



Committee and date

Southern Planning Committee

23rd August 2022

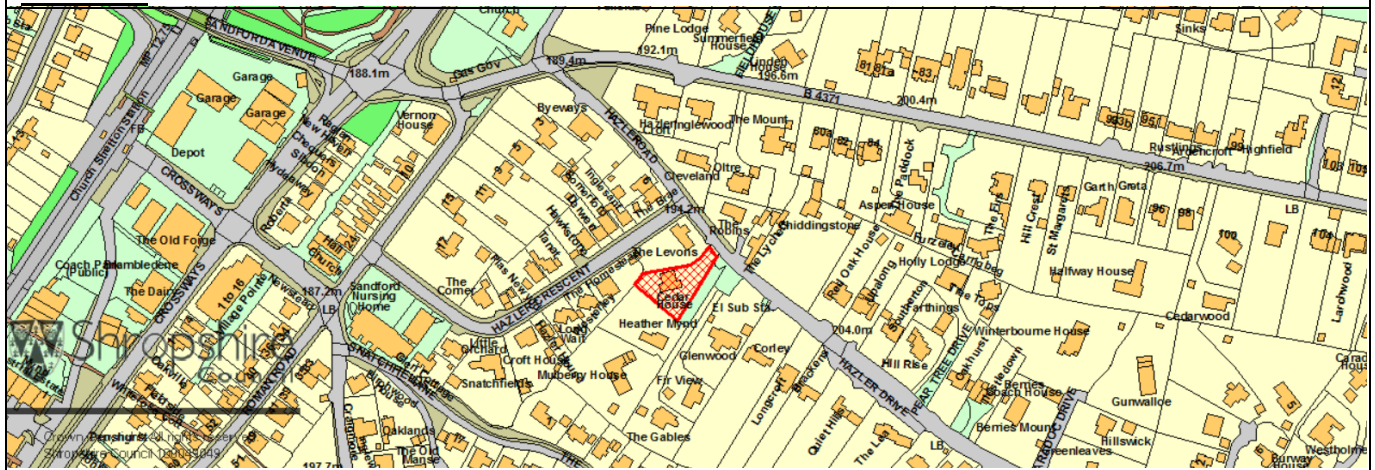
## Development Management Report (Update)

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

### Summary of Application

<b>Application Number:</b> 21/01955/FUL	<b>Parish:</b>	Church Stretton
<b>Proposal:</b> Erection of detached garage		
<b>Site Address:</b> New dwelling (Cedar House) adj. The Levons, Hazler Road, Church Stretton, Shropshire, SY6 7AQ		
<b>Applicant:</b> Halco Homes Ltd		
<b>Case Officer:</b> Trystan Williams		<b>email:</b> trystan.williams@shropshire.gov.uk

Grid Ref: 345927 - 293480



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**Recommendation:** Grant permission subject to the conditions set out in Appendix 1 of Annex A

## UPDATE REPORT

### 1.0 Introduction and purpose of report

- 1.1 This application seeks full planning permission to erect a detached domestic outbuilding in front of a newly built dwelling approved under previous applications 18/01563/OUT and 20/02813/REM, partly in place of one of two on-site vehicle turning spaces.
- 1.2 At their meeting on 28<sup>th</sup> June 2022, notwithstanding an officer recommendation of approval, members of the Southern Planning Committee resolved to defer determining the application pending further negotiations with the property's new owners to try and address concerns, particularly about vehicles potentially needing to reverse out of the site onto the public highway. Subsequently, given the constraints of the plot, the applicants have decided not to submit amended plans showing the garage repositioned or foreshortened. However, they have submitted a brief statement explaining why they feel the scheme would not have any significant adverse impact on highway safety, as discussed in more detail below. Bearing this in mind (alongside all other material considerations), the committee is now requested to determine the application as it stands.
- 1.3 For background and ease of reference, the case officer's original committee report and recommendation are attached as Annex A.

### 2.0 Highway safety

- 2.1 The applicants' statement explains that even if the garage were to be set further back or foreshortened, there would be insufficient space for a turning facility in front owing to the plot's narrow width at this point. However, it emphasises that a 3-point turn is possible further back, at the head of the driveway directly in front of the new house. The applicants also argue that, in any event, highway safety would not be significantly compromised because:
- the site is accessed off a "very quiet" residential road subject to a 30mph speed limit;
  - reversing onto this road would not be contrary to the Highway Code or any other statutes; and
  - the access affords 41-metre visibility splays in both directions, which would be ample for exiting in either a forward or reverse gear.
- 2.2 Officers again acknowledge the safety concerns raised by the Highways Development Control Team, Church Stretton Town Council and neighbouring residents, and concede that turning in the remaining space directly in front of the house may not always be possible (for example if multiple cars are present) or attractive (as it would be quicker for drivers who have parked in the proposed garage to reverse straight out). However, it is maintained that there are many other properties along Hazler Road where cars must be reversed in or out, as is quite usual in residential areas. It is also true that the local planning authority, or for that matter the police, could not ultimately prevent motorists from reversing onto or off the road even if additional turning space were to remain available on-site. Furthermore, it is recognised that the shape of the plot and the need to avoid any further damage to retained trees (again see the original committee report in that respect) severely limit options for siting a garage elsewhere.

### **3.0 Conclusion**

- 3.1 Overall, therefore, and also giving appropriate weight to the other relevant planning issues as discussed in the original report, officers maintain that the proposal accords with the principal determining criteria of the relevant development plan policies, and hence continue to recommend approval subject to conditions to reinforce the critical aspects.

## ANNEX A

**COPY OF OFFICER REPORT AND RECOMMENDATION  
CONSIDERED AT 28<sup>TH</sup> JUNE 2022 SOUTHERN PLANNING COMMITTEE MEETING**



Committee and date

Southern Planning Committee

28<sup>th</sup> June 2022

-

New dwelling (Cedar House)  
adj. The Levons

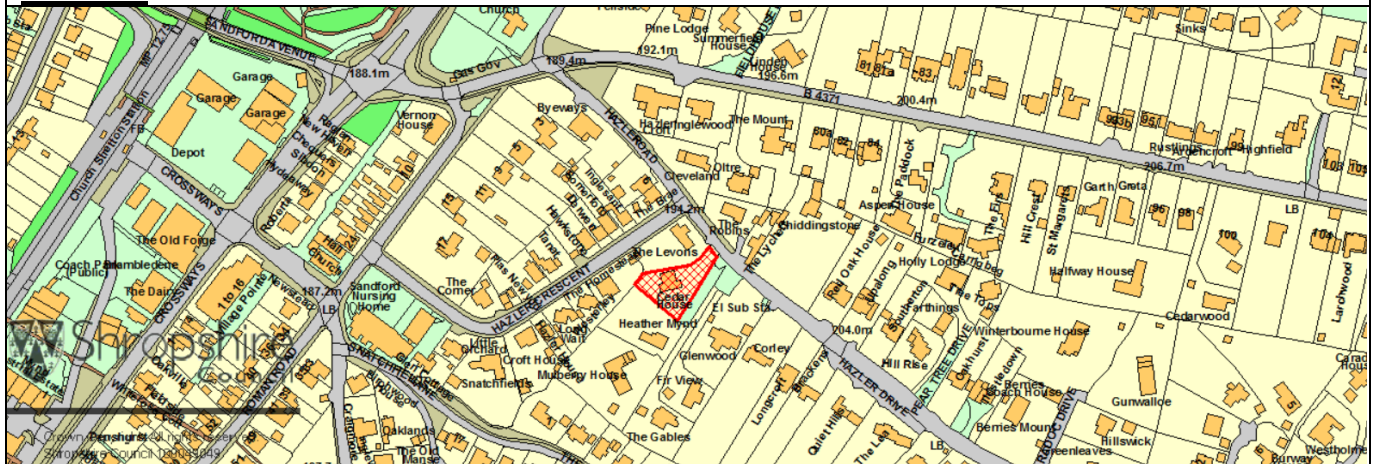
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## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission to erect a detached domestic outbuilding in front of a newly built dwelling approved under previous applications 18/01563/OUT and 20/02813/REM. It would be a long, narrow 30.6m<sup>2</sup> single-storey structure with brick plinth, weatherboarded upper walls, side-hung vertical timber garage doors and a gabled clay tiled roof. It would contain a single garage at the front and a small storeroom behind.
- 1.2 As now clarified on an amended block/landscaping plan, the scheme also involves slight changes to the previously approved layout of the site entrance, and in this respect the application is retrospective. The double timber entrance gates are now slightly wider and aligned more centrally within the narrow road frontage rather than being offset to the right (northwest). Consequently, a short stretch of native hedge planting previously agreed to the left has been omitted except for a very small amount just in front of an established hedge along the southeast boundary. Instead, the gates are hung off brick piers with low stone flanking walls. Meanwhile the garage would encroach into what would have been an open parking space/turning head just inside the entrance, although the driveway would still extend along the building's right-hand side and up to another parking space/turning area in front of the dwelling itself.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Levons stands alongside the junction of Hazler Crescent with unclassified Hazler Road in Church Stretton's eastern suburbs and conservation area, and the wider Shropshire Hills Area of Outstanding Natural Beauty (AONB). It is a detached 1920s two-storey house faced in brick under a hipped plain tiled roof. On its southeast side, and previously part of its garden, the application site is a 0.095-hectare funnel-shaped plot with a narrow frontage onto Hazler Road as described above, and the new dwelling (now named 'Cedar House', and of two storeys in brick and weatherboarding with a projecting timber-framed and glazed dormer over the entrance) set well back and elevated slightly where the space opens out. The outbuilding would stand just inside and left of the entrance, against the southeast boundary with a tree-lined driveway serving two dwellings on 'backland' plots. Further southeast is another shared driveway and, beyond that, an Arts and Crafts-style house with mock-Tudor and weatherboarded front gables. More dwellings opposite are again varied in form and style, but most have generous plots with established hedges and trees.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee for determination because the officer recommendation of approval is contrary to an objection from the Town Council, and Shropshire Council's Planning and Development Services Manager, in consultation with the Planning Committee Chairman and Local Member, agrees that material planning considerations have been raised and warrant consideration by the full committee.

#### 4.0 COMMUNITY REPRESENTATIONS

##### 4.1 Consultee comments

###### 4.1.1 Shropshire Hills AONB Partnership – comment:

No site-specific comments. However, this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

###### 4.1.2 Shropshire Council Flood and Water Management – comment:

Any permission given should include an 'informative' encouraging sustainable surface water drainage systems (SuDS).

###### 4.1.3 Shropshire Council Historic Environment (Archaeology) – no objection:

No comments

###### 4.1.4 Shropshire Council Historic Environment (Conservation) – no objection:

The garage would be modest in scale and form, and would have minimal impact upon the conservation area's character and appearance.

###### 4.1.5 Shropshire Council Tree and Woodland Amenity Protection:

25/5/21 – objection:

For the following reasons it is recommended that planning permission is refused:

- The proposal has arboricultural implications which conflict with the previously approved site layout.
- Since the garage would significantly encroach into the Root Protection Area (RPA) of a retained tree protected by both the conservation area regulations and conditions attached to the previous reserved matters approval for the new dwelling, the scheme also conflicts with good practice as set out in BS5837:2012 '*Trees In relation to demolition design and construction*'.
- Additionally, the proposals would erode the previously approved landscaping scheme without capacity for sustainable compensation or other improvements to the street scene in the conservation area and AONB. This is contrary to aspirations for sustainable design and environmental net gains under the Council's Core Strategy Policy CS6 and Site Allocations and Management of Development (SAMDev) Plan Policies MD2 and MD12.

###### 4.1.6 29/7/21 – objection:

The further amended block/landscaping plan now submitted offers no significant advantages, so the previous objection is maintained. Neither has any additional arboricultural detail or evidence to justify the tree and landscape impacts been provided.

###### 4.1.7 19/11/21 – objection:

Further information from an arboricultural consultant has now been provided. This concedes that a tree protection plan agreed under a previous planning condition was breached by excavations and siting of a shipping container within the RPA of a whitebeam protected by the conservation area regulations, whilst the house was

being built. The consultant proceeds to argue that this has already affected the tree's vigour, and hence that it is now acceptable to construct the outbuilding within the same area provided a 'no-dig' method is used. This is at best an afterthought and damage limitation exercise which cannot be supported. Instead, the excavated ground should be reinstated.

4.1.8 It is also reiterated that, besides the additional built form of the proposed garage, omitting the previously agreed hedgerow planting would further erode the verdant character of the Hazler Road street scene.

4.1.9 Shropshire Council Highways Development Control – objection:

As previously approved the area of the proposed garage would have been used as additional turning space, enabling vehicles to enter and exit the property in a forward gear. Omitting this facility is likely to result in reversing manoeuvres on the public highway. Any garage here should be repositioned to enable turning on-site, as should be confirmed on a dimensioned scale drawing also clearly showing all available parking spaces.

4.1.10 Church Stretton Town Council:

3/6/21 – objection:

By occupying space previously allocated for turning, the proposed garage would lead to drivers having to reverse blindly out onto Hazler Road at a point close to five other property entrances. Furthermore, the previously agreed hedgerow planting is now omitted.

4.1.11 20/7/21 – objection:

The revised block plan includes an existing tree previously omitted, extremely close to the proposed garage, which would encroach into its RPA. Councillors therefore share the concerns of Shropshire Council's Tree Officer.

## 4.2 **Public comments**

4.2.1 Residents from five separate households have objected on the following grounds:

- The proposed outbuilding at the very front of the site would be too prominent within the street scene and conservation area, and contrary to a Town Council Design Guide which encourages garages to be set back level with or behind established building lines.
- Providing access to the garage would involve omitting new hedgerow planting along the site frontage, in contravention of previous planning conditions and to the detriment of the street scene. This planting was intended to compensate for a hedge which was removed when the new dwelling was built.
- The small section of hedgerow planting now proposed on the amended block/landscaping plan would not remotely meet the requirements of the current planning permission, which includes planting along half of the road frontage.
- The garage would encroach into the RPA of a mature tree which was omitted from the original plan.
- The single garage would occupy a space which might otherwise have accommodated two cars, leaving inadequate parking provision for the new four-bedroomed house.
- The garage's proximity to the site frontage means it would afford emerging drivers



with inadequate visibility along the road, thereby compromising the safety of passing traffic and pedestrians.

- The garage would leave inadequate turning space within the site and result in drivers reversing into the road.

## **5.0 THE MAIN ISSUES**

- Principle of development
- Layout, scale, design and impacts on conservation area/wider landscape
- Access and highway safety
- Impact on residential amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 The development is acceptable in principle as it relates to the previously approved and now established new dwelling on the site. Ancillary use of the outbuilding would be reinforced through a standard condition.

### **6.2 Layout, scale, design and impacts on conservation area/wider landscape**

- 6.2.1 Core Strategy Policy CS6 and SAMDev Plan Policy MD2 expect all development to protect, restore, conserve and enhance the natural, built and historic environment, and to reinforce local distinctiveness by taking account of building forms, scale and proportion, heights and lines, materials and architectural detailing. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have particular regard to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by Part 16 of the National Planning Policy Framework (NPPF) and SAMDev Policy MD13, which attach great weight to conserving the significance of designated heritage assets, and require even 'less than substantial' harm to be weighed against any public benefits of the proposal. The NPPF also requires great weight to be given to conserving landscape quality and character in AONBs.

- 6.2.2 It is agreed with the Conservation Officer that the outbuilding itself would not be unduly prominent given its small scale, low height, traditional form, proportions, materials and detailing, the backdrop of established vegetation (and not just the whitebeam tree whose root protection area is in question), plus the fact that despite being positioned in front of Cedar House it would still be set back slightly from the façade of neighbouring property The Levons. Moreover, another outbuilding occupied a very similar position until recently.

- 6.2.3 The key issue, then, is whether potential damage to the whitebeam tree and omitting the previously agreed hedge planting would be harmful enough to warrant refusing planning permission.

- 6.2.4 Clearly the Council would not lightly condone the recent breach of the previously agreed tree protection plan, and it is noted that the Tree Officer recommends reinstating the ground to try and reinvigorate the tree rather than proceeding to build the garage, despite the applicant's arboricultural consultant suggesting that no-dig construction would potentially avoid any further significant impact. However, it was accepted under the previous application that this is an individually unremarkable 'Category C' tree of low quality and with an expected lifespan of 10-20 years.

Ultimately, therefore, it would be unlikely to merit a tree preservation order in the event of a Section 211 application to remove it, and under which there would similarly be no provision for compensatory planting.

6.2.5 It is recognised that the whitebeam does have group value in terms of extensive tree cover being a particular characteristic of this part of the conservation area, and acknowledged that in a recent appeal decision concerning development elsewhere along Hazler Road the Planning Inspectorate gave significant weight to that issue (ref. 21/02908/REF and associated planning application 20/02537/OUT). However, that was a larger-scale scheme for two new dwellings, and would have directly involved removing a number of mature trees.

6.2.6 Officers also judge that the reduced hedgerow planting resulting from the slight reconfiguration of the site's entrance does not demonstrably harm the conservation area. This would always have been a short stretch of hedgerow set back behind visibility splays, and whilst the new entrance currently looks a little stark, its brick piers and stone walling are completed to a high standard, recessed behind vegetation on either side, and will soon weather.

6.2.7 Furthermore, this modest development in a suburban setting has no significant impact on the wider landscape.

6.2.8 Overall, therefore, and on balance, officers suggest that the above policies are satisfied, and find the scheme's visual, heritage and landscape effects acceptable.

### 6.3 **Access and highway safety**

6.3.1 Officers also acknowledge the consultee and public concerns about access and highway safety, and concede that turning in the remaining space directly in front of the new house may be tight or unattractive to drivers who have parked in the proposed garage nearer the site entrance. However, there are many other properties along Hazler Road where cars must be reversed in or out, as is quite usual in residential areas.

6.3.2 The amended block plan confirms that the access retains 41-metre visibility splays in both directions, and shows sufficient space for both the garage doors and the site entrance gates to be opened or closed simultaneously while cars stand on the access apron, clear of the road. Meanwhile there would still be two dedicated on-site parking spaces including the garage (plus room for many more cars along the driveway subject to them reversing in or out), which is considered sufficient given the location within walking distance of a train station and town centre services, and the lack of any specific parking standards in the Council's Local Plan policies.

### 6.4 **Impact on residential amenity**

6.4.1 The outbuilding would not result in significant overlooking or overshadowing, or appear overbearing, given its small scale and separation from the neighbouring properties.

## 7.0 **CONCLUSION**

7.1 The development is acceptable in principle as it would be ancillary to the main house. The outbuilding itself, being small in scale and sympathetically designed, would not

be unduly prominent, and whilst there are some implications for previously agreed tree protection and landscaping plans, on balance it is not considered that these would demonstrably harm the character and appearance of the conservation area or the wider landscape. Neither do officers anticipate significant highway safety or residential amenity impacts. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

## **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

CS7 - Communications and Transport

CS17 - Environmental Networks

##### SAMDev Plan Policies:

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

### **Relevant Planning History:**

18/01563/OUT – Erection of dwelling and garage; formation of access drive (outline application with matters of access, appearance, landscaping, layout and scale reserved) (permitted June 2018)

19/01833/REM – Approval of reserved details (access, appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 18/01563/OUT (for erection of dwelling and garage, and formation of access drive) (withdrawn January 2020)

20/02813/REM – Approval of reserved matters (access, appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 18/01563/OUT (for erection of dwelling and formation of vehicular access) (permitted November 2020)

21/00231/DIS – Discharge Conditions 2 (materials), 3 (roof detailing) and 4 (fenestration) of reserved matters approval No. 20/02813/REM (for erection of dwelling) (approved January 2021)

21/00745/DIS – Discharge Condition 4 (drainage) of planning permission No. 18/01563/OUT (for erection of dwelling and formation of access drive) (approved February 2021)

21/04722/DIS – Discharge Condition 4 (fenestration) of reserved matters approval No. 20/02813/REM (revised proposal following previous approval of application 21/00231/DIS) (approved October 2021)

## 11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QRMA54TDMD700>

<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 David Evans Cllr Hilary Luff
<b>Appendices:</b>
Appendix 1 – Conditions and Informatives

## **APPENDIX 1 – CONDITIONS AND INFORMATIVES**

### **STANDARD CONDITIONS**

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 in strict accordance with the approved, amended 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.

### **CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION/PRIOR TO OCCUPATION OF DEVELOPMENT**

3. No works in connection with the outbuilding hereby permitted, including further ground clearance or excavations, shall commence until there has been submitted to and approved in writing by the local planning authority a scheme to safeguard existing trees and hedges which are to be retained on the site and along its boundaries. This shall include:
  - a) A tree protection plan which reflects guidance in BS 5837:2012: 'Trees in relation to design, demolition and construction'
  - b) A fully detailed and task-specific arboricultural method statement for all works within agreed root protection areas as defined in (a), to include details of a 'no-dig' construction method for the outbuilding

All works shall be carried out in accordance with the approved details.

Reason: To safeguard retained trees and hedges in order to help preserve the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### **CONDITIONS RELEVANT FOR LIFETIME OF DEVELOPMENT**

4. The external materials of the outbuilding hereby permitted shall match in colour, form and texture those of the existing dwelling on the site.

Reason: To ensure that the development harmonises with the existing dwelling, and to help preserve the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. The outbuilding 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. At

no time shall any part be occupied as a separate dwelling, or used for commercial or business purposes beyond a level that is incidental to the primary residential use.

Reason: To help safeguard the residential amenities of the area, in accordance with Policies CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

## INFORMATIVES

1. Your attention is drawn specifically to Condition 3 above, which requires the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. This planning permission does not authorise the applicant to:
  - construct any means of access over the publicly maintained highway (including any footway or verge);
  - carry out any works within the publicly maintained highway;
  - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
  - disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <http://www.shropshire.gov.uk/roads-and-highways/developing-highways/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

3. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
4. If any vehicular access and/or parking/turning areas slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water from the development to drain onto the public highway or into highway drains.

5. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the use of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
6. 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.