

Development Management Report

Development Management Report to consider a Planning Application subject to S106 resolution having regard to the significant weight which can now be given to SAMDev policies in planning decisions where these are not subject to the main modifications proposed by the Inspector.

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Summary of Application

Application Number: 13/03406/FUL	Parish:	Barrow
Proposal: Erection of a detached dwelling following demolition of existing commercial greenhouse		
Site Address: Proposed Dwelling On South Side Of Benthall Lane Benthall Broseley Shropshire		
Applicant: Mr & Mrs E Cox		
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk	

Grid Ref: 366660 - 302112



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Purpose of Report:

This report seeks Members re-consideration of Planning Application Ref: 13/03406/FUL which Committee has previously resolved to approve, as the decision has not yet been issued pending conclusion of a S106 Agreement in respect of the required affordable housing contribution, and where there has been a change in the balance of considerations arising from the weight which can now be given to SAMDev Policies following the publication of the main modifications on 1st June 2015, and the expiry of the subsequent 6 week consultation period on 13th July 2015. The principle of the proposed development is re-considered under Section 6.1 of this report.

This application was first considered at the South Planning Committee of 4th March 2014 at which time it was recommended for approval as a departure because the Council could not demonstrate a 5 year land supply. Members resolved to approve.

The impact on this application of the Council's publication of a revised 5 year land supply statement on 12th August 2014 demonstrating that it did have a 5 year land supply was considered at the South Planning Committee of 16th September 2014. Members resolved to still approve the application, as significant weight could not be attached to the SAMDev Plan that was on deposit at that time. (The plan proposes no open market housing development in Benthall).

Recommended Refusal Reason:

- 1) The proposed development is located outside the defined Development Boundary for Broseley. The proposal fails to comply with adopted policies CS3, CS5, of the Core Strategy; Policies MD1, MD7a and S4 of the Council's emerging Site Allocations and Management of Development (SAMDev) Plan, and National Policy contained in the National Planning Policy Framework (in particular paragraph 55). The Council has a robust five-year housing land supply within settlements designated for development, and whilst the proposed scheme would deliver modest economic and social benefits there are no material considerations of sufficient weight to justify a departure from the Development Plan. The proposal is therefore contrary to the aforementioned policies, and to Paragraphs 11-14 and 17 of the National Planning Policy Framework.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a two storey, four bedroom dwelling at land on the south side of Benthall Lane, Benthall Broseley following the removal of a disused commercial greenhouse. The accommodation is proposed to comprise a kitchen/dining area, entrance hall with open porch, study/utility or pantry, WC, bedroom and sitting room at ground floor level, and guest bedroom, landing, bedroom 2, bathroom and master bedroom with ensuite, walk-in wardrobe and covered balcony. The outside area is indicated to be provided with a raised patio area, balcony or raised decking, parking for 4 cars and access from the existing gateway which has a dropped kerb.

- 1.2 Materials proposed include walls constructed with a brick plinth below rendered block work, clay roof tiles and timber openings. Foul sewage will be disposed of to the main sewer and surface water to soakaway or SUDs. No trees or hedges are affected.
- 1.3 The plot is presented to be redevelopment of brownfield land, the existing disused structures having been purchased from a supplier of only commercial sized greenhouses, and an infill between 'Mauds Cottage' and 'Trinity Cottage'. The submitted Design and Access Statement states that the footprint of the dwelling has been designed to fit the available space and differing site levels, and that proposed windows have been restricted to elevations which will not overlook neighbouring properties.
- 1.4 In addition to the Design and Access Statement, supporting documents have been submitted which were commissioned for a single plot affordable proposal on adjacent land to the west at Tiffany Stables in 2012 and was managed by the same agent as this application. These are considered to be appropriate for this application too due to the proximity of the site and the very recent formulation of the reports. They comprise:
- Contamination Investigation Report by Spilman Associates Ltd dated July 2012.
- Ground Investigation Report by Spilman Associates Ltd dated October 2011.
- Report on Mineworkings Stabilisation by Spilman Associates Ltd dated July 2012.
- 1.5 An Affordable Housing Contribution Proforma has been submitted agreeing to pay a contribution of £11,700 as the internal floorspace is identified as being over 100m² (0.13 x 100m² x 900 = £11,700). This application was submitted prior to 1st September 2013.
- 1.6 During the course of the application and in response to concerns raised, amended plans have been submitted showing the dwelling to be re-positioned 3.5m to the north west and closer to the road so that the footprint falls within the parameters of the siting of the existing properties in the locality.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within open countryside adjacent to the south west side of the Key Centre of Broseley, in fact it is approximately 300m from the development boundary. It is accessed via an existing double gate benefitting from a dropped kerb directly from the B4375 Benthall Lane. The plot is roughly rectangular with a north west facing frontage and measuring approximately 70m in depth x 15m wide. Towards the front of the site and visible from the road there is a disused greenhouse the structure being deteriorated. The remainder of the site is overgrown, but contains some old fruit trees, Pampas Grass and evidence of former vegetable plots in the foliage. The front boundary with the pavement comprises mature native hedging and timber fencing, and there is a mature tree positioned on the western corner.

2.2 The neighbouring property to the north east at 'Mauds Cottage' is a two storey rendered cottage which is largely screened by the eastern side boundary of mature Fir hedging. To the west, the dwelling at 'Trinity Cottage' was constructed following the granting of planning permission for the 'erection of an affordable dwelling with detached double garage' under planning ref: 11/05609/FUL on 5th April 2012. This property is a dormer bungalow with a north east facing frontage onto its driveway. The boundary between the plot and 'Trinity Cottage' is defined by mature native hedging. Dwellings across the road are a mixture of traditional brick properties and more recent bungalows some of which have accommodation within their roof space.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application was previously referred to Committee for consideration in accordance with the Council's Scheme of Delegation. There is no provision in the Scheme of Delegation in cases where the balance of material planning considerations may have changed for these "minded to approve" decisions, to then be delegated to officers.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Barrow Parish Council (17-09-13) – The application is well outside the development boundary for Benthall and is open countryside.

The applicant states that it is a brownfield site. This is NOT a brownfield site and furthermore has never ever been a brownfield site.

A planning application was made for the erection of a dwelling at land adj. 18 Benthall Lane, Benthall, this application was refused on the grounds that the site is in countryside outside the Development Boundary for Benthall in the Bridgnorth District Local Plan where the policy is not to allow new housing unless required to meet essential agricultural or forestry needs. Planning application no. 04/0460 refers.

Letters attached from residents expressing objections and confirming that the site is not brownfield.

Barrow Parish Council (10-01-14) - Whilst appreciating that the applicants have improved the situation by moving the dwelling to a position closer to the road, we still consider that the proposed design still seriously overlooks the neighbouring 'traditional' dwelling. The height, balconies, and windows with views towards this dwelling will leave little privacy. In view of this we are still opposed to the application as it stands.

Although we realise that the house shortage situation causes problems we must also reinforce our earlier comment as to the use of the site at all.

4.1.2 SC Affordable Homes - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

- 4.1.3 SC Drainage - The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways.

If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system.

Standard advice supplied in relation to the encouragement of measures listed to minimise the risk of surface water flooding.

- 4.1.4 SC Public Protection - Having considered the contaminated land investigation reports submitted with this application it is noted that no contamination has been highlighted above recognised threshold limits of pollutants. No conditions are therefore proposed in relation to contaminated land on this application. However, a gas membrane is proposed due to the location of the site within a coal mining area. This is likely to be required as part of the building regulation requirements and therefore no separate condition is proposed at this time.

- 4.1.5 SC Ecology – Condition recommended in relation to external lighting with regards to bats, and an informative relating to nesting wild birds.

- 4.1.6 SC Highways Development Control – No Objection:
The site currently has a vehicular access onto the B4375 (Benthall Lane), within a 30 mph section of urban carriageway, that has the existing potential to generate a number traffic movements. Although it is likely that the proposed development would intensify the vehicle movements, the scheme includes for the improvement of the access onto the highway which I consider essential to accommodate this.

Condition: The access shall be laid out and constructed in accordance with the approved drawing prior to the development hereby approved being first brought into use.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Condition: The dwelling hereby permitted shall not be first occupied until the car parking area shown on approved plans has been constructed and surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and the parking space thereafter shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles, associated with the development, off the highway in the interests of highway safety.

4.2 - Public Comments

4.2.1 Fourteen letters of representation from eleven different members of the public have been received in relation to the proposal as submitted expressing concerns. These are available to view in full online but are précisised as follows:

- o This is not and has never been a commercial site, so does not meet the criteria for a Brownfield site.
- o This plot of land is an old orchard with two freestanding greenhouses which was part of the garden of 18 Benthall Lane.
- o As the nephew of the late owner of the site, the greenhouses were only used for his own pleasure to my knowledge and produce was given away.
- o The growing of a few vegetables to give friends at Broseley Social Club does not constitute a business operation.
- o Having lived in Benthall Lane for forty five years we cannot recall any business activities taking place on this site.
- o There is no evidence of business rates being paid.
- o No comparison can be made between this site and Benthall Grange which did operate a genuine business.
- o There is a clear attempt to find a loophole in the planning system, claiming that the land was used for commercial purposes.
- o The plot is outside the development boundary for Benthall in the Local Plan.
- o Barrow Parish Plan states that all housing developments must be within the development boundary as defined by Shropshire Council.
- o A previous application to build was refused in 2004.
- o The adjacent property was only allowed because it was deemed to be an affordable low cost house.
- o This submission is way behind the ribbon building line which could have serious consequences to the area concerning future applications.
- o The siting is set so far back from the majority of properties on Benthall Lane, it deviates from the existing building line.
- o All infill properties in this area have been previously restricted to the original building line.
- o The site is elevated in relation to other properties in this locality, therefore a two storey dwelling would create an imposing feature.
- o A two storey dwelling is potentially unacceptable in relation to the lower level of my property and to Benthall Lane.
- o There are a large number of old cottages in the lane of limited height, and bungalow type properties built to be 'in keeping' with the locality.
- o Request that some fundamental and significant issues be further considered: suitability for the area/aesthetics; neighbour impacts (overbearing nature); loss of privacy; stormwater run-off to neighbouring land.

4.2.2 Following the amendment to the siting of the proposed dwelling, a further five letters of objection have been received from members of the public who have previously made representation. These comments are summarised below:

- o A strong outright objection to the proposal is maintained with regard to the position of the building, its relative height, loss of privacy and natural light, and aesthetics within the locality.

- o The siting is still significantly outside the building line of the majority of the surrounding properties.
- o Due to the site being in an elevated position, this will cause a visual impact. Would a good compromise be to lower the level of the site.

5.0 THE MAIN ISSUES

- o Principle of development
- o Affordable housing contribution
- o Design, scale and character
- o Impact on neighbours/residential amenity
- o Drainage
- o Ground Investigation
- o Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 As noted above in the Summary, this application with a previous resolve to approve pending the conclusion of a S106 Agreement, is now recommended for **refusal** as there had been a change in the balance of considerations with the weight that can now be given to SAMDev Policies. The site was previously considered to be in a sustainable location between other dwellings, adjacent to a single plot affordable dwelling and approximately 325m from the western extent of the Broseley Development Boundary.

6.1.2 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 needs to be given weight in the determination of planning applications.

6.1.3 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.

6.1.4 For the purposes of the assessment of this application the development plan presently comprises the adopted Shropshire Core Strategy 2011, certain saved policies of the Bridgnorth Local Plan and a range of Supplementary Planning Documents, in addition to the emergent SAMDev.

6.1.5 Following on from the adoption of the Core Strategy in 2011, the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period ending on 13th July 2015. Any plan content not included in the schedule of proposed main

modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

- 6.1.6 A key objective of both National and Local Planning Policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. Specifically, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within Market Towns, other 'Key Centres' and certain named villages ('Community Hubs and Clusters') as identified in the Council's emerging SAMDev Plan. Sporadic development in open countryside is unacceptable unless there are exceptional circumstances.
- 6.1.7 The Core Strategy sets out the strategic vision and objectives to guide development and growth for the period 2006-2026. This includes a vision for Broseley (Policy CS3) and the surrounding Hubs, Clusters (Policy CS4) and Rural Hinterland (Policy CS5). Core Strategy Policy CS3 (The Market Towns and Other Key Centres) states that Broseley will have development that balances environmental constraints with meeting local needs. Within the Broseley Place Plan area, there are no Community Hub or Cluster settlements and all remaining settlements within the Place Plan area and land outside the development boundary form part of the Rural Hinterland.
- 6.1.8 New development within an area that is classified as forming part of the rural hinterland will be strictly controlled in accordance with national and local planning policies protecting the countryside. New housing will only be permitted in exceptional circumstances in accordance with Policies CS5 and CS11 of the Council's Core Strategy.
- 6.1.9 As part of the SAMDev Plan, Broseley Town Council indicated that it would support an additional 200 houses during the Plan period (2006 - 2026). It is noted that 37 dwellings have already been built in the period 2006 – 2011 and there remain a large number of outstanding Planning Permissions. In September 2013 Broseley Town Council's Town Plan was adopted. This community plan aims to provide a framework for local policy and development through to 2026 and feeds into the planning and development process led by the local authority. As part of the Town Plan and SAMDev Plan the development boundary was altered to include Jackfield. No further alteration was included and the existing development boundary remains in place (as previously shown on the Broseley Inset Map 9 contained within the Bridgnorth District Local Plan 1996-2011).
- 6.1.10 Broseley Town Plan General Development Policies which are relevant to the proposal are as follows:
- A.1 Development in Broseley should be limited by the aspirations set out in the vision for the Town.
- A.2 Development in Broseley should be within the development boundary shown on the map attached to this Town Plan; the map identifies a number of valued green spaces on which development of any kind will not be supported.

H.7 Affordable housing developments will be supported outside the development boundary (with provisions).

- 6.1.11 The site is approximately 325m from, but clearly outside the town's Development Boundary. Officers acknowledge the benefits of the development with regard to its close siting to the town services and facilities and concur there would be no significant environmental disadvantages to outweigh the social and economic benefits in terms of increasing support for local services, boosting housing supply, and making affordable housing and Community Infrastructure Levy contributions.
- 6.1.12 Additionally, the development would benefit the economy by generating a small amount of employment and trade during construction. However, the NPPF does not change the statutory status of the development plan as the starting point for decision-taking, with Paragraph 12 stating *"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"*.
- 6.1.13 Accordingly, an application would need to demonstrate other, significant material considerations beyond the usual sustainability requirements in order to outweigh the primacy of the development plan. In this case the benefits identified (i.e. the affordable housing and CIL contributions, increase in housing provision and generation of trade/employment) are considered insufficient since for a development of this scale they would be relatively modest, and because they would in fact apply to all new housing schemes irrespective of location.
- 6.1.14 The NPPF's ambition for development is to be plan-led. In this case, this involves placing significant emphasis on community aspirations for where new housing should be located, hence the Town Council's objection to this application.
- 6.1.15 Given the above, the development would represent a departure from the development plan and is now unacceptable in principle.
- 6.2 Affordable housing contribution
- 6.2.1 In order to meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target. On sites where 5 dwellings or more are proposed, the affordable housing provision is expected to be on site, below 5, the contribution is expected to be financial. As the proposal is for a single open market dwelling, an affordable housing contribution proforma has been submitted during the course of the application indicating that a financial contribution in respect of affordable housing will be secured via the completion of a Section 106 Legal Agreement. Since the Committee resolve to approve this proposal, firstly in March 2014 then in September 2014, the required Section 106 Agreement has not yet been concluded.
- 6.2.2 Regarding the need for an affordable housing payment, officers acknowledge the November 2014 Ministerial statement and National Planning Practice Guidance (NPPG) advising against the use of planning obligations to secure tariff-style

contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of the 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD.

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, natural and historic environment and be appropriate in its scale and design taking account of local character and context. Policy MD2 of the emergent SAMDev Plan builds on Policy CS6 provides additional detail on how sustainable design will be achieved. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. Properties along this section of Benthall Lane are not positioned uniformly in relation to the road i.e. there are varying set back distances and orientations. There is also a mixture of both traditional and modern properties which have been constructed on differing levels to follow the natural contours of this sloping landscape. The proposed two storey dwelling is of a unique design and footprint, developed to be located on the more level section of the site and to fit around its natural contours. As the land slopes generally downwards to the north east, the plot is naturally lower than the dwelling to south west, but at a higher level than the property to the north east. The amended positioning at 15m from the road will not be greater than some other properties in the vicinity, nor will its visual appearance be so different as to be out of keeping with the variety already present in the area. The proposed dwelling is not a 'contemporary' design, but also does not seek to replicate the adjacent traditional buildings. It is a modern property, with an irregular shaped footprint, but which includes some local features in its design, such as, dormer windows in the eaves, chimneys and arched brick details above the ground floor windows. There are also elements of the design which relate to some of the more recently constructed neighbouring properties such as the full height glazing to the east facing gable end which is similar to that at the affordable dwelling nearing completion to the south west. For these reasons it is felt that the appearance of the proposed dwelling will be one of visual interest rather than incongruity.
- 6.2.2 It is not considered that the scale of the proposed dwelling differs from that of other adjacent detached dwellings. The proposed footprint amounts to approximately 127m² compared with the dormer bungalow directly opposite at Leo Farm which has a footprint of approximately 112m². The height is not excessive given that the majority of the first floor is to be accommodated within the roof space and that the nature of relationships on this hill is that some dwellings are significantly higher than their adjacent neighbours and there are some two storey properties in the mix. The proposal is therefore considered to satisfy the requirements of policies CS6 and CS17 set out in paragraph 6.2.1 above.

6.3 Impact on neighbours/residential amenity

6.3.1 Policy CS6 seeks to safeguard residential amenity. It is felt that there will be sufficient distance between the proposed property and its neighbours for there to be a minimal, if any, overbearing impact. The newly constructed property to the south west is set at a higher level and 24m away, the dwelling adjacent to the north east is a minimum of 13m away and buildings across the road are over 27m away. This demonstrates that there will be a comfortable amount of space around the proposed dwelling. The neighbour to the north east has raised overshadowing concerns, however, the proposed dwelling is positioned to the south west of this property where the existing land levels rise and presumably already create some overshadowing in the late afternoon/evening, depending on the time of year. Additionally the neighbouring rear garden is a generous width of approximately 35m and the shared boundary will be a minimal 3m from the proposed dwelling. It is therefore considered that any overshadowing will not be significantly greater than already experienced.

6.3.2 The proposed dwelling has been carefully designed to fit in with the existing land levels, but also to minimise any overlooking of adjacent properties. Again the neighbouring property to the north east, being the closest and set at a lower level, is most likely to be impacted on in this respect. There are ground and first floor windows on the north and north east facing elevations which potentially could overlook the neighbouring private amenity space in this direction. However, these windows are all either secondary for the rooms they serve or do not relate to primary living spaces and therefore can be conditioned to be obscure glazed and non-opening. Due to the relative distances involved and the height of the adjacent land, there are no windows in the remaining elevations which could create the potential for overlooking.

6.4 Drainage

6.4.1 There is a foul sewer connection available, and the details of that connection would be approved under building regulations. With regard to surface water disposal, the Council's Drainage Section has commented on the need for percolation tests in relation to the proposed soakaways. These drainage arrangements are a matter which can be the subject of a condition on any approval issued, in view of the land area available to the applicant.

6.5 Ground Investigation

6.5.1 Core Strategy policy CS6 seeks to secure safe development. The NPPF, at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. It continues at paragraph 121 that planning decisions should ensure that account is taken of these matters and that adequate site investigation information, prepared by a competent person, is presented. There is a history of mining activity in the Benthall/Broseley area and The Coal Authority have been consulted, but no reply has been received to date. A Ground Investigation Report has been submitted with the application, which establishes that there is some made ground consisting of colliery spoil on the site. This report recommends a programme of stabilisation works be carried out by drilling and grouting. It specifies how these works should be undertaken; foundation design options; the incorporation of ground gas protection membrane within the development and the

ventilation of any suspended floor. As a gas membrane is likely to be required as part of the building regulation requirements, SC Public Protection have not proposed this as a separate condition. It is also noted that no contamination has been highlighted above recognised threshold limits of pollutants, and no conditions are therefore proposed in relation to contaminated land by SC Public Protection. However, it is felt appropriate that an approval should be conditioned to require the development to be carried out in accordance with the engineering considerations set out in the Ground Investigation Report.

6.6 Ecology

6.6.1 Core Strategy policies CS6 and CS17 seek to ensure that developments do not have an adverse impact upon ecology. The Council's Planning Ecologist has considered the proposal and recommends that a condition be attached to any approval requiring details of any external lighting proposed to be submitted in order to minimise disturbance to bats, a European Protected Species, and an informative in relation to the protection of nesting wild birds.

6.7 Highway Safety

6.7.1 Saved Local Plan policy D6 requires the access and local road network to be capable of safely accommodating the type and scale of traffic likely to be generated. The proposal would utilise the existing access point into the site, with the existing gate replaced with a new set of gates set back from the highway to enable vehicles to stand clear of the highway while gates are opened and closed. There would be space within the site for vehicles to turn so that they may enter and leave in a forward gear. The parking standards for the former Bridgnorth District Council, which are still applicable to south east Shropshire, require there to be two parking spaces and this would be provided by the proposed site layout.

7.0 CONCLUSION

7.1 The proposed development is located outside the defined Development Boundary for Broseley. The proposal fails to comply with adopted policies CS3, CS5 of the Core Strategy; Policies MD1, MD7a and S4 of the Council's emerging Site Allocations and Management of Development (SAMDev) Plan and National Policy contained in the National Planning Policy Framework (in particular paragraph 55). The Council has a robust five-year housing land supply within settlements designated for development, and whilst the proposed scheme would deliver modest economic and social benefits there are no material considerations of sufficient weight to justify a departure from the Development Plan. The proposal is therefore contrary to the aforementioned policies, and to Paragraphs 11-14 and 17 of the National Planning Policy Framework.

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.

- ② 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

LDF Core Strategy Policies:

CS1: Strategic Approach
CS3: The Market Towns and Other Key Centres
CS5: Countryside and Green Belt
CS6: Sustainable Design and Development Principles
CS9: Infrastructure Contributions
CS11: Type and Affordability of Housing
CS17: Environmental Networks
CS18: Sustainable Water Management

Supplementary Planning Document Type and Affordability of Housing

'Saved' Bridgnorth Local Plan Policies:

S1: Development Boundaries
S5: Development in other countryside areas

Broseley Town Plan 2013-2026

Site Allocations and Management of Development (SAMDev) Policies:

MD1: Scale and Distribution of Development
MD7a: Managing Housing Development in the Countryside
S4: Broseley Settlement Policy

RELEVANT PLANNING HISTORY:

PREAPP/11/01486 Erection of an affordable dwelling PREAIP 27th October 2011
PREAPP/12/00411 Proposed affordable dwelling PREAIP 3rd September 2012
13/03406/FUL Erection of a detached dwelling following demolition of existing commercial greenhouse PDE
BR/APP/FUL/04/0460 Erection of a dwelling REFUSE 13th July 2004

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

- Design And Access Statement received 22nd August 2013.
- Contamination Investigation Report by Spilman Associates Ltd dated July 2012.
- Ground Investigation Report by Spilman Associates Ltd dated October 2011.
- Report on Mineworkings Stabilisation by Spilman Associates Ltd dated July 2012.

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr David Turner

Appendices - APPENDIX 1 - Informatives

APPENDIX 1

Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. 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
CS5: Countryside and Green Belt
CS6: Sustainable Design and Development Principles
CS9: Infrastructure Contributions
CS11: Type and Affordability of Housing
CS17: Environmental Networks
CS18: Sustainable Water Management

Supplementary Planning Document Type and Affordability of Housing

'Saved' Bridgnorth Local Plan Policies:

S1: Development Boundaries
S5: Development in other countryside areas

Broseley Town Plan 2013-2026

Site Allocations and Management of Development (SAMDev) Policies:

MD1: Scale and Distribution of Development
MD7a: Managing Housing Development in the Countryside
S4: Broseley Settlement Policy

3. In arriving at this decision the Council has endeavoured to work with the applicants and their agent in a positive and proactive manner, as required by Paragraph 187 of the National Planning Policy Framework, by explaining the relevant planning policy considerations. Unfortunately, however, the relevant policies have been subject to significant change since initial advice was given at the pre-application stage and during the course of the application, and as it stands the proposal is considered contrary to policy for the reason set out above.