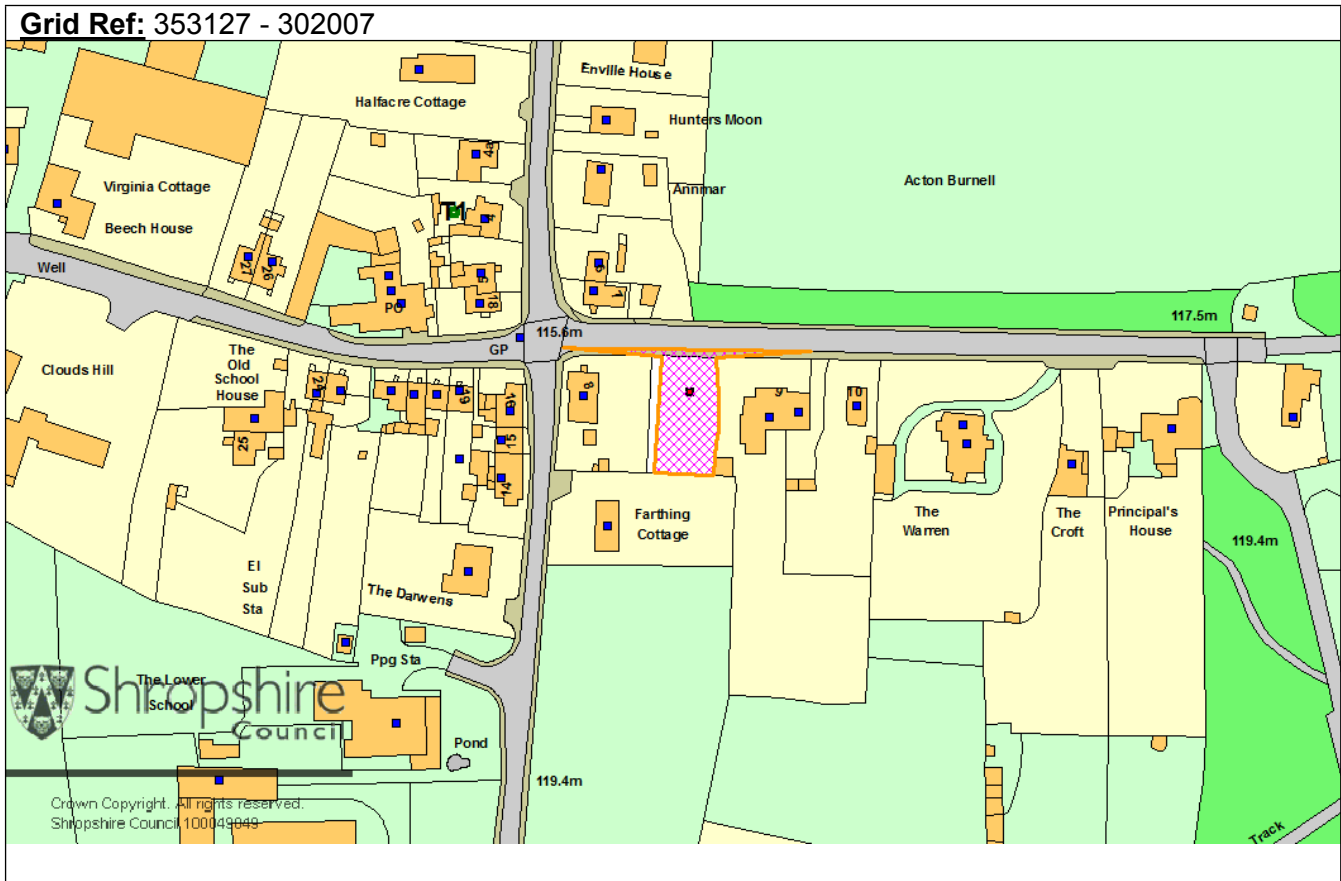


Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 19/00097/VAR	<u>Parish:</u>	Acton Burnell
<u>Proposal:</u> Variation of Condition No.2 (approved plans) attached to planning permission 14/01477/FUL dated 18/06/2015		
<u>Site Address:</u> Mulberry House Acton Burnell Shrewsbury Shropshire SY5 7PE		
<u>Applicant:</u> Mrs S Marcham		
<u>Case Officer:</u> Toby Cowell		<u>email:</u> planningdmc@shropshire.gov.uk



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

1.1 Permission is sought for a variation of condition 2 attached to planning permission 14/01477/FUL with respect to amending the approved plans in relation to the erection of a new dwelling. The application is part-retrospective with the dwelling currently under construction, and the proposed changes relate to the following:

- ☐ Insertion of 2 x gable fronted dormer windows in the rear elevation in place of the consented rooflights;
- ☐ Removal of external chimney breast with only chimney flue protruding above the roof;
- ☐ Extension of cladding to the exterior of the dwelling now incorporating the entirety of the double height gabled projection in the principal elevation and single storey side element;
- ☐ Minor fenestration alterations to the size and type of windows/doors on both the principal and rear elevations.

1.2 The application site is currently subject to an enforcement case with the application having been submitted on the advice of the Council's enforcement officer.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located within the centre of the village of Acton Burnell, approximately 10 miles south of Shrewsbury town centre and 5 miles east of Dorrington. The site is located within the Acton Burnell Conservation Area, with residential properties located to the west, east and south of the site. To the immediate south lies the rear garden of Farthing Cottage, with the actual cottage being set to the south west of the site orientated so that its rear elevation faces eastwards. Farthing Cottage also has a large detached garage set to the rear of the cottage, adjacent to the boundary of the existing garden to Corner House.

2.2 To the west of the application site is the house in ownership of the applicants, Corner House. The main elevations of Corner House front the two adjacent roads on its north and west elevations, although there are a small number of window openings on the eastern elevation that look toward the application site across the remainder of the garden area. To the east of the application site lies another

detached residential property, No.9 Acton Burnell, that is fairly well screened by trees and planting. No.9 is orientated so that its front elevation faces north, with its access driveway running from the northern driveway entrance down along the western side of the property.

2.3 Acton Burnell is not identified as comprising a Community Hub or Cluster within the SAMDev, and therefore constitutes Open Countryside,

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the objection from the Parish Council is contrary to the officer's recommendation. The application was considered at the Council's Central Planning Committee Agenda Setting Meeting and deemed appropriate to be heard by the Central Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Acton Burnell Parish Council

The Parish Council objects to this application. The original planning permission decision clearly identified the conditions under which planning was granted. The changes that have been made, to the development, show a complete disregard of the conditions that were put in place to both 'ensure the external appearance of the development is satisfactory within the conservation area' and 'to ensure the amenity and privacy of adjoining properties'.

4.1.2 SC Ecology

SC Ecology do not appear to have commented on 14/01477/FUL. We have no comments to make on this VAR application.

4.1.3 SC Trees

No comments to make.

4.1.4 SC Highways

No Objection – This application relates to a change to the approved plans attached to planning permission 14/01477/FUL dated 18th June 2015 to allow amendments to the external design of the house. The changes are not highway related and we have no comments to make on the proposed changes.

4.1.5 SC Archaeology

No comments to make.

4.1.6 SC Affordable Houses

No comments received at the time of writing the report.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site. Additionally, the occupants

of 9 neighbouring properties were individually notified by way of publication. At the time of writing this report, 5 letters of representations had been received in objecting to the proposals on the followings grounds:

- Increased overlooking from enlarged window and rear dormers;
- Oak cladding out of keeping with the locality;
- Dwelling has been increased in height – detrimental impact on neighbouring Grade II listed property and wider locality;
- Dwelling has been built in incorrect position and brought forward within the site;
- A number of trees have been removed from the boundary of the property;
- Impact on Conservation Area.

5.0 THE MAIN ISSUES

5.1 The principle of erecting a new dwelling has been established through the previous granting of planning permission under ref. 14/01477/FUL. The purpose of this report therefore focusses on the following matters:

Character and appearance Neighbouring amenity

6.0 OFFICER APPRAISAL

6.1 Character and appearance

6.1.1 Section 12 ‘Achieving Well-Designed Places’ of the National Planning Policy Framework indicates the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Development should also be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and sympathetic to local character and history, including the surrounding built environment and landscape setting, without resulting in the discouragement of appropriate innovation or change.

6.1.2 At the local level, Policy CS5 ‘Countryside and Green Belt and Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy encourages development that improves the sustainability of rural communities whilst requiring development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.1.3 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.

- 6.1.4 Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.
- 6.1.5 SAMDev Policy MD13: The Historic Environment further states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored.
- 6.1.6 In conjunction with the live enforcement case for the site, information has been submitted by the builder that the dwelling is built in accordance with the originally approved plans with respect to the height and positioning within the site. Notwithstanding this however, the Conservation Officer has reviewed the current status of the site in relation to the positioning and height of the dwelling currently under construction, and considered that the development does not result in a significant impact upon the character of the wider Conservation Area or the setting of the adjacent Grade II listed building.
- 6.1.7 Furthermore, whilst it is noted that the revised plans currently being considered as part of this application include a substantial increase of timber cladding to the exterior of the property, as is now currently evident on site, it is considered that the cladding would be weathered over time to a satisfactory degree that the resultant appearance of the dwelling's exterior would be acceptable from a visual impact standpoint.
- 6.1.8 No concerns are considered to be apparent with respect to the modifications to the chimney breast/flue, and the minor fenestration alterations and addition of dormers to the rear would likely improve the character of the dwelling when compared to the previously consented plans.
- 6.1.9 Consequently, the revised plans with respect to the proposed dwelling are considered to be acceptable from a visual impact perspective that would not unduly detract from the intrinsic character of the wider Conservation Area.

6.2 Neighbouring amenity

- 6.2.1 Policy CS6 of the Core Strategy seeks to safeguard residential and local amenity. The insertion of dormers within the rear elevation of the dwelling is not considered to materially impact the amenities of the adjacent residential property, Farthing Cottage, with respect to overlooking that the previously consented rooflights and first floor rear windows. The reasonable separation distance and presence of a detached garage within the curtilage of the aforementioned neighbouring property also satisfactorily mitigate against any realistic impact. No further issues are considered to be apparent within respect to neighbouring amenity in relation to the amended plans.

7.0 CONCLUSION

The proposed variation of condition application with respect to amending the

previously approved plans for the new dwelling are considered to be acceptable, insofar as such variations would not result in a detrimental impact upon the visual amenities of the locality, the wider Conservation Area in general or the amenities of surrounding residential properties.

Officer therefore recommend that the application be approved, subject to conditions set out in Appendix 1.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD7B - General Management of Development in the Countryside

MD13 - Historic Environment

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

13/02246/FUL Erection of 1No dwelling; formation of vehicular access and works to trees WDN 19th August 2013

14/01477/FUL Erection of 1No dwelling; formation of vehicular access and works to trees GRANT 18th June 2015

17/00524/VAR106 Variation of Section 106 agreement pursuant to 14/01477/FUL to reduce the level of affordable housing contribution, in this instance the AHC would be £18,000 so the reduced payment of 10% would be £1,800 REFUSE 7th April 2017

17/04205/TCA Removal of Leylandi Hedge and fell 1no Laburnam tree within Acton Burnell Conservation Area NOOBJC 12th October 2017

17/05415/LBC Demolition of existing garage, removal of internal partition walls on first floor, removal of concrete steps and construction of new steps formulated of Acton Burnell Stone with handrails, affecting a Grade II Listed Building (Amended Description) GRANT 29th January 2018

17/05418/FUL Erection of single storey side extension ,demolition of existing garage and construction of timber shed and greenhouse,removal of existing external concrete steps and construction of new steps formulated of Acton Burnell Stone with handrails ,affecting a Grade II Listed (Amended Description) GRANT 30th January 2018

17/05419/LBC Erection of single storey side extension affecting a Grade II Listed Building GRANT 30th January 2018

18/01615/DIS Discharge of Conditions 5 (Joinery), 6 (Roof Details), 7 (Roof Materials), 8 (Metal Rainwater Goods & External Plumbing) and 9 (Decorative Finishes) on Planning Permission 17/05419/LBC for the erection of single storey side extension affecting a Grade II Listed Building DISAPP 9th May 2018

18/02105/DIS Discharge of condition 3 (Materials) 4 (Watching Brief - Archaeology) attached to planning permission 14/01477/FUL Erection of 1No dwelling; formation of vehicular access and works to trees DISAPP 3rd July 2018

18/02343/TCA To remove 1 No Walnut Tree within Acton Burnell Conservation Area CBR 12th June 2018

18/02861/TCA Remove 1no woody species within Acton Burnell Conservation Area CBR 19th July 2018

19/00097/VAR Variation of Condition No.2 (approved plans) attached to planning permission 14/01477/FUL dated 18/06/2015 PCO

SA/86/1128 Formation of new vehicular and pedestrian accesses. PERCON 28th January 1987

SA/08/0539/TRE To fell one Larch tree and replant with more native species within Acton Burnell Conservation Area NOOBJC 28th May 2008

14/01477/FUL Erection of 1No dwelling; formation of vehicular access and works to trees GRANT 18th June 2015

17/00524/VAR106 Variation of Section 106 agreement pursuant to 14/01477/FUL to reduce the level of affordable housing contribution, in this instance the AHC would be £18,000 so the reduced payment of 10% would be £1,800 REFUSE 7th April 2017

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SA/08/0539/TRE To fell one Larch tree and replant with more native species within Acton Burnell Conservation Area NOOBJC 28th May 2008

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)

Cabinet Member (Portfolio Holder)
Cllr R. Macey

Local Member

Cllr Dan Morris

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

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

3. The access shall be constructed in accordance with the approved drawing prior to the dwelling hereby approved being first brought into use.

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

4. All soft landscape works shall be carried out in accordance with the approved arboricultural survey tree removal plan reference No.N023.1.30.8RevA and site plan No. N023.1.3.03RevB received on 18th June 2014. The works shall be carried out prior to the occupation of any part of the development. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

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

5. The replacement tree at the frontage should be planted a staked standard size in the first planting season following construction and be of the following type: 1 No Acer platanoides (Norway Maple) min size of girth 10 -12 cm.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

6. All trees and hedges which are to be retained in accordance with the approved plans no's N023.1.30.8RevA received on 18th June 2014 shall be protected with protective fencing in accordance with the BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenity of the site by protecting trees

7. The first floor windows in the west and east (side) elevations shall be permanently glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in these elevations above ground floor level.

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

Informatives

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