



### Committee and date

South Planning Committee

1 March 2016

## Development Management Report

Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 15/01819/FUL	<b>Parish:</b>	Ludlow Town Council
<b>Proposal:</b> Erection of replacement dwelling following demolition of existing		
<b>Site Address:</b> The Lodge Camp Lane Ludlow Shropshire SY8 1EQ		
<b>Applicant:</b> Mr R And Mrs A Cundall		
<b>Case Officer:</b> Chris Hammersley	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 350858 - 274398



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Contact: Tim Rogers (01743) 258773

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

## **REPORT**

### **1 THE PROPOSAL**

- 1.1 The proposal is to build a replacement house. The site is located within Ludlow Conservation Area, situated on the edge of the development boundary. A structural report commissioned on behalf of the applicant on the existing dwelling indicates that there is evidence of cracks that have been developing in recent years, although these cracks are not currently of great structural concern. The existing house is built into the stone roadside wall. This has long term implications for damp ingress into the house due to the water from the road/stone wall coming through to inside. The agent contends it would be difficult and expensive to upgrade the existing house to modern energy standards, and to improve access.
- 1.2 The original dwelling measures 85sq.m and the replacement dwelling measures 140sq.m which is approximately 60% larger than the original. The internal floor space of the proposed dwelling is less than the approximate 60% increase in the external measurement due to the thickness of the walls. The existing dwelling and the proposed replacement both contain four bedrooms.
- 1.3 The overall increase in size being mostly as a result of the 3-storey level rear projection and the east elevation. It adopts the existing undercroft feature creating an accessible accommodation level access from the lower garden: it appears 3-storey from the south (rear) elevation, whereas from the north (front) the house is 2-storey, which reflect the existing appearance of the house. On the ground floor, that would be set into the hillside, there would be a kitchen, hall, living room, utility, store and plant room. The first floor would have a galleried landing as its central feature, with level access onto the parking area. Accommodation at this level would comprise two ensuite bedrooms and a study. The second floor accommodation, within the roof space and front and rear gable projections, would provide two further bedrooms, a bathroom and a study area.
- 1.4 The side elevation would be sited further away from the side boundary with no. 40a Dinham, Camp Lane. The proposed dwelling would be further set back in the plot, set in from the frontage by some 6.2metres, and would project on the east side compared to the existing dwelling.
- 1.5 The proposal would adopt similar materials to the existing. The walls of the replacement house have a natural coursed rubble stone plinth (recycled local stone with lime mortar); the central and west wing would have painted render walls, in keeping with the existing house; the east wing would be of recycled local brick; windows white painted and the roof plain clay tiled to echo the existing. In this way the increased size of the building is mainly to the east elevation, with the house set into the landscape, similar pitched roof and details in keeping with the existing house and the surroundings. The agent envisages that the proposal would achieve a level of energy efficiency greater than that currently specified by Building Regulations.

The stone wall boundary treatment to Camp Lane would be retained and extended to maintain this form of enclosure to the lane.

- 1.6 In comparison with the details submitted with a pre-application enquiry the applicant has significantly reduced the footprint, and the fenestration has been altered to reduce the upper windows for a more traditional vernacular appearance. From Camp Lane the proposal would appear lower in height than the existing dwelling (by some 0.5metres).

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located on the edge of the open countryside and is in the Ludlow Conservation Area. The development boundary excludes the curtilage land of The Lodge. The house was built circa.1930 on the site of the Coach House to Maryvale House. The existing house has an Arts and Crafts era design.
- 2.2 The site falls within a landscape character which is one in which the landscape is largely dominated by settlement and existing development on the edge of the development boundary. Nevertheless, open views across the river are also a feature which the policy guidance seeks to maintain, within the Conservation Area and the adjacent open countryside.

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

- 3.1 The Town Council has objected and requested that the application be presented to the Planning Committee for consideration. The Principal Planning Officer, in consultation with the Committee Chairman and Vice Chairman consider that the Town Council has raised material planning issues and the application should be determined by committee.

## **4.0 Community Representations**

- 4.1 - Consultee Comments – comment.  
4.1.1 Ludlow Town Council –Object:

The proposal will have a significant detrimental impact on the Conservation Area, including non-designated and designated heritage assets.

- 4.1.2 SC Drainage - comment:

No objection, subject to condition.

- 4.1.4 SC Affordable Houses – comment:

Replacement dwellings are exempt from the need to contribute to affordable housing as per the SPD Type and Affordability of Housing.

- 4.1.5 SC Conservation – comment:

The Conservation Officer is now satisfied with the principle aspects with the design such as the use of render and timber which reflects that of the existing 1920's building. Whilst the overall scale and footprint of the new dwelling will be greater

than the existing building, it is considered that it is proportionate in relation to its overall curtilage plot. During discussions with the applicant and architect some minor alterations to the southern elevation are necessary as to reduce the glazing on the proposed southern elevation, mainly that of the first floor balcony window which should be reduced in width as well as removing the balcony feature, though a plain glazed balcony may be acceptable. This should allow a better hierarchy of window articulation from the ground floor moving upwards.

#### 4.1.6 Historic England – comment:

The form and suite of materials of the existing house has been employed to inform the design of the proposed new house. In order to justify a replacement within the Conservation Area it will be necessary to secure a high quality design that employs high quality materials so that the new house can make an architectural contribution to the Conservation Area such that the character and appearance of the Conservation Area is enhanced. The replacement building should therefore not be of disproportionate scale to that which exists on the site presently, and the ridge line should be meaningfully lower than that of the existing building, so that views into and out of the Conservation Area are enhanced. Consideration of appropriate traditional materials should be made, based upon a study of local vernacular architecture, including brick and timber. We are not convinced that extensive painted render panels are appropriate to this setting. We also recommend that the Historic Environment Good Practice in Planning note 2, 'Managing Significance in Decision-Taking in the Historic Environment', issued on March 25th 2015 is considered in coming to your decision.

#### 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.

#### 4.1.7 Ludlow Conservation Area Advisory Committee – comment:

The proposal would have a detrimental impact on the character and appearance of the Conservation Area because of its scale, massing and detailing. The scale of the proposal is justified by comparing it with the existing property and its neighbours. However, the proposal is considerably bigger than either the existing or any other property in the road. The justification for this in the application does not deal with the fundamental points that the apparent scale, because of its massing and more prominent siting, will be very substantially greater than the existing property and that the neighbouring property is very far from one to be emulated. The layout of the windows and other detailing will make the proposal look like an overgrown housing estate property. The pity is that this is a very rare opportunity for a work of modern architecture that will compare in quality with the glories of Ludlow's past something potentially award-winning. What is offered is a proposal of the utmost banality.

#### 4.1.8 Shropshire Wildlife Trust – comment:

Recommend bat mitigation conditions; including the provision of 3 bat boxes on mature trees, raised tiles or bat within the roof of the replacement house, wildlife sensitive lighting, and Europe Protected Species Licence.

#### - Public Comments:

- 4.1.9 3no. responses; one person says the building below road level would improve view of the Whitcliffe and still maintain privacy; two other persons have concerns about the effect on parking on the road outside the site during the construction works.

### 5.0 THE MAIN ISSUES

Principle of Development

The impact upon the visual amenities of the Conservation Area and open countryside  
Living conditions.

### 6.0 OFFICER APPRAISAL

#### 6.1 Principle of Development

- 6.1.1 S38(6) of the Planning and Compulsory Purchase Act, states LPA's must determine applications in accordance with the local plan unless material considerations indicate otherwise. It means decisions must comply with the development plan as a 'whole.'

- 6.1.2 Shropshire Core Strategy policy CS3 relates to Market Towns and other key centres, and identifies Ludlow as a focus for development, whilst respecting its historic character. The existing Lodge dwelling falls within the Ludlow Development boundary in the adopted Site Allocations and Management of Development (SAMDev) Plan, but the bulk of its grounds are outside of the Development boundary. There is no in-principle planning policy objection to the erection of a replacement dwelling on the site of the existing dwelling. In this case the proposed replacement dwelling would be partly on the foot print of the existing dwelling, but the bulk of its foot print would straddle the line of the Development boundary shown in the SAMDev Plan. However given the overlap and the site of the proposed dwelling being existing residential development, it is considered that there is no in-principle planning policy objection to a suitable replacement dwelling. The consideration of this proposal therefore is focused on an assessment of the detailed considerations set out below.

- 6.1.3 The Government attached great importance to the design of the built environment (Section 7 of the NPPF). Policy SC6 (Sustainable Design and Development Principles) of the Core Strategy and MD2 of SAM Dev sets out the criteria that development will be assessed. Policy CS6 of the Core Strategy refers to, amongst other things, creating sustainable places; high quality design which respects and enhances the local context and character of the area; protects, restores and enhances the natural, built and historic environment; and energy efficiency. The site is within the Ludlow Conservation Area where there is a duty for local authorities under section 72 the Planning (Listed Building and Conservation Areas) Act 1990 to have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising statutory functions. There is a

similar obligation under section 66 of the same Act to have special regard to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest they possess, in exercising the planning function. Core Strategy policy CS17 and SAMDev Plan policy MD13 accord with this requirement. The impact of the proposed development on the Conservation Area is considered below.

## **6.2 The impact upon the visual amenities of the Conservation Area and open countryside.**

- 6.2.1 SC Policies SC6, CS17 and MD2 outlines, amongst other things high quality design in context. The thrust of one of the core principles of NPPF is that planning should always seek to secure a good standard of amenity for all existing and future occupants of property. Whilst the increase in floor space (60%) is one measure to assess the size of a building, another is its mass and volume. The landscape impact requires careful evaluation of the proposal's scale and visual (appearance) assessment on the quality of the local landscape.
- 6.2.2 In terms of 'layout,' the proposed house would be set back from the road. It would sit comfortably set further to the rear. Situated adjacent to the application site is a large detached dwelling no.40a. The new house would project backward of this neighbouring house. As a result of the spacing that would exist between the new house and 40a next door it would not appear cramped on the large plot on which the replacement house would be located. The proposed house would have a lower ridge line (0.27m lower) than the existing house.
- 6.2.3 Visual amenity includes design. The 'detailing' of the eaves, windows, bricks and lintels would help to ensure that the proposed dwelling is of a high quality design. The imposition of a condition regarding the materials to be used in the construction would also help to guarantee that the design style is of a high standard and the proposed house would make a positive contribution to the character and appearance of the Conservation Area.
- 6.2.4 There are open views from the rear of the site. The siting against a landscaped backdrop to the river would not appear as an intrusive feature on the edge of the development boundary. However, the extensive garden and the undeveloped nature of the site create an attractive transition between the existing dwelling and the adjacent open countryside, although the degree of visibility will vary on a seasonal basis with thickness of the vegetation. The views are open, rural in character in between the house and the river.
- 6.2.5 The key test is not the effect of the proposal on the site itself but on the surrounding area. The proposal is relatively well contained within the landscape and the change in the views would be limited in character, with public vantage points identified from the road and along the public footpath which runs alongside the river, from where the development would be in character with the existing built context. However, given the distance between the replacement house and the river, and because of its scale and appearance, it is considered the views of the proposed dwelling would not have an adverse impact on the landscape and scenic beauty in relation to the receptor locations.

- 6.2.6 In overall conclusion on the second main issue, the proposed development is of the highest quality design and would not have a detrimental impact in terms of the preservation or enhancement of the character and significance of the Conservation Area, and protection of the open countryside, in accord with policies CS6 and CS17 of the Core Strategy and MD2 of the SAMDev Plan.

### **6.3 Living Conditions**

- 6.3.1 Core Strategy policy CS6 seeks to safeguard residential amenity. Design should be appropriate in itself and in relation to adjoining properties. In terms of 'siting' the new house would project backward of the neighbouring dwelling to the north (40a). Space would exist between facing flank walls, and there is currently space between the existing side elevation of 40a and the common boundary with the application site.
- 6.3.2 Given the orientation of the sun and the size and the location of the proposed house, it is considered that the distance between it and the neighbour's south facing rear garden/ east facing side elevation would be sufficient to ensure there would be no significant loss of 'light' to this neighbouring property.
- 6.3.4 In terms of 'privacy,' there would be a balcony at 1<sup>st</sup> floor level in the rear elevation. It is considered there would be no opportunity for direct overlooking from this balcony, and the distance between the flank walls would ensure no mutual loss of privacy in terms of overlooking and outlook. The amenities of residential properties on the opposite side of Camp Lane would not be significantly affected as, from their viewing perspective, the proposed replacement dwelling would sit lower in the streetscene.
- 6.3.5 For these reasons, it is considered the proposed development would not significantly impact on neighbour amenity. As a result there would be no conflict with this element of policy CS6 of the Core Strategy.

## **7.0 CONCLUSION**

- 7.1 There is considered to be no in-principle planning policy objection to the erection of a replacement dwelling in this location. The proposal, in terms of size, scale, design, materials and character would not detract from the character or appearance of the Conservation Area and its setting. The residential amenities of adjacent properties and the locality would not be unduly harmed by the proposed development.

## **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 policies:  
CS3 - The Market Towns and Other Key Centres  
CS6 - Sustainable Design and Development Principles  
CS17 – Environmental Networks



## SAMDev Plan:

MD2 - Sustainable Design

MD12 – Natural Environment

MD13 – Historic Environment

S10 – Ludlow Area

RELEVANT PLANNING HISTORY:

SS/1/01/12188/LB Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001

SS/1/01/12187/F Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001

SS/1/04/16407/LB Installation Of A Satellite Dish. PERCON 13th December 2004

SS/1/00/11552/TC Felling of trees. NOOBJ 16th November 2000

SS/1/00/11548/CA Demolition of conservatory and garage. PERCON 16th November 2000

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

Design and Access Statement

Biodiversity Survey and Report

Heritage Statement

Structural Survey

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Andy Boddington

Appendices

APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall begin no later than three years from the date of this decision.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development hereby permitted 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.

3. A total of 3 bat boxes suitable for alternative roosting for small scale crevice dwelling bat species shall be erected on mature trees on the boundaries of the site prior to the demolition works hereby permitted. The boxes must be at an appropriate height and face south, south-east or south-west.

Reason: To provide roosting opportunities for protected species.

4. Raised tiles or bat tiles shall be provided within the roof of the replacement house.

Reason: To provide roosting opportunities for protected species.

5. Development shall not be begun until a European Protected Species (EPS) Licence with respect to bats has been obtained for the proposed works.

Reason: To ensure the protection of bats, a European Protected Species.

6. Prior to commencement of development, details of a wildlife sensitive lighting scheme within the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out only in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: In the interests of nature conservation.

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use.

Reason: This information is required before the commencement of development, to ensure satisfactory drainage of the site and to avoid flooding.

8. 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 wall 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.

Reason: To ensure the external appearance of the development is satisfactory.

9. Before the development is commenced there shall be submitted to and approved in writing a scaled plan showing cross sections through the site which show the existing land levels and proposed land levels together with the finished floor levels the proposed dwelling and garden. Once these details are approved the development shall be carried out in accordance with the agreed details unless otherwise agreed by the Local Planning Authority.

Reason: To ensure a satisfactory relationship between the development site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring properties.

10. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological interest of the site is properly safeguarded and recorded.

11. No development shall be commenced until full details of landscape works have been approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:  
Planting plans;  
Written specifications (including cultivation and other operations associated with plant and grass establishment);  
Schedule of plants, noting species, planting sizes and proposed number/ densities where appropriate; and  
Implementation timetables.

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

12. All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting and seeding season following the completion of the development or in accordance with a timetable which has been approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years from planting, are removed, die or become 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.

13. A scheme for making good any damage/scarring of the roadside boundary wall revealed by the demolition work shall be submitted to and approved in writing by the Local

Planning Authority within one month of the demolition. The works relating to the scheme shall be carried out in accordance with the approved details.

Reason: To ensure that the character and appearance of the Conservation Area is maintained.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, or modifying the Order), no extensions or enlargement of the dwelling hereby permitted shall be erected, constructed or carried out.

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

## **INFORMATIVES**

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers Document. It is available on the Council's website at: [flooding/flood- risk- management - and- the - planning - process](#). The provisions of the Planning Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow the rain water to soakaway naturally. Connection of new surface water drainage systems to existing drains/ sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not available.
2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.