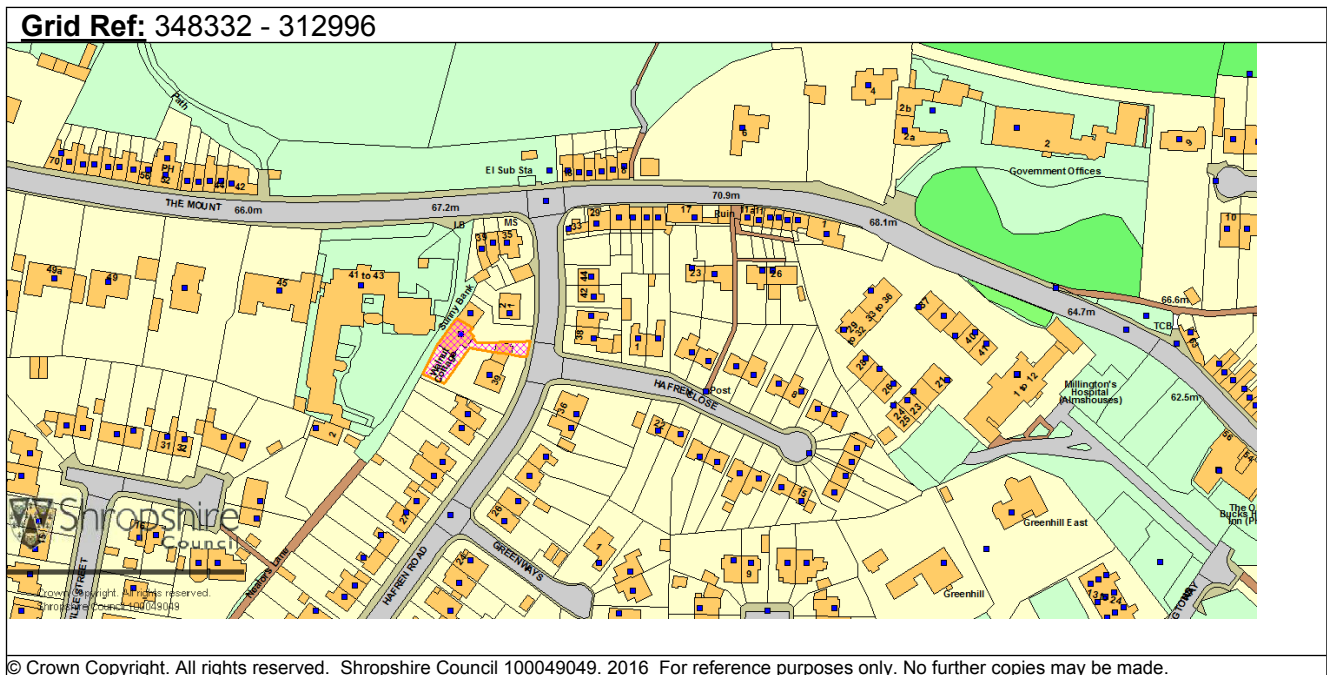


## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 17/02940/VAR	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Variation of Condition No. 2 (approved plans) pursuant to 14/01324/FUL to allow for an increase in height of approved extension		
<b>Site Address:</b> Walnut Cottage Nealors Lane Shrewsbury SY3 8NF		
<b>Applicant:</b> Mr & Mrs M Rogers		
<b>Case Officer:</b> Cathryn Robinson		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>



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

## **REPORT**

### **1.0 THE PROPOSAL**

**1.1** This application seeks permission to vary condition 2 attached to application 14/01324/FUL to amend the plans approved by this condition in order to allow for an increase in height of the afore-approved extension.

### **2.0 SITE LOCATION/DESCRIPTION**

**2.1** Walnut Cottage is a semi-detached property off the Mount just outside central Shrewsbury. It has a large garden to the side and a thin strip of land to the rear (west) where there is a garage and rear access point facing onto Hafren Road.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

**3.1** The Town Council have provided views contrary to the Officers recommendation. This has been discussed with the Local Member whom has requested a committee determination for this application.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 Shrewsbury Town Council**

Members were concerned about the neighbouring residents being overshadowed from the significantly increased ridge height. They would support the application if the height of the roof was reduced to the original height when approval was last granted. They requested that this application be considered by the Central Planning Committee.

##### **4.1.2 SC Ecology**

No objection; informatives recommended.

##### **4.1.3 SC Conservation**

Comments were made by the Conservation Officer to the previous submission (14/01324/FUL) which was approved following revisions to reduce the height. Whilst concerns were raised regarding the increased height of the garage within the context of the conservation area, no objections were raised provided the work was of a high standard in terms of external materials, roof lights and joinery and conditioned accordingly. The scheme now proposed is slightly higher than the amended approved plans, but lower than the original submission that we commented on from the 2014 application. In this regard it is not considered that the additional height would be considered to negatively impact on the conservation area where taking account of the approved scheme and in considering the relevant policies and legislation referred to above. Appropriate conditions are recommended in respect of materials, rooflights and joinery if the scheme is recommended for approval.

**4.1.4 SC Trees**

No objection.

**4.1.5 SC Archaeology**

We have no comments to make on this application with respect to archaeological matters.

**4.2 - Public Comments**

**4.2.1** This application was advertised via notice at the site and newspaper advertisement. Additionally, the residents of four neighbouring properties were individually notified by way of publication.

**4.2.2** At the time of writing this report, two representations had been received in response to this publicity. The objections/concerns are summarised as follows –

- Application appears to be a resubmission of previous works, which were refused due to being inappropriate
- Loss of light
- Fragmentation of the curtilage; concerns a new/separate dwelling would be established on the site
- Works will make the existing property even more out of scale and character
- Insufficient information submitted in order to make an informed assessment
- Incorporation of hipped roof provides opportunity for ambiguity surrounding the impact of any height increase

**5.0 THE MAIN ISSUES**

**Principle of development**

**Siting, scale and design of structure**

**Impact on visual amenity**

**Impact on neighbouring amenity**

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

**6.1.1** The application form as submitted is for the removal or variation of a condition following the granting of planning permission ref: 14/01324/FUL under s73 of The Town and Country Planning Act 1990 (TCPA). A s73 application allows for minor material amendments to those already approved permissions, subject to their being a relevant condition that can be varied. An approval to vary or remove a condition is, in effect, the issuing of a new planning permission – sitting alongside the original permission, which remains intact and unamended (para 015, 17a PPG).

**6.1.2** Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring

development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.

## **6.2 Siting, scale and design of structure**

**6.2.1** Proposed are alterations to the height of the existing garage, which has been previously permitted an increase by way of facilitating its conversion to residential accommodation. In relation to the garage roof height, as initially proposed during the course of application 14/01324/FUL, an increase of approximately 2m (overall ridge height approx. 5.8m) was sought; this was subsequently amended to be, and permitted as, an increase of some 0.7m (overall ridge height approx. 4.5m).

Following this amendment, the overall scheme – which consisted also of a link extension connecting this garage to the main house – was considered to be acceptable its scale, design and siting.

**6.2.2** The current application seeks to increase the overall ridge height to roughly 5.5m, namely a 1m increase on the previous approval; this amendment is pursued in order to allow sufficient head height for first floor accommodation within the structure. The currently proposed design also noted to feature a semi-hipped roof, in contrast to the previously approved gabled roof, and a shallower ridgeline.

**6.2.3** The incorporation of design features – the slightly reduced overall ridge height, the shallower roof pitch and half-hipped roof design – are considered a notable improvement to the originally submitted design which was deemed inappropriate. Though this represents an increase of roughly 1m on that design previously approved by application 14/01324/FUL, it is not considered that the overall scale and design is inappropriate in this instance.

## **6.3 Impact on visual amenity**

**6.3.1** The variation to the roof design, incorporating a semi-hipped roof, is acknowledged to make effort by way of working to lessen the bulk and massing of the proposal. It is noted that the 1m height increase in comparison to that previously approved shall see the garage as a more prominent installation within the street scene; however it is not considered that this visual impact is sufficiently detrimental as to warrant the refusal of the application.

## **6.4 Impact on neighbouring amenity**

**6.4.1** The application site its neighbouring properties exhibit somewhat irregular curtilages; the garage in question adjoins the garage of neighbouring no.39 to the South, and runs along the shared curtilage (and the only garden amenity space) of neighbouring Sunny Bank to the North. It is noted that a cluster of mature trees currently occupy this shared boundary.

**6.4.2** Falling within the Shrewsbury Conservation area, it is noted that the aforementioned trees located to the shared curtilage boundary could not be felled without consent from the Local Authority; as such this affords a notable degree of protection to the neighbouring residents. The sectional drawings provided with this application illustrate that the garage height as proposed shall not surpass the overall height of these trees; therefore it is not considered that the proposed works shall significantly exacerbate the existing situation in terms of neighbouring amenity.

**6.4.3** It is noted that the fenestration contained within the North facing gable of neighbouring no.39 appears to be obscure glazed, likely containing a bathroom. The existing garage of this curtilage also provides a degree of separation/buffering

from the development site. In this light, on balance, it is not considered that the proposal shall give rise to levels of harm to the amenity of neighbouring residents sufficient to justify the refusal of this application.

## **7.0 CONCLUSION**

**7.1** The proposed variation is deemed to remain in scale and character with the original and its setting, and is not considered to pose demonstrable harm to the amenity of neighbouring residents. The application therefore fails to accord with the principal determining criteria of the relevant development plan policies and approval is recommended.

## **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

#### **Core Strategy and SAMDev Policies:**

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

### RELEVANT PLANNING HISTORY:

SA/99/0924 Erection of a detached garage and provision of new vehicular access. PERCON  
27th October 1999

14/01324/FUL Erection of link extension from existing house to garage; raised garage roof and conversion; internal alterations GRANT 2nd July 2014

14/01324/FUL (Erection of link extension from existing house to garage; raised garage roof and conversion; internal alterations) to replace the existing back door and proposed new door with 1 no. bi-fold door on new line GRANT 25th August 2015

15/03469/AMP Non-Material Amendment to previously approved planning permission

15/03516/DIS Discharge of condition 3 (External Materials), 4 (Windows/Doors), 5 (Roof Windows) attached to planning permission 14/01324/FUL Erection of link extension from

existing house to garage; raised garage roof and conversion; internal alterations DISAPP 1st October 2015

17/02940/VAR Variation of Condition No. 2 (approved plans) pursuant to 14/01324/FUL to allow for an increase in height of approved extension PCO

## 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member
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Cllr Julian Dean
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Appendices APPENDIX 1 - Conditions
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**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 and the materials to be used in the construction of the external walls 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.

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. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

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 architectural and historic interest and character of the Heritage Asset.

**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

6. The development hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the existing dwelling on the site as a single dwelling unit, and shall at no time be occupied as a separate independent dwelling or used for commercial or business purposes.



Reason: To safeguard the residential amenities of the area and avoid the establishment of a separate dwelling unit without the requisite affordable housing contribution, in accordance with Policies CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

### **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 in order to secure an appropriate outcome as required by the National Planning Policy Framework paragraph 187.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all building renovation, demolition and extension works there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chose.

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

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

If during construction birds gain access to the building and begin nesting, work must cease until the young birds have fledged.

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