

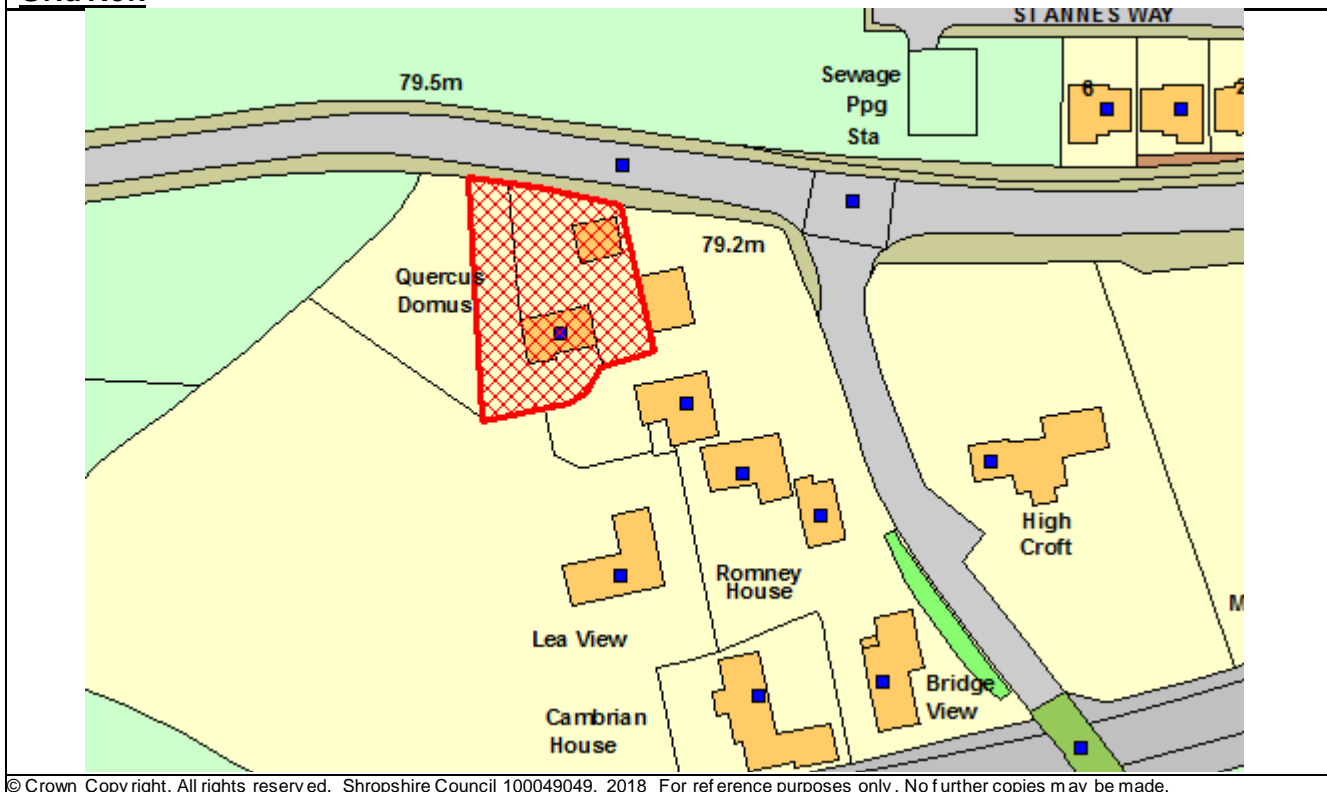
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b><u>Application Number:</u></b> 21/03707/VAR	<b><u>Parish:</u></b>	Pontesbury
<b><u>Proposal:</u></b> Variation of condition 2. to allow for amendments to the existing garage.		
<b><u>Site Address:</u></b> Quercus Domus, Pond Lane Hanwood, Shrewsbury, SY5 8JR		
<b><u>Applicant:</u></b> Mr Jack Goodall		
<b><u>Case Officer:</u></b> Tim Rogers	<b><u>email:</u></b> <a href="mailto:planningsouthern@shropshire.gov.uk">planningsouthern@shropshire.gov.uk</a>	

### Grid Ref:

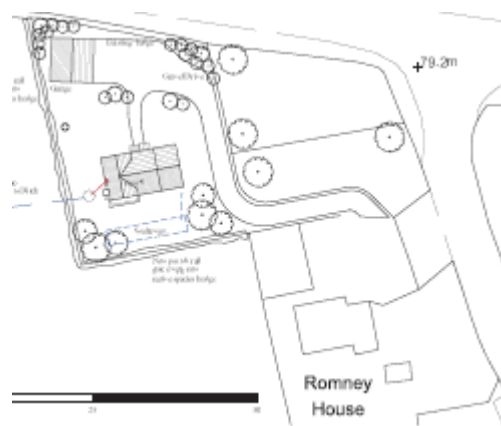


**Recommendation:** Grant permission subject to conditions and variation of relevant S106 Agreement.

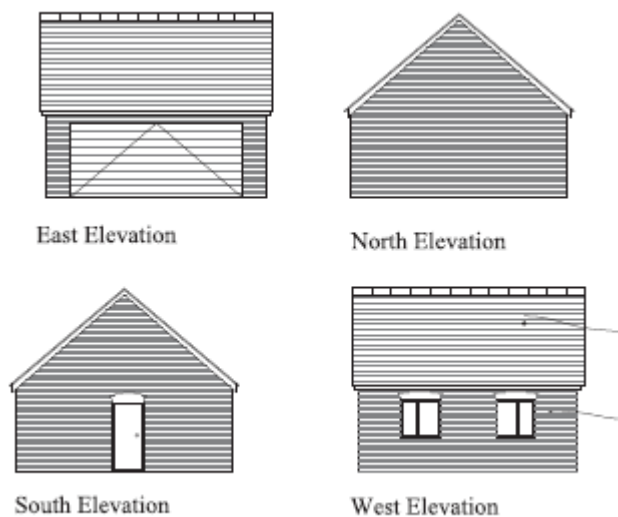
## 1.0 THE PROPOSAL

1.1 This application seeks retrospective permission to vary planning permission ref 13/01656/FUL which was granted for the erection of a 2-bed affordable dwelling and detached double garage. The revision sought is to vary the plans in respect of the location and size/design of the detached garage. The application was submitted following an enforcement enquiry in relation to the garage not being erected in accordance with the approved plans.

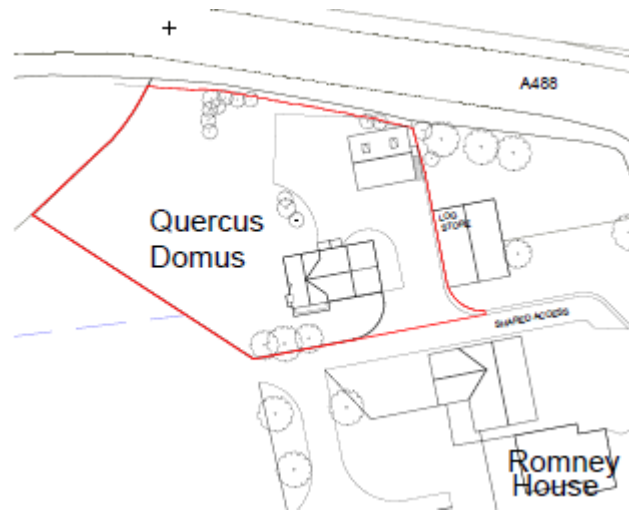
1.2 The original approval for the dwelling and garage included the following block plan:-



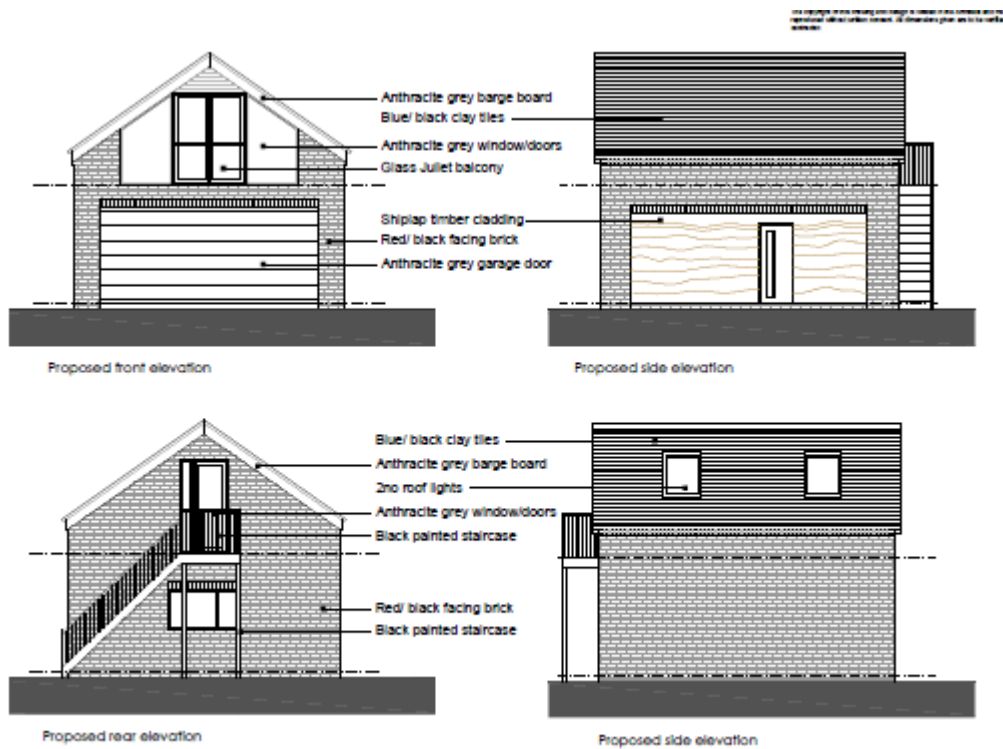
And the following elevations for the proposed garage:-



1.3 The proposed variation includes the following block plan:-



And the following elevations for the proposed garage:-



1.4 As may be seen from the plans above, as well as being in a different location the plans for the garage as now proposed show a higher building with an external staircase and some first-floor accommodation to provide an office area for the applicant. The first floor space will primarily be in the the roofspace to the building. The openings proposed at first floor level are a single door off the staircase, two rooflights and a picture window with Juliet balcony on the western elevation above the main garage door.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application relates to a two storey (affordable) dwelling set the west of a property called Romney House close to the junction of Pound Lane and the A488 in the western part of Hanwood to the South-West of Shrewsbury. The property shares an access with Romney House which is off Pound Lane and there are no other immediate neighbours.

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

- 3.1 The application has been submitted by a member of staff who reports indirectly to the Planning Services Manager and therefore the adopted scheme of delegation requires that the application be determined by the relevant committee.

## **4.0 COMMUNITY REPRESENTATIONS**

### **Consultee comments**

- 4.1 Pontesbury Parish Council have objected to the proposal and made the following comments:-

The design of the garage and room above is too big and too intrusive, as well as being unnecessarily domesticated, which lends itself to becoming an annex in the future. The height of the building interferes with the vista, the building is now so close to the boundary that the outside staircase and balcony impinge on the privacy of the neighbours. Pontesbury Parish Council has serious concerns of retaining the property as an affordable home should the application be granted. We note that in view of the size of the garage, the applicant appears to have changed the western boundary using agricultural land which has enlarged the garden. The Parish Council is completely opposed to this application, and we believe that in light of our comments the applicant needs to take down the garage building and submit an application to build a new garage. Should the Local Planning Authority be minded to approve this application, Pontesbury Parish Council believes it will set a precedent.

### **Public comments**

- 4.2 Two letters of support have been received from the occupiers of neighbouring properties. The comments received may be summarised as follows:-

- The design is in keeping with the original build and area.
- Don't consider that the size or location of the garage is imposing or impactful to its neighbours or passers by.
- The glazed gable design complements the design of the property next door.
- The extension to the family home, will allow the family to continue to comfortably reside here without the need to relocate.

- 4.3 In addition to the above the applicant has responded to the Parish Councils comments as follows:

1. The Parish Council's basic underlying concern is that my requested variation to the original planning permission will somehow prejudice the role or status of Quercus Domus as an affordable dwelling. I can only assume that the Parish Council is unaware of the content and tone of the Planning Inspector's

appeal decision letter of June 2019 (Ref 18/04951/VAR) which removed Conditions 8, 9 and 10 attached to the original planning permission (Ref 13/01656/FUL) for Quercus Domus. Following that decision no longer is the internal floor area necessarily restricted to 100 sq m nor is there any longer any restriction on utilising garage space as residential accommodation. Relative to the latter relaxation I hasten to add that I have no plans to utilise the garage space other than as indicated in my currently submitted plans.

2. The Parish Council's objection to the appearance of the garage is obviously subjective. Planning Officers have been aware of the design and siting of the garage building for some months now but have intimated no problem in these respects.
3. With due respect to the Parish Council I don't understand the objection to the external staircase and Juliet balcony. Relative to the external staircase on the east elevation of the building the site abutting this boundary of Quercus Domus is just open land with a log store. It is not a domestic property. The nearest neighbour on this side is High Croft situated on the other side of Pound Lane and set back some 75m and outside the direct line of sight from the external stairway. Relative to the Juliet balcony on the west elevation this looks towards open countryside. Therefore, I think it reasonable to say that use of the building will not infringe anyone's privacy.
4. Finally, with the benefit of hindsight we have recognised that the domestic curtilage as per the approved plan will leave an unusable corner of the adjacent field. I felt it would be more practical to extend this corner into the curtilage as indicated in the current submission. However, if this is an issue I will revert to the curtilage as initially approved.

## **5.0 THE MAIN ISSUES**

- Principle of development
- Layout, scale, design of proposed garage
- Residential amenity of adjoining occupiers
- Impact on affordability of dwelling

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 The principle of the development of the site for an affordable dwelling with detached garage has already been established by the original planning permission ref 13/01656/FUL. It is accordingly only the position and design of the garage that is up for consideration as a result of the current application.

6.1.2 The applicant has indicated that they wish to also seek approval for extension of the residential curtilage into land west of the original approval. It is however not possible to amend the application site by variation of an existing permission, and therefore this will need to be the subject of a separate application for change of use should they wish to pursue this.

### **6.2 Layout, scale and design of proposed garage**

- 6.2.1 As can be seen from the plans at the head of this report the original approval included the erection of a single storey double garage in the north-western corner of the application site close to the boundary with the A488 and an open field. The location of the garage as now proposed and constructed is in the north-eastern of the site still close to the boundary with the A488 and also adjacent to an area of garden to an adjoining property which accommodates a barn/store outbuilding for that property. Although the building as now proposed (and erected) is higher than that originally approved it is sited closer to the group of buildings that comprise the application property and its neighbour and is not considered to be unduly high or prominent.
- 6.2.2 As will be demonstrated by photographs presented at the meeting the proposed building is of a contemporary design which is in keeping both in terms of appearance and scale with the adjoining approved buildings. Whilst visible from the adjacent highway it is not overly prominent or domineering and its visual impact will continue to diminish as the building ages and adjacent vegetation continues to mature.
- 6.2.3 Given the above it is considered that the proposal is acceptable in terms of its location, scale and design.

### **6.3 Residential Amenity of adjoining occupiers**

- 6.3.1 The plans for the garage as proposed include an external staircase and first floor doorway in the eastern elevation. This overlooks land forming part of a neighbouring property although it is some distance from that dwelling and is separated by a barn/store. Given the physical relationship between the properties, and whilst acknowledging the concerns raised by the Parish Council, it is not considered that the degree of overlooking would be unacceptable. There are no other implications for the occupiers of adjoining properties and no objections have been received from neighbours in this regard.

### **6.4 Impact on affordability of dwelling**

- 6.4.1 In 2018 an application (ref 18/04951/VAR) was made to remove a condition imposed on the original consent for the affordable dwelling. The condition in question limited the gross internal floorspace of the dwelling to 100 square metres in line with the Councils adopted policy on affordable dwellings. The application was refused by the Council and the applicants subsequently appealed. The appeal was successful and a planning Inspector allowed the appeal and removed the condition on the basis that the future affordability of the dwelling was secured by a S106 agreement. Furthermore, the Inspector also took out conditions 9 and 10 from the consent, which removed permitted development rights and restricted use of the garage as additional living accommodation respectively.
- 6.4.2 It is clear from the previous Inspectors decision that he considered that the affordability of the dwelling was appropriately secured by the S106 Agreement regardless of any further additions or alterations to the property. Accordingly it should be accepted in consideration of the current proposal, that as the S106 remains in place the same consideration should apply and approval of the amended garage details will not materially affect the affordability of the property.

- 6.4.3 Approval of an application to vary a planning permission results in a new planning permission which sits alongside the original consent. Therefore, in this case, should the application be approved it will necessitate a variation to the original S106 Agreement to ensure that it also relates to the new consent and thereby restricts the value of the property in perpetuity as required by adopted policy.
- 6.4.4 The applicant has previously applied to have the affordable tie on the property removed (application withdrawn) and may do so again in the future, but that is a separate matter to the current application.

## **7.0 CONCLUSION**

- 7.1 Whilst acknowledging that the application is retrospective and that this is in itself a cause of concern to some parties, the application must nevertheless be considered purely on its planning merits. The material considerations to be taken into account are set out above and no conflict with adopted policies or unacceptable impacts have been identified. Accordingly, subject to appropriate conditions, and to the applicant entering into a variation to the S106 Agreement for the property as set out above. It is recommended that the application be approved.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk management**

- 8.1.1 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**

- 8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

### 8.3 **Equalities**

8.3.1 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**

9.1 There are likely financial implications if the decision and/or imposition of conditions are 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.

## 10.0 **BACKGROUND**

### **Relevant Planning Policies:**

#### Central Government Guidance:

National Planning Policy Framework

#### Shropshire Local Development Framework:

#### Core Strategy Policies:

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

#### SAMDev Plan Policies:

MD2 - Sustainable Design

Supplementary Planning Documents: Type and Affordability of Housing

### **Relevant Planning History:**

PREAPP/12/00448 Erection of a dwelling NPW 22nd April 2013

PREAPP/12/00454 Single plot exception site PREAIP 13th November 2012

13/01656/FUL Erection of a 2-bed affordable dwelling and detached double garage GRANT  
18th June 2014

14/04658/DIS Discharge of Conditions 3 (External Materials), 4 (Boundary Treatments), 5 (Foul & Surface Water) and 6a (Land Contamination) on Planning Permission 13/01656/FUL for the erection of a 2-bed affordable dwelling and detached double garage DISAPP 25th November 2014



18/04951/VAR Removal of Condition No.8 (gross internal floor area) attached to planning permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double garage REFUSE 20th December 2018

20/00996/DSA106 Discharge of S106 agreement attached to planning permission reference 13/01656/FUL WDN 11th November 2020

21/03707/VAR Variation of condition 2. to allow for amendments to the existing garage. PCO

Appeal

19/02711/REF Removal of Condition No.8 (gross internal floor area) attached to planning permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double garage ALLOW 6th June 2019

## 11.0 ADDITIONAL INFORMATION

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

<b>List of Background Papers:</b>
Application documents available on Council website
<b>Cabinet Member (Portfolio Holder):</b>
Cllr Ed Potter
<b>Local Members:</b>
Cllr Roger Evans
<b>Appendices:</b>
Appendix 1 – Conditions and Informatives

## APPENDIX 1 – CONDITIONS AND INFORMATIVES

### STANDARD CONDITIONS

1. The development shall be carried out in strict accordance with the approved plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### INFORMATIVES

1. This permission should be read in conjunction with the legal agreement under Section 106 of the Town and Country Planning Act 1990 which refers specifically to this development.
2. 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 38.