



Committee and date

South Planning Committee

1 December 2015

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 15/00614/FUL	<u>Parish:</u>	Broseley
<u>Proposal:</u> Erection of one block of six apartments		
<u>Site Address:</u> Land Adjacent To The Apartment Block The Woodlands Jackfield Shropshire		
<u>Applicant:</u> Kaw Projects Ltd		
<u>Case Officer:</u> Thomas Cannaby		<u>email:</u> planningdmse@shropshire.gov.uk

Grid Ref: 368452 - 302833



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Contact: Tim Rogers (01743) 258773

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to a S.106 agreement being entered into to secure the management of the dwellings as affordable units in perpetuity.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is for the erection of a block of six apartments to be provide affordable housing on the southern side of the existing housing development at the Woodlands. The proposed building has been amended since the original submission, with the proposal now being for a building of similar scale and design to that of the existing apartment building which it would be located next to, albeit with a deeper span and some different detailing in the fenestration. Each of the six apartments would contain two bedrooms, a bathroom, kitchen and a lounge/dining room, and all would be accessed from a central stairway. The accommodation would be over three storeys, with two apartmernts per floor, with the second floor contained predominantly in the roof space lit by roof lights and, in the case of one apartment, a window in a west facing gable. The main dual pitched roof ridge would run 'north east – south west' parallel with that of the existing apartments to the north. At the southern end of the proposed building a gable feature to the fron and rear elevations would align the ridge of this section at 90° to the main roof area, with a sloping roof plane rather than a full gable end being a feature of the south elevation.
- 1.2 The development would include 9 parking spaces to the front of the site, and retaining walls at the side and rear to accommodate changes in ground levels. A number of trees along the side and front boundaries would be removed as part of the development.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located the development boundary as shown on the Broseley area inserts of the SAMDev plan, and also located within the Severn Gorge conservation area and world heritage site buffer zone.
- 2.2 The site is accessed through the existing housing development at the Woodlands, with the building being located towards the south of this development, and with residential development to the west and south with individual dwellings bordering the site in these directions, and with the land rising towards the east to a wooded area running behind the Woodlands development.
- 2.3 The site of the building is an area of uneven land, currently unkept and covered in vegetation, with the land rising sharply towards the south and east of the site. The construction of a building on this land would require cutting into this land and construction of retaining walls to provide a level area to build on.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committed following objections from the Town Council and at the request of the Local Ward Member.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Broseley Town Council - 20th April 2015

Object for the following reasons:

- a. The design is inappropriate in the World Heritage Site. Reference is made to a previous application for the site, number 04/0915/FUL, in particular the comments made about design requirements and the high standards applied.
- b. Little attempt appears to have been made to harmonise this proposal with the existing apartment block and the design detracts from the character of the existing development.
- c. The parking proposed in the amended application (6 places for six two bedroom apartments) is inadequate and fails to conform to Shropshire Council Saved Local Parking Standards Supplementary Planning Guidance 2004 (1.5 spaces in communal parking situations). It is not clear whether the reduction in the parking area made by the amended plan still allows the required 6m aisle width.
- d. Councillors are concerned that inadequate investigations have been carried out into ground stability and possible ground contamination.
- e. Adverse arboricultural impact.
- f. The scale of the development is too high density.
- g. The application fails to satisfy condition H7 in the Broseley Town Plan relating to affordable housing: "Proposed sites must be easily accessible to the main services in the town centre." The site is not close to shops and services and there is no continuous pavement to the nearest facilities.
- h. Comment: no discussions seem to have been held with the management company responsible for the private access roads in The Woodlands.

6th May 2015:

Councillors maintained their objections to this development.

- a. The design was an improvement on the previous version and was more sympathetic to the neighbouring block. However, the proposed development was still too high density for this site.
- b. Councillors were pleased that additional parking had been provided but questioned the feasibility of the layout.
- c. Councillors echoed the concerns of Mr Plant regarding the safety and structural stability of the retaining wall.
- d. The applicant's assertion that there was a bus to Broseley and Telford every 15 minutes was incorrect. Buses ran only once per hour with no service on Sundays.

6th August 2015:

Reiterated comments made on 6th May.

4.1.2 SC Drainage –

The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

1. Drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

2. A plan should be submitted for approval showing exceedance flow routes to ensure that the design has fulfilled the requirements of Shropshire Councils 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.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

3. If non permeable surfacing is used on the driveways and parking areas or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

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

4. The use of large diameter pipes and crate storage together with a large number of chambers is likely to prove to be an expensive solution in terms of both construction and maintenance. The sites topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

5. On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level.

Reason: To minimise the risk of surface water flooding.

Informative

Consent is required from the service provider to connect into the foul main sewer.

4.1.3 SC Archaeology –

The proposed development site is located within the known extent of a brick

and tile works (PRN 07240) thought to have its origins in the 17th century. Previous archaeological evaluation for earlier phases of the development concluded that due to the extensive and lengthy use of the site and its environs it is possible that remains beneath the present ground level would be fairly extensive. The site also lies within the extent of the inscribed World Heritage Site of Ironbridge.

The proposed development site can therefore be deemed to have some archaeological potential.

RECOMMENDATION:

In view of the above and in accordance with the National Planning Policy Framework (NPPF) Section 141, it is recommended that a programme of archaeological work, to comprise a watching brief during any ground works associated with the proposed development, be made a condition of any planning permission for the proposed development. An appropriate condition of any such

consent would be:

Suggested Conditions:

No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

4.1.4 SC Conservation –

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable. Conditions should include samples of external materials, joinery details, roof details, conservation rooflights, metal rainwater goods and a detailed landscaping and tree planting scheme.

4.1.5 SC Housing –

There is a need for 2 bedroomed accommodation for rent within the area, we note that the properties will be for social (or affordable rent) which we can support and will be subject to a Section 106 Agreement

4.1.6 SC Ecology –

I have read the above application and the supporting documents including the Ecological Site Assessment conducted by Arbtech (November 2015).

Recommendation:

Please include the conditions and informatives below on the decision notice.

Reptiles

Due to the size of the development area SC Ecology recommends that a Reptile method statement is conditioned on the decision notice and that works are carried out as approved. The following condition and informative should be on the decision notice;

Condition

No development, demolition or site clearance procedures on the site to which this permission applies shall commence until a report has been submitted to, and approved in writing by, the local planning authority detailing how the development, demolition or site clearance procedures will incorporate reasonable avoidance measures that minimise the risk of injury or death of slow worms, common lizards, grass snakes and/or adders.

Reason: To ensure compliance with the legislation pertaining to widespread reptiles.

Informative

The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

Site workers should be made aware that any deliberate or reckless harm to reptiles is illegal. Careful site clearance can minimize the risk to these species.

Informative

If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.

Nesting Birds

The site has the potential to support nesting birds. The following condition and informative should be on the decision notice.

A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of

bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Bats

The site has the potential to supporting foraging and commuting bats. The following condition an informative should be on the decision notice.

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.

A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

Badgers

No evidence of badgers has been recorded within 30m of the proposed development site. The following informative should be on the decision notice.

Informative

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

4.1.7 SC Trees –

I have reviewed the revised plans and tree report and I can confirm that they satisfactorily address the outstanding concerns raised in my previous consultation response, in that the ownership of trees T14, T15, T16 and groups G1 and G2 and the intentions towards them has been clarified.

I consider the loss of trees T14 and T15 and group G1 to be acceptable, provided suitable and appropriate replacement planting is undertaken to compensate for their loss, should permission for this development be granted.

Parts of the root protection areas (RPAs of offsite tree T16 and group G2 project into the site; however, I consider that the degree of incursion into those RPAs will be small enough so as not to cause long-term damage or harm to those affected trees, providing any approved development is implemented in accordance with the approved drawings (KAW/PL/2015/001 Rev G).

Unfortunately, before I am in a position to recommend approval in accordance with the revised tree report (Access 2 Trees, 28th October 2015 [revised from 6th May 2015]), it still needs further amendments, as follows: The plan showing trees to be removed with red arrows (p18) needs amending to include trees T14, T15 and G1; and the plan showing the site after the removal of the trees (p19) needs amending to show those trees as having gone and a suitable tree protection barrier to be installed along the site boundary to protect the RPAs of offsite tree T16 and group G1. It is important that these revisions are made because these will be the tree protection details with which any approved development should be carried out.

Once the plan has been satisfactorily revised, I would be happy to provide recommended tree protection and planting conditions to be attached to any approval.

4.1.8 Coal Authority – no objection, but raised material considerations detailed in section 6.8 below.

4.1.9 Historic England –

Thank you for your letter of 15 April 2015 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

1. Your council should ensure that the proposal complies with your Council's policies for The Ironbridge Gorge World Heritage Site
2. Conditions should be imposed requiring your Council's prior approval of all external details, materials and finishes.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.2 - Public Comments (Summary of issues, full comments viewable on Council's website)

23 Objections:

- Building works will cause disruption to area.
- Will impede natural light to nearby properties.
- Overbearing impact on nearby properties.
- Potential overlooking of nearby properties.
- Increased traffic on the estate.
- Limited parking already, will make situation worse. No space for visitor parking within the site.
- Access onto Woodlands is not adopted road.
- Public transport in area not of a high standard of provision for new

housing development to use.

- Loss of important trees on side and front boundary of site.
- Detrimental impact on appearance of area.
- Cramped, overdevelopment of site.
- Building's details and design do not match the development on the Woodlands.
- Design not in keeping with the original concept of the Woodlands development.
- Not appropriate development for the Conservation area or World Heritage site.
- Inadequate waste storage for bins.
- Loss of greenspace
- Concerns over land stability and historic mining in the area.
- Large amount of excavation necessary to construct building, with large retaining wall required.
- Full details of retaining walls should be provided.
- Large concrete slab present in ground at rear of site, would require extensive works to excavate, with associated disturbance.
- Concerns over run off from site to surrounding land.
- Whilst affordable housing, this concentrates affordable dwellings into a block rather than integrates into the area.
- Electric car charging points not compatible with affordable dwelling status.
- Impacts on the ecological value of the site.
- Existing Woodlands development not carried out to approved standards, concerns that this would be the case should this application be granted.
- Inadequate landscaped buffer around site.
- Previous schemes have been refused on the site for new build, and also a balcony on adjacent building for being an "intrusive feature".
- Plans may be inaccurate and scheme is not commercially viable.
- No details of service connections provided.
- Questions accuracy of ground level details and levels shown on drawings.
- Not previously developed land, as structures have blended into the landscape in the process of time.
- Questions over land ownership, and ability to provide car parking spaces and tree protection measures at front of site.
- Proposed dwellings are of a small scale and unduly cramped.
- No amenity space provided for dwellings.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Landscaping and ecology
- Impact on heritage assets and archaeology
- Impact on residential amenity
- Highway safety

- Drainage and services
- Land stability
- Contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The Broseley Town Plan 2013-2026, although not part of the statutory Development Plan, is a material planning consideration which is referenced in the emerging Site Allocations and Management of Development (SAMDev) Plan, and this plan includes the application site within the development boundary for Broseley and Jackfield. The SAMDev Plan has now reached its final stage prior to adoption with the Final Report on the examination into that Plan having been received from The Planning Inspectorate. Considerable weight may now be given to the SAMDev Plan, which is likely to be formally adopted by the Council by the end of 2015. The Inspector's Final Report makes no changes to the Broseley Development boundary within which the application site is situated. Broseley is identified by Core Strategy policy CS3 as a settlement where housing development of an appropriate scale and design which respects the town's character may take place on appropriate sites. It would constitute a 'windfall' site which is allowed for under SAMDev Plan policy S4 for the Broseley area, and would be a re-use of previously developed land, albeit land which has not been in recent use and where previous development has been overgrown, which is one of the core planning principles at paragraph 14 of the National Planning Policy Framework (NPPF). Therefore, it is considered that there is no in principle planning policy objection to residential development on the application site in the new Development Plan context.

6.1.2 This application is for a development of affordable housing, which if permitted would be subject to a legal agreement to control this through a registered social landlord or housing association. Policy H7 of the Broseley Town Plan states that development of 100% affordable housing schemes will be supported outside the development boundary where the amenity loss is acceptable, the site is easily accessible to the town centre and where existing infrastructure can meet the needs of the development. H6 of the Broseley Town Plan states that inside the development boundary development should meet a minimum of 15% affordable housing (by financial contribution where less than whole dwellings) in line with Core Strategy policies CS9 and CS11. This development, by providing 100% affordable housing would meet the aims and objectives of these policies in the Broseley Town Plan in principle.

6.1.3 Whether or not the proposed scheme is acceptable therefore depends upon the assessment of the detailed matters set out below.

6.2 Siting, scale and design of structures

6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. It cautions at paragraph 60 that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds however that it is proper to seek to promote or reinforce

local distinctiveness. The themes of the NPPF are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev policy MD2 (Sustainable Design) and MD12 (The Natural Environment) develop further the matters to be considered in relation to policies CS6 and CS17

- 6.2.2 There is a requirement under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in the carrying out of statutory functions. The Council's conservation officer advises that the amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable, and English Heritage have been consulted and have not raised any objection to the design of the development.
- 6.2.3 The proposed building makes reference to the existing apartment building on the site, to which it would be located adjacent to. The building would have similar proportions in terms of height (to ridge and eaves) as well as the overall footprint of the building being similar, although the proposed building would have a greater depth and project a small distance to the rear of the existing apartment building. Fenestration details are similar in style, but with a great number on the proposed building, and rooflights are set lower on the building on the front, side and rear elevations.
- 6.2.4 Whilst the design of the building does not entirely match that of the existing development, this is not considered to be a reason to refuse consent. The building clearly takes its design inspiration from the existing development and reflects the key architectural features and proportions of the building adjacent to the site and the materials used in external elevations can be controlled to ensure the development harmonises with the existing properties.
- 6.2.5 In terms of impact on the appearance of the Woodlands as whole, the building's proportions are in keeping with the adjacent block of apartments, with the development infilling a gap in the site, which whilst it provides an open area, this is currently overgrown, partially fenced off with a stark wooden fence and steeply slopes across the site and so has little value as amenity space other than by virtue of its openness. The proposed development would retain an open area to the side, to separate it from the site boundary, and retain a similar gap at the front and rear. The proposal would require extensive ground level alterations, and installation of retaining walls, however these would be mainly to the rear, away from any public elevation and close to the building where their impact would be less apparent from most distant views of the site. The retaining wall across the car park area would be of a modest height and would result in the end view of the road access being a brick wall as opposed to the current wooden fence, which is likely to be an improvement if appropriate facing bricks are used, which can be controlled by condition.

6.3 Landscaping and ecology

- 6.3.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. SAMDev policies MD2 and MD12 supplement these policies. Core Strategy policies CS6 and CS17 also seek to protect and enhance those features which contribute to local character, which includes trees in this locality.
- 6.3.2 The applicant has submitted an ecological appraisal of the site, on which the Council's ecologist has based their comments. The ecological site assessment determined that the site has potential for use as a habitat for reptile species, and therefore due to the size of the development area the Council's ecologist recommends that a Reptile method statement is conditioned on the decision notice and that works are carried out as approved. In addition to this the site has potential to support nesting birds and foraging and commuting of bats, and conditions can be attached to any consent to secure mitigation and enhancement measure to compensate for the impact of the development with regards to these issues.
- 6.3.3 The Council's arboricultural officers have reviewed the amended tree report (access2trees, 6th May 2015, amended version registered 24th July 2015 and updated 6th November 2015). The most recent proposal (to remove the majority of the existing trees within the applicants ownership and replant with a quality landscaping scheme of more appropriate species) to be a better solution arboriculturally than the originally proposed retention of existing trees.
- 6.3.4 As the tree report shows, the majority of the existing trees are in poor condition and, given the severe level changes within the site, they would have an overbearing presence on the proposed development, were they to be retained. In the opinion of the Council's arborist these circumstances would create an unsustainable juxtaposition of trees and building, leading to pressure for excessive pruning and ultimately removal of the trees.
- 6.3.5 The sycamore tree (T9), in the ownership of the neighbouring property Innisfree, can be successfully retained during the proposed development, which is located well beyond its Root Protection Area (RPA). Appropriate tree protection measures should be adopted during any approved development.
- 6.3.6 The Council's arborist's latest comments relate to the most recent update to the tree survey submitted, along with copies of the land registry plans showing the applicant's ownership of the site. These comments confirm that the tree survey as amended satisfactorily address the outstanding concerns raised in previous consultation responses, in that the ownership of trees T14, T15, T16 and groups G1 and G2 and the intentions towards them has been clarified. The loss of trees T14 and T15 and group G1 is considered to be acceptable, provided suitable and appropriate replacement planting is undertaken to compensate for their loss, should permission for this development be granted.
- 6.3.7 Parts of the root protection areas (RPAs) of offsite tree T16 and group G2 project into the site; however, it is considered that the degree of incursion into those RPAs will be small enough so as not to cause long-term damage or harm to those affected trees, providing any approved development is implemented in accordance

with the approved drawings (KAW/PL/2015/001 Rev G).

- 6.3.8 The consultation response from the Council's arborist makes the comments that the tree survey requires updating as follows:

"The plan showing trees to be removed with red arrows (p18) needs amending to include trees T14, T15 and G1; and the plan showing the site after the removal of the trees (p19) needs amending to show those trees as having gone and a suitable tree protection barrier to be installed along the site boundary to protect the RPAs of offsite tree T16 and group G1. It is important that these revisions are made because these will be the tree protection details with which any approved development should be carried out."

- 6.3.9 It is considered that these matters can be dealt with by conditions requiring submission of a consolidated and updated arboricultural survey, method statement and landscaping scheme being attached to any consent granted. The matters outstanding are not ones of principle or on the approach taken, but rather of providing details of how works would be carried out. These details can be secured by condition, and so this matter would not prevent a consent being issued on this basis.

6.4 Impact on heritage assets and Archaeology

- 6.4.1 In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 6.4.2 The Council's conservation officer advises that the amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable. Conditions should include samples of external materials, joinery details, roof details, conservation rooflights, metal rainwater goods and a detailed landscaping and tree planting scheme.

- 6.4.3 Historic England have considered the application and have submitted the following advice :

1. Your Council should ensure that the proposal complies with your policies for The Ironbridge Gorge World Heritage Site
2. Conditions should be imposed requiring your Council's prior approval of all external details, materials and finishes.

Historic England would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

- 6.4.4 The proposed development site is located within the known extent of a brick and tile works (PRN 07240) thought to have its origins in the 17th century. Previous archaeological evaluation for earlier phases of the development concluded that due to the extensive and lengthy use of the site and its environs it is possible that

remains beneath the present ground level would be fairly extensive. The site also lies within the extent of the inscribed World Heritage Site of Ironbridge. The proposed development site can therefore be deemed to have some archaeological potential.

- 6.4.5 In view of this and in accordance with the National Planning Policy Framework (NPPF) Section 141, the Council's archaeologist recommends that a programme of archaeological work, to comprise a watching brief during any ground works associated with the proposed development, be made a condition of any planning permission for the proposed development.

6.5 Impact on residential amenity

- 6.5.1 Core Strategy policy CS6 seeks to safeguard residential amenity. Given the orientation and siting of the building and location to the building in line with the elevations of the existing apartment block (with a slight projection past the rear elevation), the proposal would not have any significant impact on residential amenity of the apartment block to the north. There would be a degree of overlooking between the rear of the properties, however this would be no greater than between existing apartments, and no more than can be reasonably expected for domestic properties in most residential areas.

- 6.5.2 Being located north of the residential property to the south (Innisfree), the proposed development would not have any direct impact through loss of light on this property. Given the separation distances and the lack of side elevation windows, there would be no overlooking or loss of privacy. There are two rooflights shown in the hipped roof facing Innisfree, to serve a bedroom and kitchen area, but due to the height in the rooms are unlikely to allow any direct overlooking, and in any case a condition could be attached to any consent to ensure these rooflights are obscure glazed and fixed shut to a height of a 1.7m above floor level of the rooms they serve to ensure no direct overlooking.

- 6.5.3 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue has been addressed by a condition on the outline permission restricting hours of working to 07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays, Public or Bank Holidays to mitigate the temporary impact. A construction management plan would also be a condition on any consent to ensure that there are measures in place to address matters such as noise, dust, deliveries and road cleanliness during the construction period in order to mitigate these potential temporary impacts. An example construction management plan has been submitted for this application which details how the construction works would be carried out, this can be made a condition of consent that a construction plan be formally approved prior to commencement.

- 6.5.4 Whilst there is a limited amount of usable amenity land in the application, this has to taken in context of the type of development proposed and the scale of the units of accommodation, and is considered to be acceptable in this case.

6.6 Highway safety

- 6.6.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it

states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:

“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and saved Bridgnorth District Local Plan policy D6 states that development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

6.6.2 The site is accessed via the existing gated development of the Woodlands, with a surfaced area up to the site boundary. Concerns have been raised with regards to this access across the Woodlands site, however the access across the Woodlands would remain unchanged and the amount of traffic movements in relation to the occupation of the dwellings is unlikely to be of a level which would result in a significant impact on highway safety of vehicles crossing through the existing development, nor exiting onto the highway. A construction management plan, to be required by condition, can control vehicle movements during the construction phase of any development granted consent to minimise the impacts of this, however any construction project will generate additional traffic, but the impacts of this are temporary.

6.6.3 The proposed plans show 9 car parking spaces to serve 6 apartments. Whilst higher parking levels are desirable, the apartments proposed are of a modest size and would be 100% affordable housing and so a ratio of 1.5 spaces per dwelling is considered adequate, and in accordance with the parking standards of the former Bridgnorth District Council which remain in force in this area of Shropshire. Third party comments have questioned whether the car parking spaces adjacent to the front boundary are capable of construction within the applicant's ownership, however the applicant has supplied land registry plans showing this land is under their control. Layout and surfacing of car parking spaces can be conditioned as prior to occupation of the units to ensure delivery.

6.7 Drainage and Services

6.7.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The Council's Drainage Team have assessed the proposal and are content that the technical drainage matters could be addressed through conditions on any planning permission that is issued.

6.7.2 The manner in which connections would be achieved to the foul sewer and to other services would be a matter for a developer to negotiate with the relevant statutory undertakers and any third parties who may be involved.

6.8 Land stability

- 6.8.1 The Coal Authority have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 6.8.2 The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Ground Investigation Report (undated), which accompanies this planning application.
- 6.8.3 The Report correctly identifies that the application site has been subject to past coal mining activity. The Report covers a wider site, much of which has been developed previously. The previous intrusive site investigation in the form of boreholes does not appear to include any that were specifically located on this latest application site. The Report in paragraph 5.2.1 identified that there is insufficient rock cover above the coal workings. It went on to recommend in 5.2.2 that mitigation in the form of grouting should be undertaken.
- 6.8.4 The Coal Authority concurs with the recommendations of the Ground Investigation Report; that coal mining legacy potentially poses a risk to the proposed development. Therefore The Coal Authority considers that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on this specific part of the site.
- 6.8.5 The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.
- 6.8.6 In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development. On the basis of such conditions being attached to any consent, the Coal Authority have confirmed they would have no objection to the proposed development.

6.9 Contamination.

- 6.9.1 Core Strategy policy CS6 seeks to secure safe developments. The NPPF at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/or landowner. It continues at paragraph 121 that in making decisions there should be adequate site investigation information presented, prepared by a competent person. A Ground Investigation Report has been submitted. Given the historic use of the proposed site for industrial activities, along with known contamination issues on adjoining sites as well as reported issues with the original development of the Woodlands, it is recommended that full contaminated land conditions are imposed should this application be granted approval in order to ensure this matter is adequately addressed in the implementation of the

development.

7.0 CONCLUSION

7.1 The principle of residential development on land which includes the current application site has previously been accepted by the Council. The site falls within the Development Boundary for Broseley and Jackfield in the soon to be adopted SAMDev Plan, to which substantial weight may be attached at this final stage prior to adoption, and is also within the Development Boundary shown in the Broseley Town Plan 2013-2026. It would be a 'windfall' site contributing to the supply of housing land and the provision of 6 affordable dwellings adjacent to an existing residential development, on land which has had previous, albeit more recently abandoned, industrial use. The nature of the site means that there is limited amenity space for the new dwellings, but it is considered adequate for the nature of the accommodation proposed. It is acknowledged that the space within the application site to manoeuvre vehicles into and out of the parking spaces immediately adjacent to the west site boundary would be restricted, but a turning area would be available.

It is considered that on balance the proposed development, as amended, would not detract from the character or appearance of the Severn Gorge Conservation Area and World Heritage Site. The impact of the proposed development upon the residential amenities of adjacent properties is not considered to be to a degree that would warrant refusal. The proposals would not be detrimental to highway safety. Ecological and archaeological interests can be safeguarded by planning conditions, as can the measures to address on-site contamination and details of the foul and surface water drainage arrangements. A Section 106 Agreement would secure the management of the units as affordable housing in line with Core Strategy policies CS9 and CS11.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

- National Planning Policy Framework
- National Planning Practice Guidance

Shropshire Core Strategy and saved Local Plan policies:

- CS3 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
- D6 Access and parking

SAMDev Plan:

- MD2 Sustainable Design
- MD3 Managing Housing Development
- MD12 The Natural Environment
- MD13 The Historic Environment

Supplementary Planning Documents:

- SPD on the Type and Affordability of Housing

Other material considerations:

- Broseley Town Plan 2013-2026

11. Additional Information

View details online:

<http://new.shropshire.gov.uk/planning>

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

Ground Investigation Report
Design and Access Statement
Tree Report
Ecological Site Assessment

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member - Cllr Dr Jean Jones

Appendices
APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to the above ground works commencing samples and/or details of the roofing materials, the materials to be used in the construction of the external walls and hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory, in the interests of the visual amenities of the area.

4. 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 and depths of external reveals. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the character and appearance of the conservation area and world heritage site.

5. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the character and appearance of the conservation area and world heritage site.

6. Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority: Foundation design and finished floor levels in relation to existing site ground levels. The work shall be carried out in accordance with such details as may be approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding the amenity and privacy of the occupiers of adjacent property.

7. Before development commences, details of all fences/walls to the application site and within or around individual curtilages within it, showing their appearance, materials and positioning, along with full engineering details and specifications of any retaining walls shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the conservation area and world heritage site and to safeguard neighbour privacy and to ensure any retaining walls are of an adequate standard to perform their function.

8. Prior to commencement of development a final Tree Protection Plan shall be submitted to the Local Planning Authority, providing details of those trees to be felled and those to be retained and protected during implementation of the approved development. The tree protection measures shall be installed as specified on the plan approved in writing by the Local Planning Authority, prior to delivery of materials or access of construction vehicles onto the site. Thereafter they shall be maintained in a satisfactory condition throughout duration of the development.

Reason: These details are required before the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

9. Prior to commencement of development a final Arboricultural Method Statement shall be submitted to and approved by the Local Planning Authority, addressing the following items:
 - i. Site construction access
 - ii. The intensity and nature of construction activities.
 - iii. Contractors car parking.
 - iv. Phasing of on-site operations.
 - v. Welfare facilities (requirement and siting)
 - vi. Storage and mixing areas.
 - vii. Specification of tree works.
 - viii. Installation of structures within RPAs.
 - ix. Root pruning.
 - x. Tree Protection (barriers and ground protection)
 - xi. Tree Protection Plan (final version)
 - xii. Installation of specialist foundations if required.
 - xiii. Removal of materials, facilities, and protective measures for the final phase
 - xiv. Post construction tree works.
 - xv. Monitoring

The tree works shall be carried out and the development shall be implemented strictly in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

Reason: This information is required prior to the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

10. Prior to commencement of development, a planting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the species, numbers, location, planting specification and means of protection and support of the trees and shrubs to be planted in association with the development.

Reason: This information is required prior to commencement to ensure a satisfactory form of landscaping to the development.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out the first planting and seeding seasons following the first occupation of a dwelling within the development, and any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years from planting shall be replaced by another of similar specification, unless the Local Planning Authority gives written consent to any variation.

Reason; To ensure a satisfactory form of landscaping to the development.

12. Prior to the commencement of development, drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

13. No development approved by this permission shall commence until a programme of archaeological work has been secured based on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.

Reason: The site is known to hold archaeological interest and as such the information is required prior to commencement to ensure that any archaeology is recorded and taken into account in the development of the site.

14. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

15. Contaminated land

a) No development shall take place until a Site Investigation Report assessing the nature and extent of any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. 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'.

b) In the event of the Site Investigation Report finding the site to be contaminated no development shall take place until 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. The works detailed as being necessary to make safe the contamination shall be carried out in complete accordance with the approved Remediation Strategy.

c) 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.

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

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

16. No development, demolition or site clearance procedures on the site to which this permission applies shall commence until a report has been submitted to, and approved in writing by, the local planning authority detailing how the development, demolition or site clearance procedures will incorporate reasonable avoidance measures that minimise the risk of injury or death of slow worms, common lizards, grass snakes and/or adders.

Reason: To ensure compliance with the legislation pertaining to widespread reptiles.

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

17. Before any of the dwellings is first occupied, the access, driveway and parking spaces that would serve that property shall be constructed, surfaced and drained in accordance with details which have first been approved by the Local Planning Authority. The parking spaces and turning head shall thereafter be maintained and kept available for the parking and turning of vehicles.

Reason: In the interests of highway safety and to ensure that adequate parking facilities are available to serve the development.

18. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

19. 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.

20. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

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

21. No construction and/or demolition work shall take place outside the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00- 13:00. No works shall take place on Sundays, public and bank holidays.

Reason; To protect the health and wellbeing of residents in the area.

22. The rooflights in the south facing side roofslope of the building shall be obscure glazed and non-opening unless the parts of the window which can be opened or is clear glazed are more than 1.7m above the floor of the room in which the window is installed, and shall be maintained as such in perpetuity.

Reason: To protect the amenities of neighbouring residential properties.

Informatives

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
4. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
5. In determining this application the Local Planning Authority gave consideration to the following policies:

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

Shropshire Core Strategy and saved Local Plan policies:
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
D6 Access and parking

SAMDev Plan:

MD2 Sustainable Design
MD3 Managing Housing Development
MD12 The Natural Environment
MD13 The Historic Environment

Broseley Town Plan 2013-2026

SPD on the Type and Affordability of Housing

6. The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

Site workers should be made aware that any deliberate or reckless harm to reptiles is illegal. Careful site clearance can minimize the risk to these species.

7. If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.
8. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive.

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

9. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).