area.

Recommendation:

No conservation objections.

4.1.6 **SC Rights Of Way:**

The following comment was submitted when previously consulted but the current plans still do not accommodate the public right of way. This matter must be addressed before permission is granted. Footpath UN21 Broseley crosses the development site and has not been taken into account within the proposal. If outline permission is granted the proposed layout must be adjusted to allow for the public right of way. If this cannot be done then an application must be made to divert the footpath under the Town and Country Planning Act 1981. The developers must contact this office to discuss this matter.

4.1.7 **SC Affordable Housing:**

Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.1.8 **SC Public Protection – Specialist:**

A phase one contaminated land assessment was supplied with the previous planning application for 32 units on the parcel of land shown in this application. As a result I still recommend contaminated land conditions should this application be granted approval.

4.1.9 **SC Archeology (Historic Environment):**

Background to Recommendation:

The proposed development lies within the extent of a heritage asset known as Bell pits at the Deerleap (HER PRN 04565) and described as 'Earthwork remains of an extensive area of post medieval coal and ironstone workings.' LIDAR (Light Detection And Ranging) data held by Shropshire Councils Historic Environment Team indicates the presence of early mining remains throughout the extent of the Deerleap, although this is somewhat subdued within the proposed development boundary.

As part of a previous application 13/02846/OUT (withdrawn) an archaeological desk based assessment and walk over survey was undertaken. The desk based assessment and walkover survey concluded that there was some potential for remains relating to former industrial activity or earlier periods to be present on the site.

On the basis of the above a recommendation was made for a pre-determination archaeological evaluation of the site. This has been undertaken and the results reported in Aeon Archaeology Report No. 0044. The evaluation found nothing of archaeological significance and concluded that 'no further archaeological assessment or mitigatory works are required'.

I concur with these findings

RECOMMENDATION:

No further archaeological works/mitigation will be required in respect of this application.

4.2 **Public Comments**

4.2.1 14 local residents have objected with their comments summarised as follows:

Principle/Development Boundaries/Housing need

- ❑ Broseley needs affordable housing and there is no shortage of four and five bedroomed houses for sale.
- ❑ The shortage in the 5 year land supply should have now been met by recent approvals.
- ❑ There is no public gain only private gain.
- ❑ The site is beyond the existing settlement and development boundary for Broseley.
- ❑ There are sites within the development boundary that could be developed with the owners consent.

- ☒ The proposal makes a mockery and is in total disregard of the local referendum and consultation for the future planning and growth of Broseley.

Character and Appearance

- ☒ This development is totally out of character with adjoining properties and out of character with the historic town of Broseley.
- ☒ Would have a detrimental affect on the immediate locality and adversely affect this part of Broseley which is characterised by '*an intricate network of lanes and narrow roads, with modest older houses and cottages*' (Broseley Town Plan 2013).
- ☒ The site is nearly the highest point in Broseley and any development would have a dramatic impact on the skyline of the town viewed from both the town and the surrounding rural landscape and designated green space.
- ☒ The existing uninterrupted views across the field to Barrow and Shirlett High Park, on the Wiley Estate, would be lost.
- ☒ Destruction of historic grazing land known locally as the Tynning.
- ☒ The D & A fails to note that the site is surrounded by a designated green space, known as Fiery Fields; an area of open pasture to the south east of the town crossed by a bridleway and several footpaths. It is used extensively by walkers and as an open play space by local children.
- ☒ Loss of an amenity for walkers.
- ☒ There is no indication of what the space (or overly large plot size) at the North end of the site will be used for and could be used for additional houses with access of Mill Lane.
- ☒ There is no indication of the scale and height of the dwellings.

Highways/Access

- ☒ The Highways officer commenting on the previous proposal considered that the development should be refused as it would have a detrimental effect on the surrounding highway network and due to the poor access to the site and insufficient space to build an estate road junction.
- ☒ The entrance to the site is not wide enough to take traffic including service vehicles and is restrictive due to the angle with the road.
- ☒ The D & A is incorrect in stating that there will be no alterations to the existing 'Tynings' footpath or to vehicular and pedestrian access.
- ☒ The approaching road network is already hazardous and cannot accommodate the additional traffic proposed and is constrained and not

conducive to pedestrian and vehicle safety and additional traffic will be a danger to and inconvenience existing residents.

- ❑ Hockley Road at its steepest and narrowest point has no pavement and is impassable in heavy snowfall and Park View is a residential road and not a through route.
- ❑ It would result in chaos if the road was made one way and there is strong local opposition to this.
- ❑ The public transport links are not good as the bus service has been cut back and reliance on motor cars will result in increased vehicle usage and parking on the roadside.

Residential amenity

- ❑ The noise and disturbance of additional traffic will adversely affect residential amenity of the houses that abut the access routes and in particular the house opposite to the access and the headlights of vehicles using the access will illuminate the bedroom.
- ❑ Due to the site being on higher ground all road users will be able to look directly down into the opposite house on their egress from the site.
- ❑ The proposed houses will overlook existing properties and result in a loss of privacy and also a loss of light.

Other issues raised

- ❑ Previous industrial mining of the area should be considered due to possible subsidence and archaeological implications.
- ❑ Water from the field currently runs down Hockley Bank and the proposals hard surfacing might result in flash flooding.
- ❑ Nothing has changed since the previous application and so should be rejected.

5.0 THE MAIN ISSUES

Principle of development
 Assessment of sustainability
 Scale, layout and design and visual impact
 Highways
 Other material considerations

- Ecology
- Drainage
- Archaeology
- Impact on residential amenity
- Rights of way
- Land 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 Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that '*Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise*'
- 6.1.2 The adopted planning policy for the area is the Bridgnorth District Local Plan (1996 – 2011) but the site is outside the development boundary for Broseley on the proposals inset map and is therefore classed as countryside. Shropshire Council has an adopted Core Strategy and Broseley is identified as a market town/key centre within policy CS3 (Market Towns and Other Key Centres) which outlines that balanced housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the towns' development boundaries and on sites allocated for development. CS3 also states that the detailed scale of development in each market town will be determined through the process of preparing the SAMDev DPD.
- 6.1.4 SAMDev was submitted for examination on 01 August and Policy S4 indicates around 200 dwellings over the period 2006 to 2026 and that apart from the site at Dark Lane, housing developments should be small scale to reflect the local character and meet the design principles in policies DS1-DS9 of the Broseley Town Plan and that all development proposals should have regard to the adopted Broseley Town Plan. No housing allocations are proposed for Broseley as 48 dwellings have already been built in the period 2006-2013, 34 dwellings have planning consent (as at 31st March 2013) and there is a resolution to grant planning permission (subject to a s106 agreement ref. 12/02108/FUL) for 94 homes at Dark Lane. Policy S4 outlines that the remaining requirement of 24 homes can be met through windfall developments within the development boundary.
- 6.1.5 The SAMDev policy map indicates a development boundary for Broseley but this site lies outside the suggested development boundary and is also outside the development boundary within the Bridgnorth adopted plan. Approving development on this site would therefore be contrary to adopted and emerging policy. Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:
- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
 - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - *the degree of consistency of the relevant policies in the emerging plan to the*

policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Following the submission of the SAMDev Final Plan to the Planning Inspectorate a revised housing supply statement has been published and the Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination of the SAMDev. Therefore although the Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, that some weight can be attached, this needs to be considered with care alongside the other material considerations. The NPPF is a material consideration and Paragraph 14 advises approving development proposals unless '*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*' and at paragraph 49 states that '*Housing applications should be considered in the context of the presumption in favour of sustainable development*'.

- 6.1.6 Therefore in this period prior to examination sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits.
- 6.1.7 It is acknowledged that the site is outside the development boundary within the adopted Bridgnorth Local Plan and would not normally be supported for development. However adopted local plan policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.8 Even though the Council can demonstrate a 5 year land supply the balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.

6.2 **Assessment of sustainability**

- 6.2.1 The site is approximately 200 metres and within easy walking distance of the main High Street of Broseley and readily accessible to a range of local services and facilities including, shops, pubs, restaurants, library, surgery, leisure facilities, bank, post office and two primary schools. There are 2 regular bus services (99 and 88) which run through Broseley between Bridgnorth and Telford. It is therefore considered that the site is situated in a sustainable location with regard to

accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over reliance on the private motor car.

6.2.2 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

6.2.3 Economic role – The proposed development will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers will access and use local services and facilities within Broseley. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable to a CIL payment which will help provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

6.2.4 Social role - The proposal will help boost the supply of open market housing and will provide a contribution to affordable housing at the prevailing rate at the time of the reserved matters application. The provision of additional housing will help support and maintain existing facilities and services and will benefit both the existing and future residents and help meet the needs of present and future generations.

6.2.5 Environmental role – The site is agricultural grazing land with no significant heritage, cultural or ecological designation. The application site has been assessed for its heritage, cultural and ecological value by the Council's Historic and Natural Environment Officers and it has been determined that the proposal would have no significant adverse impacts on these values and these matters are considered in greater detail below. With regard to its ecological value the provision of six houses with large landscaped gardens that will mature over the years will provide greater ecological enhancement of the site and improve biodiversity

compared to its current use as a field. It is considered that the impact of the proposal on the landscape and adjacent Conservation area would not be significant and as such would not outweigh the benefits of the proposal. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Broseley and further afield.

6.2.6 Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development. Although it is situated outside the adopted and emerging settlement boundary for Broseley, development of this site close to the centre of a settlement identified as a key centre within SAMDev is considered acceptable in principle subject to a satisfactory scale and design, and should be supported provided there are no adverse impacts that would outweigh the benefits.

6.3 **Scale, layout and design and visual impact**

6.3.1 This proposal is outline with access and layout included but scale, appearance and landscaping reserved for later approval. The revised layout plan indicates six detached houses situated within large plots. The density of the proposed development is low and for a reduced number of dwellings to that previously submitted to address the concern of the additional traffic that would be produced by a higher density scheme for more dwellings. Public comments refer to the proposal being out of character with adjoining properties and out of character with the historic town of Broseley and that the proposal would have a detrimental affect on the immediate locality and adversely affect this part of Broseley. However the Conservation Officer has no objection to the principle of residential development of this site and does not consider that it would have a detrimental impact on the conservation area. The Conservation Officer has also commented that the design and appearance, which will be determined at the Reserved matters stage, should reflect local vernacular detail in terms of scale, details and materials. The site is part of a field situated to the West of a detached bungalow (Langdale) that occupies a very large plot that extends along the Eastern boundary of the site. The boundary to the North and North East faces Mill Lane and three bungalows also situated within large plots are located here. Immediately opposite the Mill Lane North East boundary is a narrow detached house with modern sunroom on the end that faces the application site and the view of the hills beyond. There is a large detached house (accessed off Woodhouse Lane) also situated within a large plot which also enjoys views across the site. To the West of the site are fields and to the South a modern development of predominantly semi-detached houses in Park View. Immediately opposite the site entrance is a detached cottage and a small terrace of houses that are older than the semi-detached houses in Park View. With such a variety of housing style, design and plot sizes it would be extremely difficult to argue that the proposed houses (whatever design might be submitted) could be considered out of keeping with the character of the locality. However this will be considered in detail at the reserved matters stage but it is considered that the provision of 6 houses on large plots as indicated on the proposed layout is in keeping with the pattern of development and plot sizes directly to the East and North of the site.

6.3.2 The proposal will obviously result in the loss of part of a field used for grazing and will affect the views of residents that occupy properties opposite the site access and to the East and also views from Mill Lane. However there is no right to a view and it is not considered that the loss of the view enjoyed by a few residents and people using Mill Lane significantly outweighs the benefits of providing additional housing in this sustainable location that have been outlined in section 6.2 above. The site is surrounded by built development on three sides and also along a portion of its fourth side and it is therefore considered that the proposal does not represent significant encroachment into the countryside. In addition the proposed site boundary is in line with the rear of the semi-detached properties in Park View to the South and the edge of built development to the North. The proposal therefore fills in a gap and rounds off the edge of the settlement in this location.

6.4 Highways

6.4.1 The proposed vehicular access to the site will be provided via an existing entrance on the eastern boundary of the site, which is accessed via Park View. The Highways officer has no objection to this proposal for a reduced number of dwellings compared to the 32 previously proposed but has suggested a condition regarding full details of the access being submitted for approval due to concerns about the visibility for drivers when leaving the access. Detailed drawings of the proposed access have been submitted which indicate that a suitable access with the required visibility splays can be achieved without encroachment onto neighbouring land. It is therefore considered that a safe means of access can be provided and that the additional vehicles generated by 6 additional homes using the same highway network as the properties in Park View would not result in any significant congestion or highway safety issues that would justify refusal of this application. In addition the site is located within 200 metres of the high street with services and facilities readily accessible without over reliance on the car. The Design and Access statement suggests the option of introducing a one way system but residents and the PC do not support this and Highways do not consider this is necessary to facilitate the proposed development at this location.

6.5 Others material considerations

6.5.1 **Ecology** – The Councils ecologist has confirmed that due to the site being churned up by horses it is an unlikely habitat for newts and wildlife. However the trees and hedgerows are likely to be used by nesting birds and by bats for foraging and commuting and suggests conditions and informatives to ensure their protection. The site is of low ecological value and no priority habitats or protected species will be adversely affected by this proposal. The provision of six houses with large landscaped gardens that will mature over the years will provide greater ecological enhancement of the site and improve biodiversity compared to its current use as a field.

6.5.2 **Drainage and Contaminated land** – Foul waste will be to public sewer and surface water to soakaways, and the Councils drainage team have suggested that details can be subject to condition or submitted at the Reserved Matters stage. The Public Protection team have recommended a contaminated land condition which can be included on any approval.

- 6.5.3 **Archaeology** – A pre-determination archaeological evaluation of the site has been undertaken, including trenches, which found nothing of archaeological significance and the Councils archaeologist concurs that no further archaeological assessment or mitigation works are required.
- 6.5.4 **Impact on Residential Amenity** – The only properties that the proposal has potential to have any impact on are the two houses to the East and the cottage opposite the access. The occupier of the cottage opposite the access is concerned about the headlights from cars exiting the site shining into the window and the noise and disturbance from passing vehicles and people looking in the window adjacent the pavement. However cars exiting the existing properties either side of the access (Langdale and 42 Park View) already face the single window in this roadside elevation and vehicles and pedestrians already pass near the property due to it being situated on the pavement edge. It is considered that the proposal would not result in any noise and disturbance from traffic and pedestrians significantly greater than that which already exists and would also not result in overlooking and a loss of privacy from the proposed dwellings due to the distance from this existing house. The proposed houses would also not have any significant impact on the properties to the East due to the separation distance between the existing and proposed houses indicated on the proposed layout. In addition these houses will be well screened by existing trees and landscaping along the Eastern boundary.
- 6.5.5 **Rights of way** – The Councils Rights of Way Officer has commented that Footpath UN21 Broseley crosses the development site and that the layout must be adjusted to allow for the public right of way and that if this cannot be accommodated then an application should be made to divert the footpath. An amended layout plan has been submitted that incorporates the existing footpath so there will be no need to divert the footpath. This plan also indicates that access to the existing playground will be maintained. The town council have commented that this play area is substandard and should be replaced with a play area on another site; however this is not relevant to the determination of this application.
- 6.5.6 **Land Stability** – The NPPF advises at Paragraph 120 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 requires at Paragraph 121 that planning policies and decisions should take account of ground conditions and land stability, and that adequate site investigation be undertaken. A Phase I Report has been prepared by GIP Ltd and accompanies this application. A Coal Mining Report has been obtained for the site from the Coal Authority. The latter concludes that the site is not within the zone of likely physical influence on the surface from past underground workings. The investigations carried out are considered sufficient to demonstrate that there are no technical ground stability or contamination reasons that would justify a refusal of planning permission in this case.

7.0 CONCLUSION

- 7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore considered acceptable in principle. In order to refuse

the application it would need to be demonstrated that there would be significant and demonstrable harm that would outweigh the benefits of the proposed development that will provide housing in a highly sustainable location close to the centre of a settlement identified as a Key Centre. It is considered that the proposal would have no significant adverse impact on the character and appearance of the landscape and adjacent conservation area, it would not result in any adverse highway, ecological or archaeological implications and access to the existing footpath will be maintained. Full details of the scale, design and appearance of the dwellings and landscaping of the site will be considered at the Reserved Matters stage as will the level of affordable housing contribution that will be secured by S106. It is therefore considered that the proposal accords with the NPPF and Adopted Core Strategy Policies CS3, CS6, CS11 and CS17.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

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

Core Strategy and Saved Policies:
CS3 Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
S1 Development Boundaries
D6 Access and Parking

SPD on the Type and Affordability of Housing
Broseley Town Council Town Plan 2013 - 2026

RELEVANT PLANNING HISTORY:

13/02846/OUT Outline application (access, layout & scale) for the erection of 32 dwellings and associated parking WDN 6th December 2013

List of Background Papers: File 14/01125/OUT
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Dr Jean Jones
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Details of the scale, appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Town and Country Planning Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of one year from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. As part of the first application for Reserved matters and prior to the commencement of development a contoured plan of the finished road levels shall be submitted for approval to the LPA together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. Development shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings

Reason: To ensure that any such flows are managed on site.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. a) No development 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 competent person and be 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.

6. No development shall take place until details of the means of access, including the layout, construction, drainage and sight lines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the first occupation of the dwellings hereby approved.

Reason: To ensure a satisfactory means of access to the highway.

7. 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:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. 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.

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

8. If non permeable surfacing is used on the new access road, driveway and parking area and/or the new access road slopes toward the highway, prior to construction the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway . Development shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway

9. 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 development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

10. Prior to the first occupation of the dwellings details of two woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of nesting opportunities for wild birds

11. Construction works shall not take place outside the following times:
- Monday to Friday 07:30hrs to 18.00hrs
 - Saturday 08:00hrs to 13.00hrs
 - Not at any time on Sundays, bank or public holidays.

Reason: In the interest of amenity of the occupants of surrounding residential properties