



Development Management Report

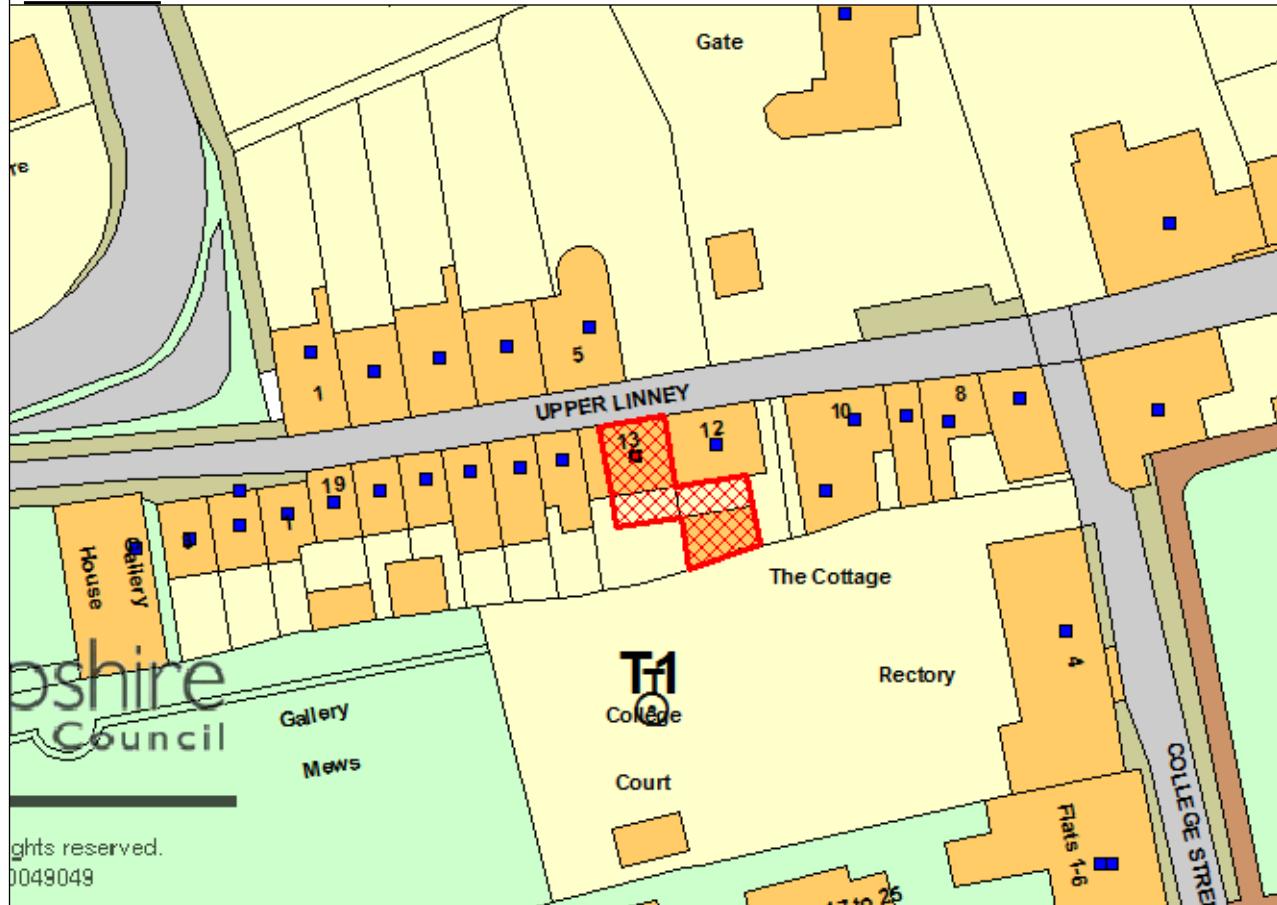
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 19/02495/FUL	<u>Parish:</u>	Ludlow Town Council
Proposal: Erection of a single storey extension to adjoin the side elevation of the existing rear extension		
Site Address: 13 Upper Linney Ludlow SY8 1EF		
Applicant: Mr M Cawley		
Case Officer: Elizabeth Davies	<u>email:</u> planningdmsw@shropshire.gov.uk	

Grid Ref: 351065 - 274757



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the erection of a single storey extension for 13 Upper Linney, Ludlow but due to the layout of the rear amenity space, the proposal would be at the rear of 12 Upper Linney and would adjoin the side elevation of a previously erected rear extension at No.13.
- 1.2 Indicated to measure 3.8m wide by 2.5m deep the proposal would have a mono pitched roof with a ridge height of 3.285m.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the conservation area and the core of the historic medieval town of Ludlow, and less than 5m from the Town Wall, which is a scheduled ancient monument, and a Grade II Listed Building.
- 2.2 Due to the unusual layout of these dwellings in Upper Linney, the rear gardens are located to the rear of the adjoining dwellings, in addition, the application site can be accessed via a right of way that runs from Upper Linney, between No.12 and No.10 Upper Linney and then across the rear elevation of No.12 to a gate that leads to the rear garden area of No.12.
- 2.3 The rear garden area of No.12 comprised of an outbuilding located in the southeast corner of the site and which received consent under SS/1/04/16296/F and SS/1/04/16297/LBC to be removed. This consent also included the erection of an extension to the rear elevation of No.13 that has been constructed and therefore these permission remain “live” and this outbuilding could be removed at any time. Adjacent to this outbuilding lies an elevated gravelled seating area, with mature planting. This leads down to an area of concrete that lies at the rear of No.12 and access to the kitchen of No.13.
- 2.4 The application site is bounded with a wicker fence to the east, a wicker fence and the side wall of the outbuilding to the west, and the Town Wall located to north and the rear elevation of No.12 to the south.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have made a comment that would be contrary to the Officers recommendation. In addition, the Local Member has “called in” this application within 21 days of it being validated to be presented to the Planning Committee and the Chair and Vice Chair of the Planning Committee have confirmed that the call in reasons are material planning matters and thus as Committee decision is necessary under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 Community Representations

4.1 Consultee Comments - full details of the responses can be viewed online.

4.1.1 Ludlow Town Council – Objection

The proposed extension extends sideways outside of the established building line of the property, whilst the town council accepts that the applicant owns the land for the proposed extension, the extension attached to the neighbouring property, save a small gap and flashing, will create unacceptable issues.

The neighbour property will suffer loss of amenity due to being overlooked. Specifically, an upper bedroom window will look down into the roof lights of the extension, and vis versa. There will be a loss of privacy, which will impact on the resident's use of their own property, and significant potential for invasive noise due to window / roof lights. There are significant security issues due to proposed height of the roof. Maintenance of an older property will also be an issue because there will be no access to sewage pipes. The very close proximity of the extension and the existing wall is also a potential cause of damp issues.

The property is also very close to the town walls ancient scheduled monument.

Ludlow Town Council believes that the complexities of this application should be considered by the South Planning Committee.

4.1.2 SC Historic Environment – Conservation Team– Comments

The application proposes the erection of a single storey extension to the side of the existing rear extension at 13 Upper Linney, Ludlow. The site lies within the conservation area and within close proximity to the Ludlow Town Walls Scheduled Ancient Monument. Historic England have been consulted in relation to the impact upon the town wall and our colleagues in archaeology have commented in relation to archaeological matters. Therefore these comments relate purely to conservation matters and in particular the impact of the proposal on the conservation area.

Due to the location of property boundaries the proposed extension is located on land belonging to 13 Upper Linney but that lies directly behind 12 Upper Linney. This is a somewhat unusual scenario. However, from a conservation perspective the principle of a modest extension in this location which under normal circumstances would be related to the property to which is directly behind, i.e. number 12, would not raise conservation objections in itself. Therefore, the fact that the land ownership is unusual is not a reason in conservation terms that a modest extension to the rear of a property would be inappropriate.

Issues of maintenance relating to either property would be a civil matter rather than conservation.

4.1.3 SUDs – No objection subject to the development being carried out in accordance with the approved plans and the recommended informative being included on any planning permission that may be granted.

4.1.4 SC Historic Environment – Archaeology Team – Comments

With regard to the direct archaeological impact and in relation to Paragraph 199 of the NPPF (Revised 2018) and Policy MD13 of the SAMDev component of the

Shropshire Local Plan, it is advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This programme of archaeological work should comprise a watching brief during ground works associated with the development.

4.1.5 Historic England – No comments

4.2 Public Comments

4.2.1 The application has been advertised by notices at the site and in the press. Four surrounding residential properties have been individually notified. Six representations have been received in response to this publicity. In summary the following points are made:

- An upper bedroom window will look down into the roof lights of the extension and it follows that there will be a reverse view of the bedroom window.
- I have seen that on recent sunny days the height and width of the proposed structure will cause the 'overshadowing' of my kitchen window and part of my courtyard in the afternoons.
- The arrangement of gardens behind the Upper Linney terrace is uncommon. But this unusual historical townscape should not be an open licence for reducing the amenity of neighbouring properties. This proposed structure will simply add more bricks, tiles, concrete and glass to this sensitive conservation area, adding to the present 'imbalance' of the natural habitat, and would do nothing to 'enhance' the historic monument (town wall) a mere four meters away.
- The proposed extension is in the Ludlow Conservation area and within the setting of the town walls, an ancient monument. The proposal would improve the stability of the ground between the new foundation and the town wall.
- This is a very unusual application where a side extension is attached to the back of a neighbour's property, with a tiny gap and flashing. The proposal will lead to a significant loss of amenity for the neighbours and devalue property price.
- The 'drawings' shows a shallow mono pitched roof, finishing below my Bathroom and Landing window sills. This would mean that anyone standing in the bathroom and on the landing outside my bedroom would be at eye level with the 'knees' of anyone of average height standing on the roof along with security issues regarding my open windows.
- As this 'room' is a side extension of the existing kitchen extension at number 13 and the 'skylights' and 'door' would be under my rear windows and within a few meters of my bedroom window, cooking smells and general 'domestic' noise will 'travel' throughout my home. Lights turned on in the room at night will shine up through the skylights onto my rear windows.

- The proposed extension will create significant problems with maintaining the rear wall / foul waste pipe drains and a downpipe for 12 Linney. The wall is already suffering from damp inside no.12.
- No plans showing the ground floor levels of No.12 in relation to the foundations of the rear wall.
- The physical position of the 'right of way' gate between the two properties shown, is in dispute.
- There is no available public parking for the builder's use outside the properties and access for materials/builders etc. would be via the narrow 'right of way' across my property and past my kitchen window and impacting negatively on my daily use of my kitchen door for street access and access to my courtyard and pose a security risk for my home.
- The applicant's garden is overlooked by the rear of No 12 Upper Linney. The intended sunroom would offer the applicant some privacy.
- 12 Upper Linney recently built a high brick wall for privacy, the applicant should have equal rights.
- 12 Upper Linney in their objection refer to noise/cooking smells. when living in such close proximity to your neighbours, this is something that has to be expected. The proposal is to be a sun room not a kitchen, so these issues do not even apply.
- In reference to the Surveyor's (R O Sandbrook) three page letter in support of Mr Davis's objections, we find some of those comments to be of an irregular and emotive nature. The term 'bodged' for example seems quite unprofessional and frankly unfounded.
- Having looked at the detail of this application and made a site visit, I believe it should be scrutinised by the South Planning Committee and formally request a call in (WARD MEMBER).

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping, Character and appearance of Conservation Area,
impact on setting of Town Walls
Residential amenity
Archaeology
Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan ‘unless material considerations indicate otherwise’. Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.2 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extension and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area and should also safeguard residential and local amenity. Policy MD2: Sustainable design of the adopted Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 12 of the National Planning Policy Framework also requires development to display favourable design attributes which contribute positively to making better for people, and which reinforces local distinctiveness.
- 6.1.3 The proposed site is within a designated Conservation Area, the proposal therefore has to be considered against policy CS17 ‘Environmental Networks’ and MD13: Historic Environment of SAMDev which requires that all development protects and enhances the diversity, high quality and local character of Shropshire’s natural, built and historic environment and does not adversely affect the visual, ecological, geological or heritage values of these assets, their immediate surroundings. Legally, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.1.4 On the basis of the above, it is considered by Officers that there is no objection to the principle of the construction of an extension to the property. Other issues relating to scale, design, impact on neighbours etc. will be discussed further in this report.

6.2 Siting, scale and design of structure

- 6.2.1 The proposal would be rectangular in shape and constructed from brick work for the walls to match the existing kitchen extension, to the front and side elevations while the rear wall would be of timber and sloudbloc plasterboard allow access to the rear wall of No.12 which the proposal would sit adjacent to but would not adjoin. The side elevation of the proposal will extend beyond the side building line of the dwelling but would still remain within the dwellings’ curtilage due to the unusual nature of the layout of these dwellings and garden areas.
- 6.2.2 The design of the extension is purposely simple, with a large 3-pain window to the rear formed in traditional joinery flanked with two brick piers between the frames and a large window either side of these pillars. A door would be added to the side elevation for access. The roof would be mono-pitched and tiled to match the existing dwelling with 2 roof lights.

- 6.2.3 It is considered that that proposal is sympathetic to the size, mass, character and appearance of the original dwelling house and would be in accordance with Shropshire Core Strategy Policy CS6 and SAMDev MD2. All the proposed materials will be reinforced by condition to ensure that the materials used will complement those of the existing dwelling.
- 6.3 Visual impact and landscaping, character and appearance of the Conservation Area.
- 6.3.1 The arrangement of the gardens behind Upper Linney terrace is uncommon with the garden areas being located behind the neighbour dwelling's rear elevational wall. The impact on the Conservation Area is minimal due to its location at the rear of the property, out of public view, and likewise the impact on the town wall would potentially be minimal due to the limited foundations required for the proposed extension. Neither the Councils Conservation Officer or Historic England raise objection to the proposed extension.
- 6.4 Residential Amenity
- 6.4.1 Various concerns regarding the impact of the proposal on the neighbouring dwelling has been submitted. It is accepted that the relationship is already poor between these properties, and the amenity of each occupant is already compromised.
- 6.4.2 No.12 Upper Linney has a Juliette balcony (which does not allow for seating) at 2nd floor level and 2 windows at 1st floor level. It is acknowledged that these actually cause more of a loss of residential amenity to No.13 as they allow for overlooked into their garden area. It is considered, that the proposed would actually increase the level of privacy for both dwellings. The proposed roof lights are angled away from the rear wall of the proposal which would help reduce sound and light seepage, and it would be hard from these proposed roof lights, due to the angles they would be positioned at within the roof to look up into the windows and Juliette balcony of No.12.
- 6.4.3 There would be minimal loss of light to the ground floor kitchen window of No.12, as the proposal would be approximately 2.5m away from the existing boundary fence and Right of Way access gate, and due the uncommon arrangements for the garden areas within Upper Linney this is considered to be a sufficient distance away from the proposal. In addition this kitchen window for No.12 currently looks out onto the outbuilding belonging to No.12 and a tall brick wall with an opening containing ironworks to which the Right of Way gate is attached to, and this would already contribute to overshadowing to this window.
- 6.4.4 Given the scale and siting of the proposed extension and the current comprised residential amenity due to the nature of Upper Linney, it is not considered that the proposal will cause any additional harm to the residential amenities of the neighbouring property in terms of overlooking, loss of light or privacy and would accord with the above policies. Additionally, it is not considered that the levels of activity associated with a minor increase in living accommodation shall give rise to levels of disturbance sufficient to cause undue harm to the neighbouring property.

6.5 Archaeology

6.5.1 The site can therefore be deemed to have some archaeological potential and therefore the application has been considered by Shropshire Council's Archaeology Officer. No objection has been raised and it is considered that the archaeological potential of the site can be satisfactorily managed by a condition requiring that a programme of archaeological work be submitted to the LPA for approval prior to the commencement of the works.

6.5.2 In view of the above, it is considered that the proposed development will not have a detrimental impact and that the proposal meets the requirements of paragraph 199 of the NPPF policy and MD13 of SAMDev.

6.6 Other Matters

6.6.1 As part of the public consultation process a number of objection comments have been received in relation to drainage, noise, cooking smells, devaluation of property value, security, right of way, as well as access for maintenance for the rear wall and for builders. Such issues are considered to be civil matters and do not form part of the consideration of this application.

7.0 CONCLUSION

7.1 The siting, scale and design of the proposed scheme is not considered to harm the visual amenity of the conservation area, unduly impact on the original dwelling or affect neighbours enjoyment of the residential area. The proposals comply with the relevant development plan policies and it is therefore considered to be a suitable scheme and recommendation is given to approval.

8.0 Risk Assessment and Opportunities Appraisal**8.1 Risk Management**

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and SAMDev Plan Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

MD12 - Natural Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

SS/1/04/16297/LB Erection of extension and alterations to dwelling; demolition of (existing) outbuildings and lean-to roofing. PERCON 17th November 2004

SS/1/04/16296/F Erection of extension and alterations to dwelling; demolition of (existing) outbuildings and lean-to roofing. PERCON 17th November 2004

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PSL680TDMTB00>

List of Background Papers
Design and Access/Heritage Statement

Cabinet Member (Portfolio Holder)
Councillor Gwilym Butler

Local Member

Cllr Andy Boddington

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. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

Informatics

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.
2. 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: <https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. 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 achievable.

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

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

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

4. The provisions of the Party Wall etc. Act 1996 apply in respect of this development and you are required to notify all neighbours affected by the proposal before any work commences on the site.
5. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.