

## Development Management Report

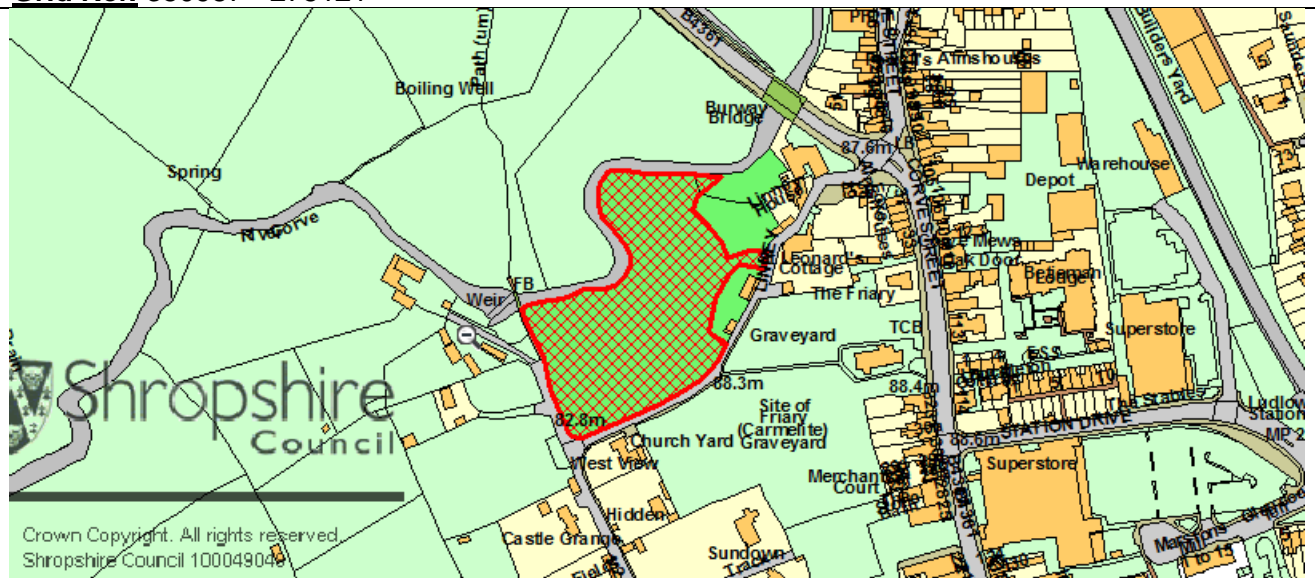
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 19/05519/FUL	<b>Parish:</b>	Ludlow Town Council
<b>Proposal:</b> Re-profiling of ground; erection of four detached houses; restoration of stone boundary wall to The Linney; creation of a managed woodland area (on the lower level of the site) with access track for maintenance.		
<b>Site Address:</b> Proposed Residential Development Land Adjacent to Linney House, The Linney, Ludlow, Shropshire.		
<b>Applicant:</b> Linney House Development Limited		
<b>Case Officer:</b> Andrew Sierakowski	<b>email:</b>	planning.southern@shropshire.gov.uk

**Grid Ref:** 350987 - 275121



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**Recommendation:-** That approval of the Application be delegated to the Head of Planning Services subject to the conditions set out in Appendix 1 and the heads of terms for a Planning Obligation (either in the form of a Unilateral Undertaking or conventional Section 106 agreement) set out Appendix 2.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This is an application, submitted by Linney House Development Limited, for the re-profiling of the ground, erection of four detached houses, restoration of the stone boundary wall along The Linney, creation of a managed woodland area on the lower level of the site and an access track for maintenance, on land adjacent Linney House at The Linney, Ludlow.
- 1.2 The application is the latest of a series of iterations of different schemes that have been developed since 2012, the most recent previous application being that for the eight house scheme (Planning Application Ref. 19/00826/FUL), that was reported to, and considered by this Committee, at its meeting on the 28<sup>th</sup> July 2020 and is currently the subject of an appeal.
- 1.3 This application represents a further amendment of the previously submitted scheme following lengthy and extensive discussion and negotiation with the applicant, which seeks to address the shortcomings of the previous scheme and in particular the inadequate level of the woodland replanting being proposed to provide compensation, mitigation and enhancement for the woodland loss required. It addresses this by reducing the number of dwellings proposed to four dwellings, which are of a contemporary design, and which once the proposed tree planting on the site has matured, are intended to be set in woodland. Each dwelling would be a 4/5 bedroom detached house, all essentially of the same design, albeit one, that on Plot 4, would be a mirror image of the houses on Plots 1-3. Each dwelling would be a one/one and half storey structure, comprising four sections, three with asymmetrical dual-pitch roofs and one with a mono-pitched roof. Materials would be natural stone, Ludlow brick, welsh slate and unstained/untreated oak boards (i.e. left to silver), while the fenestration would comprise large floor to ceiling glazed panels and skylights. There would be a single substantial lead faced flat-roofed box dormer on the central section on the rear elevation of three of the houses and the front elevation on the fourth (which would have its orientation reversed). Each house would have a sperate garage, built of materials to match the houses. The intention is that the houses, rather than appearing as single traditional blocks are broken up into a series of smaller sections.
- 1.4 The four house plots together take up approximately half the site, so that each plot extends to approximately 0.125ha. The Design and Access Statement submitted with the application describes the houses as:
- embracing a woodland character reminiscent of modern Scandinavian forest settlements;
  - using local materials which correlates the design very much with the South Shropshire area;
  - using high tech glazing and traditionally constructed stonework to create a modern vernacular as championed by English Heritage in its advice for new development in historic areas;

- utilising roofing materials which assimilate colours and textures of slates and tiles with both the built and natural environment; and
  - utilising pavior materials on driveways and circulation space with subtle earth born hues to blend the hard landscaping into the natural scene.
- 1.5 The application states that as the scheme has evolved the amount of private garden space has diminished to avoid a clash with the river and Linney tree belts, with the overall balance in favour of the enhanced, replanted, woodland, rather than the private garden space.
- 1.6 It proposed to reprofile the site to reinstate what the application states was the original gentle slope down to the river and to raise the finished floor levels above the flood level. Currently, there is a steeply sloping bank that extends from the south side of Plot 2 with a hollow at that end, up to and through the site of Plot 4. It is proposed to dig out and remove soils along the southern boundary of the site adjacent to The Linney which are banked up against the stone boundary wall to a depth of up to approximately 1.3m higher than the road surface. The area to be filled would be between approximately 2m and 4m in depth across the four house plots to create an level terrace for each dwelling, with the lowest on Plot 1 constructed at 84.5m against an existing level of 82.34m and the highest on Plot 4 at a level of 87.161m against an existing level of between 82.89m and 87.84m.
- 1.7 In addition, it is proposed to restore the stone wall along the frontage of The Linney, although as part of these works, the existing access into the rear of Linney House would be widened and a second, wholly new access would be formed towards the western end of the site, so there are two separate accesses, each serving two dwellings, with visibility splays. The application indicates that the central section of the boundary wall adjacent to the bend in The Linney will be taken back to increase visibility around the bend. The application also refers to widening The Linney to provide a passing space, although specific details are not included in the application.
- 1.8 It is proposed to fell, almost all of the approximately 70 trees on the higher part of the site adjacent to The Linney to facilitate the ground levelling works and the repair of the boundary wall along The Linney, with only the large Sycamore tree and Ash tree immediately to the rear of Linney House being retained. On completion of the ground works and the main construction phase it is proposed to re-landscape the upper part of the site, with mixed woodland. By contrast the existing woodland immediately adjacent to the River Corve is to be largely retained, with supplementary native species woodland planting and the addition of some standard trees. The intention is that this area of the site is given over to wildlife and collectively managed as woodland copse.
- 1.9 The existing garage and sheds on the site located the south west of Linney House are to be retained and are excluded from the application site.
- 1.10 The application has been accompanied by an Archaeological Desktop Evaluation and Written Scheme of Investigation Proposal, an Ecological Impact Assessment, a Biodiversity Benefit Statement, a Flood Risk Assessment, a Heritage Assessment, an Assessment of the Potential for Land Contamination, an Arboricultural Report, a

Landscape and Visual Appraisal, and a Landscaping Plan.

- 1.11 In addition, during the course of the application, an updated Landscape and Visual Appraisal, Arboricultural Method Statement, a soft landscaping plan, a planting specification, a detailed contour plan and sections, and a Landscape and Habitat Management Plan have been submitted in response to the advice of consultees.
- 1.12 The Landscape and Habitat Management Plan includes proposals for an initial fifteen-year period for the management of the landscape and habitat areas on the site. It is proposed to set up a management company to be responsible for the long-term management of the site that would be run and funded by the residents of the new houses. The Landscape and Habitat Management Plan makes provision for an annual monitoring review of its implementation including provision for feedback from the Council as the Local Planning Authority.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is just over 1 ha. in size and forms part of what was the garden and curtilage of Linney House, a Grade II listed building. The Linney forms the southern boundary of the site, while the winding course of the River Corve delineates the northern boundary. The western boundary adjoins a Public Bridleway and Linney House lies to the east. The site is broadly split into two levels, a higher level adjacent to The Linney and a lower lying area adjacent to the river. There is steeply sloping bank in between.
- 2.2 The site lies within the Ludlow Conservation Area and there is a stone wall, which is an important feature running along the length of the boundary with The Linney. The site contains a large number of trees which is it understood are partly self-seeded. These are understood to have previously covered most of the site, although there has also been some felling and clearance works in the last four to five years. A substantial part of the site, along the river to the north and the bridleway to the west falls within in Flood Zones 2 and 3 of the River Corve on the Environment Agency's Flood Map for Planning.
- 2.3 The site is understood to have been a former gravel extraction site, although there are contradictory statements from the applicant and third parties about when mineral extraction ceased, with a statement by the applicant that it remained an extraction site up to the 1980's and from third parties suggesting that mineral extraction ceased by as early as 1930. The area to the south is predominantly residential, whilst that to the north is open pasture.
- 2.4 The site has an extensive recent planning history, which is set out in Section 10 towards the end of this report. This includes Planning Permission Refs. 12/02275/FUL and more recently 17/00230/FUL that granted consent for the development of three dwellings on the site and which remains extant. There are also a number of associated applications and consents to vary or discharge the conditions attached to the two permissions, including most recently Application Ref. 20/00119/DIS and a subsequent variation application, Ref. 20/01127/VAR that has amended the tree protection plan approved under Planning Permission Ref.

17/00230/FUL to enable the phased implementation of that consent. In addition, there is the other current Application Ref.19/00826/FUL, for the alternative eight dwellinghouse scheme on the site, which is subject to an appeal against non-determination, as well as the application to which this report relates.

- 2.5 There is also an extensive history relating to the trees on the site (including land not included in the current application red line boundary) that makes up the wooded former curtilage of Linney House. This history relates to felling that is understood to have been taken place in May 2015 and then again in the winter of 2015-2016, the former having been undertaken without notice being given under s.211 of the Town and Country Planning Act 1990. The latter it is understood was undertaken as pre-commencement works to the implementation of Planning Permission Ref. 12/02275/FUL. The Tree Officer has provided a detailed statement relating to these activities and to the subsequent compensatory planting that has been undertaken. The Tree Officer's advice is that 256 out of the total of 401 trees were felled but that after the initial unlawful felling compensatory planting was undertaken which included 100 whips after the initial unlawful felling. Further compensatory planting comprising a block of 96 additional whips as well 87 standard trees, was also agreed, but it is understood that this has not to date been undertaken.

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

- 3.1 The application is a complex application which in the view of the Planning Services Manager in consultation with the Chairman or Vice Chairman should be determined by the Planning Committee

### **4.0 COMMUNITY REPRESENTATIONS AND CONSULTEE COMMENTS**

#### **Parish Council**

- 4.1 Ludlow Town Council: Neither supports nor objects to the application but states that it has concerns regarding the course of the river following the recent removal of the nearby weir, although this is unrelated to the current application.

#### **Public Comments**

- 4.2 In addition to the comments from Ludlow Town Council there have been fourteen third-party representations from ten local residents and organisations. Of these representations, three state support for the application, two of which are from the Ludlow Civic Society, which are identical and submitted twice, eight offer objections and three, including two representations from the Ludlow Conservation Area Advisory Committee and one from the Ludlow Swift Group, state that they are neutral.
- 4.3 Those from the Ludlow Civic Society in support of the application in summary make the following points:
- That the proposal is of a reduced scale compared to the previous application;

- That the site was originally open meadow with land sloping down to the river rather than being tree covered and is not natural woodland;
- That both of the existing proposals are far better than the permitted scheme for three houses; and
- That delays in starting any development, continue to fuel neglect of the site whilst the road improvement and restoration of the natural stone wall is becoming an issue with the regular users of the lane. The wall along The Linney is now a "structure at risk" in the Ludlow Conservation Area.

4.4 The other supporting comment states that:

- The applicant has a superb track record in Ludlow of delivering development which is environmentally sound and extremely pleasing to the eye; and
- That he is highly sensitive to all aspects of the community, and the protection of trees and wildlife.

4.5 Those that object to the development in summary make the following points:

- That the site is woodland and a unique part of Ludlow;
- That the adjacent road is narrow with blind corners and the increased traffic from the four additional houses and through traffic will increase traffic, increasing the level of hazard;
- That the wildlife on and around the site has already been disrupted by the removal of trees and the proposed new planting though sensitively designed will take time to establish. The work involved in developing the site will have an additional detrimental effect on the bird and wildlife that has previously flourished on the site;
- That the site is subject to flooding and this may become more problematic;
- They question whether the construction of four additional large houses justifies developing one of the last remaining natural corners in Ludlow town centre;
- That Shropshire Council has recently declared a Climate Emergency and that Ludlow does not need four more executive homes on the flood plain. Instead more trees and wildlife are required. The trees are required now and not in 30 year's time when any new planting on the site matures;
- That the tree report submitted with the application states that out of the remaining 145 trees on the site, 67 further trees are to be felled, 6 of which are Category B, i.e. perfectly good trees. One of these, a mature London Plane, carries a TPO, whilst another close by is a semi-mature copper beech;
- That the remaining mature tall trees on the western end of the site are used daily by numerous birds, including flocks of winter visitors and for roosting. These are all scheduled to be cut down;
- That the tree report submitted with the application states that there will be a "small initial negative impact upon the visual environment by tree removal": This should be wholly unacceptable to a sensitive riparian, edge-of-town site in the Conservation Area;
- That the application is an improvement on the previous eight house application (Ref. 19/00826/FUL) in that the number of houses has been

reduced and landscaping and tree planting are improved, but otherwise fails to address the objections to all previous applications regarding this site;

- That the development is an unwanted property development of an unsuitable flood-prone site, that answers no local social or housing needs, and will result in an increased hazard from road traffic on the Linney, particularly with the badly-positioned site entrances breaching the stone wall, for which no plans for rebuilding have been included;
- That the development is not preservation or enhancement of the character of a Conservation Area;
- That the submitted Design and Access Statement justifies the replanting scheme on the grounds that most of the existing trees are of limited value. This is because most of the mixed woodland habitat of 338 trees has been cut down already, in breach of the Town & Country Planning Act. The application is claiming an enhancement of amenity and wildlife habitat, but the only reason for this is that the damage has already been done;
- That Plots 1 and 2 flooded over the weekend of 15-16 February 2020 and that there is photographic evidence to confirm this and that the western half of the site is therefore not suitable for development;
- That the flooding caused by Storm Dennis on the weekend of 16 February 2020 shows up the nonsensical flood risk assessments concerning this site. Putting the building plots into categories of Flood Zone 1 and Flood Zone 2 implies an expectation of floods between 1 in 100 years and 1 in 1000 years, yet the western half of the site has flooded on three recent occasions in 2007, 2015 and 2020 i.e. 3 times during the past 13 years. A formal request has been made to the Environment Agency for a reassessment to categorise the area as Flood Zone 3 on the basis of the unequivocal observational evidence. It is irresponsible to allow the building of residential properties on sites with such a high flood risk;
- That the two westerly houses (Plots 1 and 2 on the Proposed Site Layout drawing) lie on the former quarry floor and are both within Flood Zone 2 as shown on current EA mapping. Plot 1 is clearly within this high category of flood risk; Plot 2 is shown likewise, but on site actually appears to lie on a pile of quarry waste next to a channel;
- That the proposed floor levels may be compared with the wrack mark elevations recorded by the Environment Agency following the 20 July 2007 event (which was primarily flooding of the Teme at a lower elevation than the flooding of the Corve a month earlier) of 82.77 m downstream of the site (by the footbridge over the River Corve leading from Linney to the Boiling Well meadow) and 85.00 m upstream (below the culvert on the western approach to Corve Bridge);
- That the flood risk assessment accompanying the planning application is based on the Teme which is 600 metres downstream of the site and around two metres lower. That flood risk assessment states the minimum ground level of the development will be 2.19 m above the modelled flood level of the Teme. This is not relevant. In October 2019 the Corve was at a height of 3.7 m. That potentially threatens two of the planned homes with flooding (Plots 1 and 2);
- That the more easterly of the proposed houses (Plots 3 and 4) are situated outside the zone of significant flood risk but are located just behind the edge

of the former quarry face. No remarks have been made concerning their stability and their suggested location could be geotechnically hazardous;

- That no geological conservation interest has been acknowledged in the application, when there is considerable historical geological interest in the quarry face that runs through the property. This is the site where Professor William Watts FRS discovered granite pebbles within the fluvioglacial gravels that provide the evidence for glacial ice having come across the Irish Sea Basin from the Lake District. In the later account compiled by Dwerryhouse and Miller (QJGS, 1930) igneous pebbles are described that have been derived from the Breidden Hills (andesite and Criggion dolerite) as well as igneous rocks from the Lake District (Eskdale granite and Ennerdale granophyre), indicating that these had been brought in by glacial meltwater. Aside from its intrinsic interest, this historically important site should be scientifically examined and recorded if any development works are approved;
- That it is not clear if the new proposals follow the earlier schemes which proposed a reduction in height of the stone wall bordering Linney to just 0.9 m, which would have adversely impacted on the character of the stone wall, more than halving its original height of about 2.0 metres. Such a reduction would ruin both the rural character of the lane and the architectural character of the stone wall, and adversely impact on the visual amenity of this part of the Ludlow Conservation Area;
- That the submitted tree report makes its recommendations concerning the impact of removing trees on the basis that the stone wall will remain at its original height, providing a visual screen from the development within;
- That the application states that the development along The Linney is recent (within the last century) but this is incorrect. For a millennium The Linney has comprised burgage plots and developed as such;
- That the quarrying on the site ended in about 1930, not in the 1980s as stated in the Design & Access Statement;
- That the contention that quarrying is responsible for the depleted soil profile across the site is only applicable to where the quarry faces were once located and that elsewhere the site is still underlain by the natural fluvioglacial sands and gravels and the soil profile is typical of that geological stratum and that the stability of the trees on such ground will be determined by the species and their ability to develop a natural root system; and
- That two documents, the Archaeological Evaluation and the Heritage Assessment, incorrectly describe the geology on the site.

4.6 Of the neutral comments, that from the Ludlow Conservation Area Advisory Committee comments that whilst it is broadly supportive of the application, that:

- The details of palette of walling and roofing materials should be conditioned and that the Committee is concerned that that the application does not include details of the external hard surfaces which are also important and should be agreed before planning permission is granted; and that
- The character of the Conservation Area in the vicinity of the site is defined by the sense of enclosure created by the walls on either side of The Linney. The Committee was initially concerned that the proposed alterations to the



boundary wall along The Linney would undermine this character and facilitate higher traffic speeds than are possible at present, but it has subsequently commented further adding that it considers that the long-term future of the wall is doubtful without development of the site and that the realignment of the central section is a compromise that is necessary to make the scheme viable.

- 4.7 It is also concerned that the additional traffic generation would be disproportionately increased as a result of increased through traffic that the improved sightlines and width of the carriageway would encourage. It therefore considers that traffic calming measures such as speed humps with 5mph humps adjacent to the proposed accesses should be installed with the walls and planting being retained in their present alignment.
- 4.8 Finally, the Ludlow Swift Group asks that integral swift bricks, which will be used by a range of bird species including, as well as Swifts, House Sparrows and Starlings are included in the development. These bricks are built into the fabric of buildings, recreating natural cavities found in older properties. They also ask that artificial nest cups for swallow are provided in suitable locations.

### **Technical Consultees**

- 4.9 Shropshire Council - Affordable Housing: Advise that the development falls within the definition of major development set out in the National Planning Policy Framework (NPPF) and consequently triggers the requirement for an affordable housing contribution in line with the requirements set out in the Council's Type and Affordability of Housing Supplementary Planning Document (SPD). They advise that the contribution required in this instance is £54,000, based on the 15% contribution rate for the site and 4 dwellings that exceed 100 sq. metres.
- 4.10 Shropshire Council – Highways: Advise that the application is considered to be generally acceptable from a highways and transport perspective, although further details, which can be reserved by condition, are required, comprising:
- Details of the accesses onto the highway, including the width, gradients, visibility splays, and construction details;
  - Engineering details of the proposed retaining wall amendments, as strengthening and repairing is proposed and is adjacent to the highway; and
  - Engineering details of the proposed widening of the highway.
- 4.11 Shropshire Council - Public Rights of Way: Advise that they have no comments to make on the application.
- 4.12 Shropshire Council - SUDS: Advise that the application is acceptable subject to the inclusion of conditions requiring the submission for approval of a scheme for surface and foul water drainage and its subsequent implementation and a requirement that the proposed groundworks on the site shall provide a minimum ground level of 84.50mAOD as stated in the submitted Flood Risk Assessment. They also advise the inclusion of informatives on the use, siting and design of soakaways, urban creep, drainage in the event of the use of non-permeable surfacing, and the submission of details of the proposed foul water sewage disposal arrangements.

- 4.13 Shropshire Council - Regulatory Services: Advise that the contaminated land assessment submitted with the application is not sufficiently detailed as a preliminary risk assessment (Phase I Desk Study) having regard to Environment Agency Land contamination risk management (CLR11) guidance. They further advise that there are two identified potentially contaminative past land uses within the development boundary of the site. These include its use as a timber yard (circa 1885); and as a quarry with filled ground (circa 1926). They also comment that the information submitted with the application refers to use of part of the site as a coal yard, an unofficial quarry dump and to the levelling of the top terrace with the deposited material. They therefore, recommend if planning permission is granted that conditions be included requiring: that a Site Investigation be undertaken to assess the nature and extent of any contamination on the site and that the report of the Site Investigation shall be submitted to the Council for approval; that in the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Council; that the works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy; that in the event that further contamination is found at any time during the carrying out of the approved development, that was not previously identified, it must be reported in writing and that an investigation and risk assessment, must be undertaken and if remediation is necessary a remediation scheme shall be prepared and submitted for written approval; and that on completion of measures identified in the approved remediation scheme, a Verification Report shall be submitted for approval, that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. They also recommend the inclusion of an informative on how to comply with these requirements.
- 4.14 Shropshire Council - Trees: The Council's Tree Team have advised that they have no objection to the broad principle of the proposal. However, given the scale of disturbance required to deliver it, in terms of the loss of woodland and the prominence of the site within the Ludlow Conservation Area, they also initially advised that the level of supporting detail on a number of key issues lacked sufficient depth to ensure that the physical and technical complications of delivering the landscape compensation had been fully considered in the application. They therefore advised that more detailed information was required.
- 4.15 They advised that in broad terms the scheme now proposed reflects the concept of a development within the existing woodland as originally discussed when the site first gained planning consent for three houses in 2014. However, they commented that whereas the original approved scheme sought to establish a development within the existing woodland, retaining much of the existing tree cover, this amended scheme depends upon the removal of most of the existing woodland and requires the creation of a new bespoke woodland around the development.
- 4.16 They advised that this was not the concept that was supported by the Council's Tree Team at the time of the previous applications, Refs. 12/02275/FUL and 17/00230/FUL, which were both approved, but they nevertheless advised that the

scheme now proposed does in the long-term have potential to work, if delivered well and secured through binding landscape mitigation and compensatory planting strategy, including soil improvement/amelioration details, and long-term management proposals, linked to a viable funding mechanism that will be clearly transferable to any future ownership model for the site. However, because of the required degradation of the site to implement this scheme, in terms of the loss of woodland, the Tree Team initially advised that these are fundamental and material considerations in determining whether this application should be granted planning consent at all. Without the details, they initially advised that they could not recommend approval of the scheme.

- 4.17 They advised specifically that the following considerations in relation to the landscape mitigation proposed needed to be addressed:

Background Information on Tree Cover

- 4.18 They offered detailed comment on the historic tree cover on the site, referencing the recent felling history and the resulting requirement for compensatory planting that they advised should have taken place but which has not been completed. As a result, they advised that the baseline information on the trees on the site was inadequate and that the proposed tree planting scheme did not include sufficient detail to enable it to conclude that what is proposed, by way of new planting and the future management of the site, provided adequate compensation for the loss of the woodland proposed. In particular, they were unable to determine whether because there remains an undelivered compensatory planting scheme and there is insufficient detail in the current scheme that this has been adequately addressed in the current scheme.
- 4.19 They therefore advised that full details of the landscape mitigation and compensation, including planting schedules, soil amelioration, management details and details of long-term funding mechanisms, should be provided in advance of determination.

Re-Profiling of the Site

- 4.20 In relation to the reprofiling of the site, the Tree Team stated that there is a lack of detail about the scale of excavations and associated ground disturbance required to deliver the scheme, and that in turn it was therefore difficult to assess the full extent of the implications of the development. They commented that the site sections offered an indication of the proposed outcome for Plots 1, 2, & 3 but do not show the changes for the eastern end of the quarry and how Plot 4 would stand and function within the changed topography and broader landscape.
- 4.21 They commented that the level changes and extent of engineering works and ground preparation mean that the existing soil horizons across the developed area of the site would be destroyed and that the new graded levels would be subject to compaction and other impacts that would render the new ground as an un-fit medium for meaningful landscape mitigation. They advised that for any landscape mitigation to have a realistic chance of survival or success, it will be necessary to re-create a

healthy de-compacted high grade brown earth soil horizon with graded top soil to a depth, after settling, of no less than 60cm. They advised that these details would be essential in order to determine whether the scheme is workable.

#### Landscape and Visual Impact Assessment

- 4.22 In relation to the Landscape and Visual Impact Assessment submitted with the application the Tree team advised that this has omitted three key public viewpoints in Ludlow town centre previously requested by the Tree Team and they requested again that these should be provided.

#### Landscape Mitigation Proposals

- 4.23 In relation to the landscape mitigation proposals, the Tree Team commented that the indicative draft landscape plan submitted with the application lacked the following detailed information:

- (i) Details of the soils needed including the volumes to support the compensatory planting to ensure its healthy establishment and growth;
- (ii) Details of how the planting proposals have taken into consideration the future growth of woodland blocks close to dwellings and how any proximity issues will be managed;
- (iii) Details of species, size, planting spacing, planting mix;
- (iv) Measures to ensure protection from rodent damage, weed competition and draught;
- (v) Measures to ensure replacement of losses; and
- (vi) How planting will be managed on an on-going basis.

- 4.24 In light of the above comments, the applicant has submitted, a number of updated supporting documents, including an updated Landscape and Visual Appraisal, an Arboricultural Method Statement, a soft landscaping plan, a planting specification, a detailed contour plan and sections, and a Landscape and Habitat Management Plan.

- 4.25 Following these submissions, the Tree Team have advised that the detail of the amended landscape proposal and after care provision are significantly improved, although they are still unable to support a landscape proposal and consider that from the perspective of the volume of sustainable woodland compensation, the approved scheme under the extant Planning Permission Ref. 17/00230/FUL is still a better option. They do however advise that revision of the extent of compensatory planting to the north of the site would overcome their objection could be made acceptable.

- 4.26 They advise that the planting along the frontage with The Linney and to the eastern part of the site is broadly acceptable but that the small blocks of woodland planting on the reprofiled slopes to the north of the new buildings fail to perpetuate the previously agreed planting schemes from Planning Permission Ref. 17/00230/FUL and consequently renege upon the concept agreed in previous applications for providing a resilient block of woodland along the northern portion of the site. In particular, they comment that the introduction of: (a) the 5m tree free strip along the river edge and; (b) the proposal for a wildflower meadow to be regularly cut and; (c)

proposed halo thinning and coppicing of the existing mature trees (detailed in the Landscape and Habitat Management Plan), will erode the existing and future core area of woodland and offer no opportunity for tree planting or natural regeneration between the bottom of the re-profiled land and the river.

- 4.27 Over the long-term they advise that this will result in the net loss of tree cover from the north-west of the site with only the high maintenance woodland blocks planted on made ground hard up against the back gardens of the new dwellings remaining.
- 4.28 They therefore advise, that for compensatory woodland planting it needs to occupy all of the space between the 5m river edge buffer to the edge of the gardens of the new dwellings and that because the surrounding countryside contains meadows and rough pasture they do not consider the exclusion of a solid block of compensatory woodland in favour of a patch of wildflower sward to be a sustainable alternative.
- 4.29 They therefore advise that further amendment to the landscaping scheme and management plan is required.
- 4.30 Shropshire Council - Ecology: The Ecology Officer comments that the main habitat on the site is tall ruderal herb with scrub and saplings (planted and naturally regenerated) and scattered and/or localised groups of trees. The trees and shrubs are largely deciduous (other than along some of the boundaries) with a mix of native and non-native species. Many of the trees are immature or early mature although there are a few older native trees and pockets of mature Hawthorn scrub, with some scattered mature Hazel. The site boundaries include the River Corve to the north, with both retaining and free-standing stone walls comprising the remaining boundaries. These walls are typically associated with scrub and the tall non-native hedgerow to the west and a line of conifers to the south-east. They advise that there is Himalayan/Indian Balsam, outside the development footprint in the lower lying areas along the riverbank, which they advise should not be moved during the works.
- 4.31 They further comment that there will be a permanent loss of tall ruderal vegetation, plantation and scrub away from the riverbank, that has some site level biodiversity value, providing shelter, nectar and foodplants for various common invertebrates as well as foraging opportunities for small mammals and nesting habitat for various bird species.
- 4.32 They advise, with areas of plantation and scrub retained, enhanced and/or created throughout the site and adjacent to it, and in particular along the lower lying ground next to the riverbank and in the garden areas, that the proposal is unlikely to have a significant residual adverse effect on the biodiversity of the site in the long-term. With woodland areas encouraged to mature and sensitive woodland management practices in place for the early establishment phase, they further advise that the proposal will now have a significant beneficial effect on biodiversity in the long-term. The thinning of older trees/large shrub which have been planted in groups, should be carried out and the issue of non-native invasive species addressed through a management plan (which has now been submitted).

- 4.33 They also advise that no ground disturbances should occur within at least 20m of the riverbank and that pollution prevention and spillage action plans will need to be in place for the duration of the construction period. A Construction Environmental Management Plan will accordingly need to be followed during the works.
- 4.34 The Ecology Officer additionally advises that the site lies within the Shropshire Environmental Network, but that with inclusion of conditions relating to a submission for approval of a Construction Environmental Management Plan, detailed Landscaping Plan, Lighting Plan and Habitat Management Plan, that the development will not have an adverse impact on the Environmental Network and will provide ecological enhancements.
- 4.35 In addition, they have provided detailed comments in relation to a number of protected species, including bats, otters, dormice, badgers, herptiles (reptiles and amphibians) and birds, and that there is a particular concern that there is some evidence of (Lesser Horseshoe) bats on the site. They advise that lighting should be minimised and construction operations limited to daylight hours to avoid lighting and noise disturbance during the works minimised. In addition, materials during the construction phase, should be stored off the ground and trenches covered at night or contain a ramp, and Bat and Bird boxes, artificial Otter holts, herptile refuges and/or hibernacula created in suitable locations, to provide ecological enhancement.
- 4.36 The Ecology Officer accordingly advises the inclusion of conditions relating to; reporting by an Ecological Clerk of Works of the proposed mitigation measure; the submission for approval and implementation of a Construction Environmental Management Plan; the submission for approval of a lighting plan; the submission for approval and implementation of a more detailed landscaping plan; the provision of bats and bird boxes; and the submission of an updated badger survey if the development or each phase of the development is delayed and the implementation of Landscape and Habitat Management Plan.
- 4.37 Shropshire Council - Landscape Advisor: The Council's landscape advisor has reviewed the Landscape and Visual Appraisal submitted with the application. Whilst they offer a number of comments on the details of the how the Appraisal has been undertaken, their overall conclusion is that the Appraisal has been prepared in a proportionate manner in compliance with the guidance set out in the Landscape Institute's current guidelines for landscape and visual impact assessment and they broadly agree with the conclusions of the Appraisal. These are that the landscape effect associated with the proposed development is categorised as Moderate Adverse, but that this is very likely to reduce over time to Slight Adverse as the proposed planting becomes established and integrates the development into its wider landscape setting and that the visual effects will vary from a Moderate to Slight Adverse reducing to Slight Adverse in relation to Ludlow Castle and Slight Adverse reducing to Negligible for other viewpoints.
- 4.38 They did however initially identify that additional information should be sought from the applicant before the application is determined, and that this additional information should include; details of the proposed rebuilding of the boundary wall, details of existing and proposed levels, details of the locations and positions of trees and

hedgerows proposed for removal, identification of any developments likely to create cumulative landscape and visual effects, and if present, assessment of those effects, a fully specified hard and soft landscaping scheme for the whole site reflecting the site's location and the local landscape character, including details of the materials used for all paved surfaces and details of the plant species, sizes, numbers and densities, soils, methods of cultivation and planting, means of protection and a programme for implementation. They also advised that a management plan and schedule of landscape maintenance for areas lying outside of private gardens should be submitted and that the maintenance schedule should be for a period of at least 10 years and include details of the arrangements for its implementation and that it should include reference to the replacement of any plant (including any tree and hedgerow planting) that is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective.

- 4.39 This additional information has now been submitted, as set out in paragraphs 1.11 and 1.12 above (or its submission can be conditioned).
- 4.40 Shropshire Council - Conservation: They comment that the site is located in the northern part of the Ludlow Conservation Area and includes part of the former garden and grounds, and therefore falls within the setting, of Linney House: a Grade II listed 18th century house. They further comment that the site has been subject to gravel quarrying which has altered the original site profile and levels creating two terraces above the current floodplain of the River Corve. It has subsequently been colonised by trees, with younger, self-set trees supplementing the more mature trees within the former garden, on the former terrace sides and along the river's banks, such that in recent decades it has developed a wooded character.
- 4.41 In assessing the current planning application, they state it is accepted that there is an extant planning permission for three large, detached dwellings on the proposed development site (consented originally under Planning Permission Ref. 12/02275/FUL and more recently under Planning Permission Ref. 17/00230/FUL, which remains extant). They comment that the previous application (Ref/19/00826/FUL) for eight dwellings was one in relation to which they raised objections on the basis that the proposed landscaping scheme would neither preserve or enhance the character and appearance of the Conservation Area.
- 4.42 They advise that in assessing the current application, due consideration has been given to Sections 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; the policies contained in Chapter 16 of the NPPF; Policies CS6, CS17, MD2 and MD13 of the Local Plan, and the guidance contained in the NPPG and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets).
- 4.43 In relation to the requirements set out in Policy MD13 of the Local Plan and Paragraph 189 of the NPPF, they comment that the applicant has submitted a Heritage Impact Assessment which provides an assessment of the effects of the proposed development on the built historic environment.

- 4.44 In relation to the setting of Linney House, they advise that the proposed development would reduce the amount of development within the near vicinity of the listed building over that previously approved under Planning Permission Refs. 12/02275/FUL and 17/00230/FUL and that proposed under application 19/00826/FUL. They also comment that under this revised scheme, the existing adjacent garage and outbuilding would also be retained. They comment that the Assessment makes the point that the landform on the proposed development site was significantly altered by quarrying activity in the 1960s or early 1970s, which they consider had a negative effect on its significance. With this in mind they advise that they consider that the development now proposed would not result in any additional harm being caused to the significance of the listed building over the previously approved schemes (Refs. 12/02275/FUL and 17/00230/FUL) as a result of the effects that the development would have on its setting.
- 4.45 In relation to the effect on the Ludlow the Conservation Area, they advise that the legal duty imposed by Section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" by the decision taker when determining planning applications, is of primary importance.
- 4.46 With this in mind, they advise that the site currently has a wooded character and that the existing extant Planning Permission (Ref. 17/00230/FUL) for three dwellings was deemed to preserve the character and appearance of the Conservation Area through a landscaping scheme that it was considered would maintain the wooded character of the site.
- 4.47 The current application, they comment, proposes a total of four new dwellings but is of a substantially different design to the extant scheme, and which is described in the Heritage Impact Assessment as being of "...a contemporary "Nordic woodland" style.". This involves the construction of half the number of dwellings proposed under Application Ref. 19/00826/FUL, and they would now be located in the centre of the site and surrounded by extensive soft landscaping.
- 4.48 They comment that the dwellings will utilise a mixed palate of traditional building materials characteristic of the Ludlow Conservation Area, comprising brick, stone and timber and slate and plain tile roofs, which is intended to reflect those within the wider town and surrounding area. In addition, a mixture of roof profiles and pitches will be used to further break-up the form and massing of the dwellings, whilst significant amounts of glazing are intended to provide further interest, providing internal views that integrate the interior and exterior spaces. A palate of hard landscaping materials with earth born hues are proposed to complement and blend the scheme into the soft landscaping scheme. They comment that the Heritage Impact Assessment therefore states that "the riverside trees and additional planting will maintain a wooded environment character where the houses may be glimpsed through the foliage but will not be on full uninterrupted view."
- 4.49 They further comment that the contemporary design concept behind the scheme is welcome and that they consider that the mixture of forms, layouts and materials will



achieve the aim of breaking up the massing of each dwelling. Likewise, they also consider that it would enable the built form of the development to be better integrated with the reprofiled landform. As such, they consider that it has the potential to provide a greater level of architectural interest within the Conservation Area than the previously approved development would otherwise provide, subject to appropriate conditions being included on the grant of planning permission to ensure prior approval of all external materials and that the design objective behind the scheme are fully realised.

- 4.50 In relation to the boundary wall along The Linney, they comment that this is currently in a poor state of repair, but that the applicant has acknowledged that this is a key element of the Conservation Area. As with the extant Planning Permission, two vehicular accesses through the wall are proposed in broadly similar locations. The applicant is also proposing to realign the wall to offer some highway improvements, whilst it is also proposed to repair/reconstruct the existing wall. They note the comments of the Highways Officer and the issues they raise will therefore need to be resolved. However, as the Heritage Impact Assessment argues, they advise that the repair/reconstruction of the wall would in principle provide benefit to the wider Conservation Area by ensuring that the positive contribution the wall makes to its character and appearance is sustained in the longer term. They recommend that conditions be included on the grant of planning permission to ensure the new accesses and the realigned sections are contrasted, and that the repairs are undertaken, in a manner appropriate to the Conservation Area.
- 4.51 Finally, in relation to the landscaping scheme for the development they comment that this will be of fundamental importance in terms of maintaining the wooded character of the site, and to whether or not the tests set out in Section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990, are considered to have been met. They comment that the Council's Tree Officer does not object to the application subject to appropriate and binding short and long-term management proposals for landscape mitigation being secured. They concur with the Tree Officer's comment regarding the centrality of these considerations in determining whether this application meets with the principles for sustainable development and advise that that it equally applies to the consideration of whether the proposed scheme will preserve or enhance the character and appearance of the Conservation Area. Subject to the Tree Officer's requirements being met, they consider that the proposed landscaping concept has the potential in the longer term to preserve the wooded character of the part of the Conservation Area in which the site is located and potentially also to enhance it. In this latter respect, and subject to the Tree Officer's advice being followed in full, they consider that the proposed development will not cause harm to the significance of the Conservation Area as a designated heritage asset. Consequently, and whilst emphasising these caveats, they raise no objections to the proposed development in respect of Policies CS6, CS17, MD2 and MD13 of the Local Plan and Paragraphs 193, 194 and 200 of the NPPF.
- 4.52 They advise in relation to the comments of the Ludlow Civic Society and the Ludlow Conservation Area Advisory Committee that they consider that the advice provided above, and the planning conditions recommended below, address the matters raised.

- 4.53 They advise the inclusion of conditions relating to submission for approval of details of external materials finishes of the new dwellings, lighting, details of guttering, roofing details, details of rooflights, brickwork bond and type, joinery, details of the hard and soft landscaping, details of the repair and rebuilding of the boundary wall, stonework repairs and stonework bedding, jointing and pointing.
- 4.54 Shropshire Council: Archaeology: Advise that the site lies adjacent to the former Carmelite Friary, excavated remains of which date back to the 12th century, a post medieval graveyard, the Medieval street system, and former open spaces east and west of The Linney. They further comment that documentary evidence indicates that the land on either side of The Linney was laid out in burgage plots in the 13th century and that ridge and furrow cultivation has been recorded in the area which was enclosed by the end of the medieval period. They advise that, although there is no evidence that this area was occupied in the medieval period, it is possible that the medieval plots were used for various crafts and industrial activities as well as agriculture, and medieval occupation activity has been identified west of The Linney comprising at least two building structures with a possible domestic plot occupying the street frontage and an ancillary structure to the rear of later 12th century to the mid-14th century date. Other significant archaeological discoveries include medieval pottery and other artefacts at Linney House.
- 4.55 They comment that the site is low lying and prone to flooding and has been subject to terracing and recent regrading. Despite this they advise that it is still deemed to have some archaeological potential and any below ground archaeological remains are likely to be affected by the construction of the proposed new dwellings, associated services, new vehicular access and any landscaping of the site.
- 4.56 An archaeological desk-based assessment has been produced in support of the current application. This assessment recommends that the proposed development be accompanied by an archaeological watching brief (in line with previous recommendations made by the Historic Environment Team for the site). The Archaeology Officer concurs with this recommendation. A written scheme of investigation (WSI) for a programme of archaeological work was produced and approved by the Historic Environment Team in 2016 for a previous application for the site (in relation to Applications Refs. 12/02275/FUL and 17/000230/FUL).
- 4.57 The Archaeology Officer therefore advises that an updated version of the previously approved WSI should be submitted with any discharge of condition application if planning permission is granted and accordingly recommends the inconclusion of a condition on the grant of planning permission requiring the submission for approval and implementation of an (updated) written scheme of investigation (WSI).
- 4.58 Environment Agency: Advise that they have no objection but have the following detailed comments to make on the application:
- 4.59 Flood Risk: That the site is (partially) located in Flood Zone 3, which is the high-risk zone and is defined for mapping purposes by the Agency's Flood Zone Map. In accordance with Table 1: Flood Zones within the National Planning Practice

Guidance (NPPG) Flood Zone 3 is considered ‘high probability’ of fluvial flooding and comprises land assessed as having a 1 in 100 year, or greater, annual probability of river flooding. The proposed residential units are to be located on a plateau outside of Flood Zone 3.

- 4.60 Sequential Test: That the NPPF details the requirement for a risk-based Sequential Test in determining planning applications. The NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying the Sequential Test. It states that “Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding”.
- 4.61 It comments that further detail is provided in the NPPG which states that “Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test (ET) if required”.
- 4.62 Based on the scale and nature of the proposal, the Environment Agency states that it does not wish to make any bespoke comments on the Sequential Test, and that it will leave this for the Council to consider. It comments that providing the Council as the Local Planning Authority is satisfied that the Sequential Test has been passed, then it offers the following additional comments.
- 4.63 Flood Risk Assessment (FRA): It advises that it does not have a model for the River Corve, although a Flood Modelling Study on the watercourse was undertaken to support the previous application (19/00826/FUL). It comments that the model has taken a precautionary approach and included updated climate change guidance for both 35% and 70%. The model indicates that the 1 in 100 year plus climate change (design flood level) would be at a level of 82.44mAOD. The developable area of the site is to be set no lower than 84.5mAOD which they therefore advise, is in excess of 2 metres above the design flood level and, as such, that the proposed dwellings will be safe and also afforded dry access in a flood event.
- 4.64 It comments that the development fits within the existing Flood Zone 1 boundary for the majority of the properties. However, it also comments that it appears that the western plot is only considered to be in Flood Zone 1 following the proposed ground works. It further comments that the FRA and Flood Modelling Study state that the impact on areas outside the site boundary is negligible which the Environment Agency advises, it concurs with. It advises that the land reprofiling is predominantly on land above the 1 in 1000 flood level and that the minimal loss of storage within the floodplain is offset by improvements in conveyance.
- 4.65 It also advises that the area of land within 8 metres of the top of the bank from the River Corve (Main River) should be kept free of structures, including fencing and it accordingly requests the inclusion of an informative advising the applicant that any works within 8 metres of the River Corve will require a permit under the Environmental Permitting (England and Wales) Regulations 2016.
- 4.66 Foul Drainage: In relation to foul drainage it advises that it has no objection to the

connection of foul water to the mains foul sewer, as proposed.

- 4.67 Ramblers Association: Comment that Question 22 on the Planning Application Form, which is concerned with whether the site can be seen from a public road, public footpath, bridleway or other public land has been answered incorrectly in stating “No” in that The Linney is a Public Highway and the site can be seen from it.
- 4.68 Canals and Rivers Trust: Have no comment to make.

## 5.0 THE MAIN ISSUES

- **Principle of the Development;**
- **Impact on Trees;**
- **Impact on Ecology;**
- **Impact on Listed Buildings and the Conservation Area;**
- **Traffic, Highway and Pedestrian Safety;**
- **Flood Risk;**
- **Design;**
- **Affordable Housing;**
- **Ground Contamination;**
- **Comparison Against Consented Scheme and the Fallback Position**
- **Overall Public Benefit v Harm – Planning Balance**

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of Development

- 6.1.1 As was the case in relation to the previous eight house scheme, under Planning Application, Ref. 1900826/FUL, considered by the Committee in July 2020 following an appeal for non-determination, the key issue in relation to the principle of the development is that the site is located immediately adjacent to, but outside, the development boundary for Ludlow, and that approval of the application would potentially be a departure from the Development Plan. As a site outside the development boundary the application raises the issue of whether or not there is justification under SAMDev Policy MD3 paragraph 3, for granting consent for the scheme, as a windfall site, taking into consideration the current settlement housing guideline figure for Ludlow and whether this is being met. Even then, if there is not a case for granting consent under Paragraph 3, then insofar as there is an existing consented three house scheme approved on the site, there is also a fallback position to take into account, in terms of whether this lends weight, as justification for the approval of the currently proposed four houses scheme, and in particular because the proposed four house scheme, offers any or sufficient betterment or enhancement over the existing three house scheme.
- 6.1.2 In terms of the development strategy, Core Strategy Policy CS1 sets out the overall Strategic Approach to development in Shropshire, with development concentrated in Shrewsbury and County’s Market Towns and Other Key Centres. Ludlow is identified in Core Strategy Policy CS3 and the SAMDev Policy MD1 and Schedule MD1.1 as one of the Market Towns and Key Centres, and SAMDev Policy S10 and S10.1

identify it as the largest market town in southern Shropshire, providing a focus for development. It includes a housing guideline figure of around 875 new dwellings in the period between 2006 and 2026 and it states that new housing development will be delivered primarily on the allocated housing sites east of the A49, set out in Schedule S10.1a and identified on the Policies Map, alongside additional infill and windfall development, within the town's development boundary. The development boundary is shown on the Adopted Policies Map 2015 – Ludlow Area Place Plan (Inset 1). This shows the development boundary extending along The Linney on the south side of the application site, with the site itself is situated just outside the development boundary. As such it falls within the area of land to be treated as countryside under Core Strategy Policy CS5 and SAMDev Policy MD7a.

- 6.1.3 Neither Core Strategy Policy CS5 nor SAMDev Policy MD7a envisage the development of new open market housing in the countryside and both make clear that new development will be strictly controlled in accordance with national planning policies protecting the countryside. However, Paragraph 3 of SAMDev Policy MD3 sets out that the circumstances in which planning permission may exceptionally be approved for sites outside settlement development boundaries.
- 6.1.4 Paragraph 3 states that where a settlement housing guideline appears unlikely to be met, additional sites outside settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations set out in Paragraph 2. The considerations set out in paragraph 2 include:
1. The increase in number of dwellings relative to the guideline; and
  2. The likelihood of delivery of the outstanding permissions; and
  3. The benefits arising from the development; and
  4. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
  5. The presumption in favour of sustainable development.
- 6.1.5 The starting premise of paragraph 3 is that it applies only in instances where a settlement housing guideline appears unlikely to be met. Therefore, the question is whether the current settlement housing guideline for Ludlow has or has not been met or is unlikely to be met?
- 6.1.6 The latest figures are set out in the Council's Five-Year Housing Land Supply Statement published in March 2020. This indicates that as of the 31<sup>st</sup> March 2019, there had been 480 completions and Planning Permissions of Prior Approvals for 802 additional dwellings, providing a total of 1282 completed sites or dwellings with Planning Permission. There are no outstanding additional allocations. Therefore, when set against the Housing Guideline figure of 875, it is clear that there is already substantial over provision in Ludlow. Because the numbers are so substantially over the Housing Guideline figure, it cannot be considered there is any justification in terms of the numbers and consequently no case for invoking paragraph 3 of the Policy MD3. As such in terms of Development Plan policy there is on the face of it, no case for the development being justified in terms of policy set out in the development strategy of the Development Plan. The applicant does not dispute this and does not attempt make a case that the Policy MD3 should be invoked. There is

no disagreement between the Council and the applicant on this basis.

- 6.1.7 There are alternatively potentially two significant material considerations to set against this. The first being that the NPPF sets out policies for rural housing on Paragraphs 77 to 79. These make clear, in paragraph 77 that, in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs and, in paragraph 78 that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. As a site on the edge of Ludlow, the issue of the sustainability of rural village communities is not a relevant consideration. Paragraph 79 then states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of specified circumstances apply, but none in this case are applicable or are being argued by the applicant. In the current situation of an oversupply of housing completions and permissions against the identified requirement, there is therefore no case in terms of national planning policy outweighing, Development Plan policy as a material planning consideration.
- 6.1.8 The only other case to consider then is whether the fallback to the existing consented scheme lends weight as justification for approval of the current four house scheme and/or whether the proposed four house scheme, offers any, or sufficient, betterment or enhancement over the existing three house scheme, as a material consideration. This is to be assessed in relation to the other issues identified in Section 5 above and as follows:

## **6.2 Impact on Trees**

- 6.2.1 Again, as was the case in relation to the previous eight house scheme, the impact on the trees on the site is by far the most important aspect of the scheme because of its significance as an area of established woodland and because it requires the felling of almost all the trees and the clearance of the upper level and part of the lower level to enable the proposed site reprofiling works to be undertaken. Consideration of the impact on the trees is quite a complex matter which to fully understand, it is necessary to consider it in the context of; the overall recent history of the tree cover on the site and the resulting environmental baseline prior to the approval the existing consented scheme; what the existing consented scheme proposes; the felling proposed; what the current application proposes and how this differs from the consented scheme; and what is now proposed by way replanting, landscaping and management of the site and what the end result will be. This is complex but important to understand in terms of justification for the recommendation on this application.

### The overall recent history of the tree cover on the site

- 6.2.2 As set out above, the site historically is understood to have been worked as a mineral extraction site. As detailed above, there is some disagreement between the applicant and third parties on when mineral extraction ceased. The Design and Access Statement submitted with the 2012 Planning Application Ref. 12/02275/FUL suggested that the upper part of the site adjacent to The Linney was used as a coal

merchants yard, while the lower part of the site adjacent to the river was used by Jolly's Circus for over wintering animals and caravans, although it is unclear exactly when this would have been. Photographs submitted with that application, which its states date from c.1989-1990 and some from 1995, show the site as largely open but with scattered trees, at least some of which were planted 25 years earlier, i.e. in the mid to late 1970s by the previous owner.

- 6.2.3 Aerial images of the site from 1999 show the site substantially covered in trees, albeit with some paths and rides through it, so that it had by that date developed as a substantial block of woodland. Additional aerial images show that this continued to develop and mature through to 2015.
- 6.2.4 The report of the tree survey undertaken in 2012 and submitted as part of Planning Application Ref. 12/02275/FUL indicated that, at that time there were approximately 250 individual recorded trees plus groups comprising approximately 100 further trees on the site. The report indicates that these were a mixture of self-set native species and planted ornamental trees including some conifers.
- 6.2.5 The 2012 planning application initially identified that 64 trees would be felled but that these would largely be confined to the areas where four originally proposed dwellings were to be located, the idea being to retain as many of the trees on-site as possible. The submitted application was subsequently amended to omit one of the proposed dwellings, reducing it to a three-house development which was what was approved in June 2014. Details of the tree protection and landscaping of the site were reserved by condition, and a discharge condition application (Ref. 16/01767/DIS) was subsequently submitted and approved in November 2016. In addition, there were two subsequent amendments (Refs. 16/02803/AMP and 16/05582/AMP) which made a revision to the siting of the house on Plot 2 to avoid a mains sewer and the removal of an additional tree that had not been plotted on the originally submitted tree survey plan. As result of the submitted and approved landscaping plan, it was identified that in total 100 trees would need to be felled (rather than the originally proposed 64), but that as a result 194 trees would be planted as mitigation. The scheme nevertheless retained the substantive tree cover on the upper part of the site adjacent to The Linney. Following the amendments, the net effect is that the total proposed loss would be 99 trees and that total to be replanted would be 183 new trees (which have yet to be planted).
- 6.2.6 What however also happened at this time is that the applicant, before the submission of the discharge of condition application, felled up to 157 other additional trees, without first giving notice under s.211 of the Town and Country Planning Act 1990, because of the location of the site in a Conservation Area. It is understood that some of these trees were those included in the number in the subsequent discharge of condition application. These trees were as such unlawfully felled. The applicant as a result agreed to a voluntary replanting scheme comprising 100 replacement trees planted as whips and these have been planted. The figure for the number of trees unlawfully felled is that identified by the Council's Tree Officer. The exact number is disputed by the applicant.
- 6.2.7 The subsequent 2017 Planning Application Ref. 17/00230/FUL essentially took into

account the details approved in the 2014 permission and in the subsequent discharge of conditions application and amendments. It is understood that an additional 99 trees have been felled as pre-commencement works. The currently submitted Tree Constraints Plan appears to represent the current position on site in terms of the trees remaining, i.e. 145 trees, although for the reasons set out in paragraph 6.2.8 below it is not considered to present a complete and accurate record of the trees on the site.

What the current application proposes and how this differs from the consented scheme

- 6.2.8 There has been some variation in the stated number of trees that need to be felled to implement the development across the previous application for the eight house scheme and the current application, with the latest version of the Arboricultural Method Statement in the current application stating that 68 trees and four groups of trees will need to be removed. It states that the majority of trees to be lost are small or moderately sized category C specimens with low amenity value. The two most important trees within the former garden area of Linney House, the Sycamore and the Ash located adjacent to the site entrance to Plots 5 to 8, are to be retained.
- 6.2.9 The Arboricultural Reports have been accurate in stating that the majority of the trees are not particularly significant trees as individual trees and that the loss of each as an individual tree does not give rise to significant harm. However, the reports have inadequately considered the impact of the collective loss of the trees and are even misleading in understating the loss that will result. As stated above, there has been disagreement between the Tree Officer and the applicant about the number of trees that have been felled. The Tree Officer has included an Addendum with his comments that details the recent tree history on the site and identifies that there were 256 trees felled in 2015-2016, 157 of which were unlawfully felled and then a further 99 that were additionally felled as part of the authorised pre-commencement works to the implementation of the 2014 Planning Permission (Ref. 12/02275/FUL).
- 6.2.10 This is now largely of historical significance but what is relevant is that the applicant agreed and undertook the planting of 100 trees as compensatory planting for the unlawful felling and also agreed to the planting of a further 183 trees as additional compensatory planting, pursuant to the discharge of conditions on the 2014 Planning Permission. This planting has yet to be undertaken. Whilst these trees do not exist on the site, they do form part of the baseline for the consented scheme, now implemented under the 2017 Planning Permission. The Arboricultural Report submitted with the current application should have identified these as part of the environmental baseline on the site and is inadequate and misleading in that respect. If, however, the currently submitted scheme is intended to supersede that approved under the now implemented 2017 consent, as it is, then the correct environmental baseline can be considered to be the current position before the felling of any additional trees (even if they do not remain on site) as part of the implementation of that consent, the approved replanting required arising from that consent and/or the subsequent discharge and variation of condition applications attached to that consent.



- 6.2.11 Notwithstanding these inadequacies in the submitted details, it is clear from the application that all the trees on the part of the site to be affected by the reprofiling works will need to be felled and that these will be lost, regardless of any dispute over the exact numbers or the accuracy of the Arboricultural Report. In that respect the substantive issue is one of what is proposed by way of replanting on the site, once the re-profiling has been undertaken.

The Amended Proposals included in the Current Application

- 6.2.12 As set out in detail in the report to this Committee on Planning Application Ref. 19/00826/FUL for the previous eight house scheme, the proposals submitted with it would have resulted in the loss of a significant proportion of the trees on the site, including almost all of the trees on the upper part of the site adjacent to The Linney. Because of the number of dwellings proposed, it would simply not have been possible to provide adequate mitigation by way of a replanting/re-landscaping scheme, to make up for the loss. The Tree Officer, the Ecology Officer and the Conservation Officer all advised that that scheme was unacceptable and that for an alternative development proposal on the site to be acceptable, a reduced level of development with an enhanced tree planting and landscaping scheme together with a long-term management plan for the site would be required. This is what the negotiated amended four houses scheme included in this application now seeks to provide.
- 6.2.13 As detailed above the proposal now includes an enhanced landscaping scheme that will provide a much improved level of mitigation by way of replanting that would make up for the loss, with enhanced planting to re-establish the essentially woodland character of the site, and in particular with a much broader belt of tree planting along the boundary of The Linney. The Tree Officer, the Ecology Officer and the Conservation Officer all advise that in principle the amended scheme is now acceptable, although as set out above the Tree Officer has expressed concern about some aspects of the details included in the amended scheme, and in particular, the adequacy of the planting along the northern side of the site.
- 6.2.14 As also detailed above, a Landscape and Habitat Management Plan has now been submitted that includes proposals for an initial fifteen-year period for the management of the landscape and habitat areas on the site. This includes an annual monitoring review of its implementation and provision for feedback from the Council as the Local Planning Authority, as well as the replacement of and replanting of any losses. It is also proposed to set up a management company to be responsible for the long-term management of the site that would be run and funded by the residents of the site.

Overall Conclusions in Relation to the Impact on Trees

- 6.2.15 Overall, whilst the Tree Officer has indicated that some further amendment is required to the submitted landscaping details, the principle of what is proposed is now broadly agreed to be acceptable and in order to allow determination to proceed without further delay, it is recommended that the application be determined subject to conditions, with a condition requiring the submission of further revised landscaping

and plan and amendment to the Landscape and Habitat Management Plan to address the three issues identified by the Tree Officer, and otherwise to include conditions retaining to specification for the restoration soils, implementation of the landscaping scheme, and Landscape and Habitat Management Plan, the monitoring of the implementation of Landscape and Habitat Management Plan and replacement for any losses and tree protection as set out in Appendix 1 at the end of this report.

6.2.16 Accordingly, with the recommended conditions the proposal can now be considered to be an acceptable scheme and in accordance with Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD12 and paragraph 170 of the NPPF.

### **6.3 Impact on Ecology**

6.3.1 In relation to the impacts on Ecology, the comments of the Ecology Officer as set out above are self-explanatory. The Ecology Officer objected to the previous eight house scheme, on the basis, with the level of development proposed, that the proposal would have resulted in significant damage to the Environmental Network and that the application as submitted did not provide details of sufficient mitigation or compensation measures for the harm to natural assets of the site. They therefore advised that the original consented three house scheme would be significantly less damaging to the Environmental Network and that the submitted scheme did not provide adequate details or adequately demonstrate that the harm will be appropriately mitigated in accordance with the hierarchy of mitigation.

6.3.2 As detailed above they now advise, with the reduced level of development and the enhanced mitigation proposed that whilst the proposed development site lies within the Environmental Network, it is acceptable subject to the inclusion of conditions relating to a submission for approval of a Construction Environmental Management Plan, detailed Landscaping Plan, Lighting Plan and Habitat Management Plan, that the development will not have an adverse impact on the Environmental Network and it will provide ecological enhancements.

6.3.3 The proposal can therefore be considered to be compliant in terms of relevant Development Plan policy which includes Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD12 and the relevant paragraphs of the NPPF.

### **6.4 Impact on Listed Buildings and the Conservation Area**

6.4.1 The impact of the proposal on Listed Buildings and the Conservation Area is summarised in the comments of the Conservation Officer as set out above, so that there is no need to repeat these. The Committee in determining the application, needs to be mindful of the obligations under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.4.2 In relation to the impact on the Conservation Area, as set out in the Conservation Officer's comments, they are now advising that the amended proposals included in the current application have sufficiently addressed their previous objections. In particular, they comment that in relation to the landscaping scheme that this will be of fundamental importance in terms of maintaining the wooded character of the site,

and to whether or not the tests set out in Section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990, are considered to have been met. As detailed above they concur with the Tree Officer's comment regarding the centrality of these considerations in determining whether the application meets with the principles for sustainable development and advise that it equally applies to the consideration of whether the proposed scheme will preserve or enhance the character and appearance of the Conservation Area. As is set out above, the Conservation Officer now advises, subject to the Tree Officer's requirements being met, that they consider that the proposed landscaping concept has the potential in the longer term to preserve the wooded character of the part of the Conservation Area in which the site is located and potentially also to enhance it. In this respect, and subject to the Tree Officer's advice being followed in full, they consider that the development of the site as now proposed will not cause harm to the significance of the Conservation Area as a designated heritage asset.

6.4.3 Consequently, subject to the inclusion of conditions relating to submission for approval of details of external materials finishes of the new dwellings, lighting, details of services, roofing details, details of rooflights, brickwork bond and type, joinery, details of the hard and soft landscaping, details of the repair and rebuilding of the boundary wall, stonework repairs and stonework bedding, jointing and pointing, the application can be considered to be acceptable in relation to Core Strategy Policies CS6, CS17, SAMDev Policies MD2 and MD13 and Paragraphs 193, 194 and 200 of the NPPF.

## **6.5 Traffic, Highway and Pedestrian Safety**

6.5.1 In relation to traffic, highway and pedestrian safety, the key consideration is that The Linney is very narrow and includes a bend halfway along the southern boundary of the site. This limits the visibility of on-coming vehicles in both directions. The Committee may recall that the eight-house scheme of Application Ref. 19/00826/FUL also included a footpath link with a crossing point for pedestrians on the bend, that would be located adjacent to the gateway into the St Leonard's Church Yard. This has now been omitted, for pedestrian safety reasons.

6.5.2 The development of the site would, even at the reduced scale proposed, give rise to additional traffic on a road that presents some difficulties. The scheme would however offer mitigation by way of the provision of the proposed passing place and also the repair of the boundary wall along The Linney, which directly fronts the road without any intervening kerb or verge. These, as with the previous proposal, would be benefits.

6.5.3 Although not all the details have been submitted as requested by the Highway Authority, there is no in principle objection on highway and pedestrian safety grounds subject to submission of these further details. There is therefore no basis at this stage for considering that the proposal would not be acceptable in relation to traffic, highway and pedestrian safety considerations.

6.5.4 Securing of the provision of the passing place can be achieved by the imposition of a Grampian style condition requiring its provision before the substantive

development works are commenced, although to ensure that the land to be provided for the construction of the passing place is available and publicly accessible in perpetuity, dedication of the land to the Highway Authority is required. This can be secured through a Section 278 legal agreement between Shropshire Council as the Highway Authority and the Developer. Details of the design of passing place can be secured by condition, although they will also need to be subject to the Section 278 technical approval process. The details may (still) need to include the provision of pedestrian barriers to ensure pedestrian safety, depending on the design of the passing place.

- 6.5.5 With the inclusion of appropriate conditions, the application can be considered to be compliant with relevant Development Plan policy which includes Core Strategy Policy CS6 and the NPPF, Paragraphs 108-110.

## 6.6 Flood Risk

- 6.6.1 Although part of the site is located in Flood Zones 2 and 3, the Environment Agency has advised that the development fits within the existing Flood Zone 1 boundary for the majority of the properties, and that it is satisfied that the loss of storage within the floodplain would be minimal and offset by improvements in conveyance. With regard to the reprofiling works proposed, it further advises that if the developable area of the site is to be set no lower than 84.5mAOD which is in excess of 2 metres above the design flood level (82.44mAOD), that the proposed dwellings will be safe and also afforded dry access in a flood event. As such the site cannot be considered to raise any significant issues in terms of flood risk including the need to apply the Sequential Test or Exception Test (as detailed above in the comments of the Environment Agency).

- 6.6.2 It should be noted that the Environment Agency has advised that the area of land adjacent to the top of bank from the River Corve should be kept free of structures, although it has not advised against planting in this area and consideration of flood risk needs to take into account biodiversity objectives and the duty to conserve biodiversity under s.40 of the Natural Environment and Rural Communities Act 2006.

- 6.6.3 There are therefore no significant issues in relation to flood risk, and the development can be considered to be compliant with relevant Development Plan policy including Core Strategy Policies CS6 and CS18 (on Sustainable Water Management) and the NPPF Chapter 14.

## 6.7 Design

- 6.7.1 It is undoubtedly the case that the design of the development, and particularly the proposed dwellings, is one of the key features of the scheme. The desire to bring forward a better design than the existing three house scheme has been a significant underlying motivation for the applicant.

- 6.7.2 The Applicant states in their Planning Statement that:

*“The reason for not having carried out the 2017 permission already, is that in pre-*

*application discussions with... officers of the Council in 2018, it has been established as a matter of unequivocal common ground that the 2012 and 2017 permissions represent a form of development which could be greatly improved on so as better to enhance the area. This planning judgment is mirrored by the landowner's view that better designed houses would present a better return for his company. This is important, because when landowner and Council thinking coincide, the planning system is capable of delivering a high quality development project".*

6.7.3 The consented three house scheme, was described in the Officer's Report on the 2017 renewal application, as comprising:

*"..three houses each with five bedrooms and sited in very substantial plots. Plot 1 is an Arts and Crafts style villa with a link detached double garage. It is faced with render and has a clay tile roof. Plot 2 is a more traditional approach proposing a rendered building with a slate roof and detached double garage" and Plot 3 as also consisting of "...a dwelling of a more traditional design and is constructed in brick and stone with a slate roof [with]... a detached double garage and store".*

6.7.4 There is nothing particular notable or outstanding about the design of the existing consented scheme, as far the built element of it is concerned, and certainly nothing that could be described as innovative or particularly imaginative or that adds anything substantially to the location of the site in the Ludlow Conservation Area. The Officer's report for the 2017 Planning Application did not address the issue of design, other than in the context of the impact on Heritage Assets rather than as a substantive issue in its own right. It described the three dwellings "...as three individually designed plots, each having a different architectural style and finish..." but that the "...the impact will be restrained by the varied levels and landscaping which will accompany the development". To put it another way the design of the dwellings was relatively inconsequential because of the level, of the largely retained, woodland and landscaping. The scheme does nevertheless have merit in retaining the existing stone boundary wall along The Linney, which it would, if it were to be built, be largely maintained and repaired as part of the approved scheme and it would retain a significant proportion of the tree cover on the site, particularly along the frontage with The Linney. These matters are considered in more detail above. As far as the design of the dwellings themselves are concerned, they are certainly not notable for being anything particularly outstanding.

6.7.5 In terms of design, the key consideration then is one of whether the new four house scheme offers something that is better and an improvement on the consented three house scheme. It is clear that it seeks to introduce a very different design approach, with a strong underlying concept, described in the application as a "contemporary Nordic woodland style". There is consistency of design across the four houses proposed, which the Design Access Statement describes as *"...bespoke vernacular dwellings, i.e. characterised by stylistic detail, construction materials and skills specific to its particular locality"* comprising;

- A contemporary modern design;
- Use a palette of naturally occurring local materials;
- Interspersed with generous landscaping and tree planting;

- Preserving the natural river margin to the River Corve;
- Retaining an effective "green screen" along The Linney roadway;
- Avoiding prominence beyond the site;
- Including the rebuilding of the stone boundary wall to The Linney; and
- Avoiding hazard to existing users of the highway.

6.7.6 In terms of Policy, Core Strategy CS6 refers to development being designed to a high quality using sustainable design principles, which respects and enhances local distinctiveness. This it states, is to be achieved by amongst other things protecting, restoring, conserving and enhancing the natural, built and historic environment and ensuring that new development is appropriate in scale, density, pattern and design taking into account the local context and character, including those features which contribute to local character. SAMDev Policy MD2 includes similar references but also refers to embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics. The NPPF Chapter 12 and in particular Paragraph 127 refers to ensuring that new development adds to the overall quality of the area, is visually attractive as a result of good architecture, layout and appropriate and effective landscaping; is sympathetic to local character and history, including the surrounding built environment and landscape setting, but also not to preventing or discouraging appropriate innovation or change and establishing or maintaining a strong sense of place.

6.7.7 In this case, the design is undoubtedly more innovative than the consented scheme and is one that more effectively responds to, and is designed to, reflect the woodland setting of the site. In terms of the design of the built element, the scheme proposed under this application is without any doubt an improvement on the existing consented scheme and, in that respect, must be considered to be preferable and to offer an enhancement over the consented development, which weighs in its favour. The benefit of the design has however, also to be considered in relation to the landscaping of the site which is central to the whole concept. This is considered in more detail above.

6.7.8 As set out above, the Conservation Office welcomes the contemporary design concept behind the scheme as being an improvement on the existing consented scheme, which should be recognised as a benefit. The design can therefore be considered to be acceptable and policy compliant with the key relevant Development Plan and national policies. These include Core Strategy Policy CS6 and SAMDev Policy MD2, as well as Chapter 12 of the NPPF. The proposal can also be considered to be acceptable in relation to the Principle 2 (Local Distinctiveness) set out in the West Midlands Design Charter, which has recently (on 1st June 2020) been endorsed by Cabinet as a material consideration to inform decisions on planning applications.

## **6.8 Affordable Housing**

6.8.1 As set out in the comments of the Affordable Housing Officer, the proposal exceeds the site size threshold for an affordable housing contribution. A contribution is required at the Prevailing Target Rate of 15%. It should be noted that although the site is located outside the development boundary for Ludlow, it is still located within

the Ludlow Town Council area, so that the Target Rate is the lower 15% band applicable in the town, rather than the higher 20% applicable in the surrounding rural area.

6.8.2 A Section 106 agreement would be required to secure the contribution. Subject to payment of the contribution there is no reason for it to be considered to be a determining issue other than as part of the public benefit that would be provided by the scheme and the application can be considered to be compliant with Core Strategy Policy CS11, the Council's Type and Affordability of Housing SPD (2012) and the NPPF.

6.8.3 In this case the applicant has offered a Planning Obligation in the form of a Unilateral Undertaking to secure the affordable housing contribution. Subject to confirmation from the Council's Legal Services Manager that the drafted Unilateral Undertaking is acceptable, there is no reason not to consider this to be acceptable. If it is not, then a conventional Section 106 agreement could be used instead.

## **6.9 Contamination**

6.9.1 This is not a major or determining issue and can be addressed by condition as recommended by the Regulatory Services Officer.

## **6.10 Comparison Against Consented Scheme and the Fallback Position**

6.10.1 As set out above the application needs to be considered, having regard to the existing consented three houses scheme compared with the currently proposed four house scheme, in terms of the relative merits and harm of the two proposals.

6.10.2 As set out above the primary concern in relation to the existing approved three house scheme is with its relatively mediocre design quality, on what is a key site, in Ludlow. The proposed dwellings, of the consented scheme, are of a more traditional although mixed design, and add little of merit to the character and appearance of the Conservation Area. On the other hand, as noted above, in the comments of the Tree Officer, Ecology Officer and Conservation officer, the approved three house scheme retains the existing trees to a much greater extent than in the previously proposed eight house scheme, and there is additional compensatory planting that is still to be undertaken. There is however no agreed management plan for the long-term future management of the retained and future woodland to accompany the existing approved three house scheme. The proposed eight house scheme undoubtedly provided a more interesting design response than the existing consented scheme but what is of most significance is that it would have required the almost wholesale removal of the trees on the upper part of the site adjacent to The Linney, and the level of development proposed would have made it impossible to re-establish anything close to the existing level of woodland cover on the site, giving rise to unacceptable harm. In that respect the eight house scheme would have given rise to significant harm that the approved three house scheme would not. The four house scheme now proposed, overcomes the objection to the eight house scheme and the three key consultees have all advised that in principle it is acceptable, subject to the further amendments requested by the Council's Tree Officer. In that respect, taking

into account the fallback, the proposed four house scheme can be considered to provide significant improvement over the existing consented three house scheme.

## **6.11 Public Benefit v Harm – Planning Balance**

6.11.1 As set out above, the public benefits of the scheme can be considered to include the repair of the boundary wall and the improvements to access along The Linney, the affordable housing contribution that would be secured and an improved architectural design. In this instance the harm caused by the loss of the trees and woodland as a result of the clearance of the site required to implement the scheme can be offset and betterment can be provided by the enhanced landscaping and habitat proposals and the long term Landscape and Habitat Management Plan that has been offered. Insofar as this is the case, the proposal included in this application does satisfactorily provide an alternative to the previously proposed eight house scheme and would provide sufficient, betterment and enhancement over the existing consented three house scheme, to warrant approval, albeit as a departure from the Development Plan, in that it does provide a positive balance of public benefit against the harm that would arise as result the short-term loss of the existing woodland, and can therefore be considered to be acceptable in terms of the overall planning balance.

## **7.0 CONCLUSION**

7.1 This is an application for the re-profiling of the ground, erection of four detached houses, restoration of the stone boundary wall along The Linney, creation of a managed woodland area on the lower level of the site and an access track for maintenance, on land adjacent to Linney House at The Linney, Ludlow. The application is an amended version of the previously submitted eight house scheme and has been submitted following lengthy and extensive discussion and negotiation with the applicant, aimed at addressing the shortcomings of that scheme and in particular the inadequate level of the woodland replanting being proposed to provide compensation, mitigation and enhancement for the loss of the existing woodland.

7.2 The application would be contrary to the Development Plan insofar as it is located outside the development boundary for Ludlow and therefore contrary to Core Strategy Policy CS5 and SAMDev Policies MD7a and S10 and the latest figures set out in the Council's Five-Year Housing Land Supply Statement published in March 2020 confirms that the number of completions and Planning Permissions or Prior Approvals is so substantially over the Housing Guideline figure for Ludlow, that there is no case for invoking paragraph 3 of SAMDev Policy MD3.

7.3 However, taking into account the fallback position of the existing consented three house scheme, the four house scheme now proposed, overcomes the objections to the previously proposed eight house scheme and can be considered to be acceptable and to provide significant improvement over the existing consented three house scheme.

7.4 As set out above, the public benefits of the scheme can be considered to include; the repair of the boundary wall and the improvements to access along The Linney,



the affordable housing contribution that would be secured and an improved architectural design. The harm caused by the loss of the existing trees and woodland as a result of the clearance of the site required to implement the scheme can be offset and betterment can be provided by the enhanced landscaping and habitat proposals and the long term landscape and habitat management plan that has been offered. Insofar as this is the case, the proposal included in this application does sufficiently and satisfactorily provide an alternative to the previously proposed eight house scheme and can be considered to provide sufficient betterment and enhancement over the existing consented three house scheme, to warrant approval. Whilst it would be a departure from the Development Plan it would provide a positive balance of public benefit against the harm that would be caused by the loss of the existing woodland. It can therefore, notwithstanding the non-compliance with the overall Development Plan development strategy and related policy set out above, otherwise be considered to be acceptable in terms of Core Strategy Policies CS6, CS17 and SAMDev Policies MD2, MD12 and MD13 and the NPPF, and the overall planning balance.

- 7.5 The application has been advertised as a departure from the Development Plan but, because the period for consultation has not yet ended, the recommendation is that approval of the Application be delegated to the Head of Planning Services subject to the conditions set out in Appendix 1 and the heads of terms for a Planning Obligation (either in the form of the Unilateral Undertaking offered by the applicant or a conventional Section 106 agreement) set out Appendix 2.

## **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.

- 8.1.2 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 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.
- 8.2.2 First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.
- 8.2.3 This legislation has been taken into account in arriving at the above recommendation.

## 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 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

### Development Plan Policy

Shropshire Local Development Framework: Adopted Core Strategy (March 2011)

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015)

### National Planning Policy

National Planning Policy Framework (NPPF) (February 2019)

### Relevant Planning History:

#### Planning Applications

- 10/03594/TCA Removal of one Leylandii, reduce Leylandii hedge to approx. 3m, reduce Leylandii and Laurel hedge to approx 3m and replace Leylandii and Laurel hedge with Beech/Hawthorn hedge within Ludlow Conservation Area NOOBJC 17th September 2010
- 11/04536/TCA To lower Leylandii, Laurel and Hawthorn hedge to approx 3.5

- metres within Ludlow Conservation Area NOOBJC 11th November 2011
- 12/02275/FUL Erection of three detached dwellings with garages following demolition of existing garage and shed; formation of new vehicular accesses GRANT 26th June 2014
  - 14/04678/VAR Application for variation of condition 11 (ecology/bat surveys) attached to permission 12/02275/FUL to allow for modifications to report WDN 14th December 2015
  - 16/01767/DIS Discharge of Conditions 3 (Materials), 4 (Windows and Doors), 5 (Landscaping), 7 (Archaeology), 8 (Tree Protection), 9 (Drainage Details), 10 (Arboricultural Method Statement), 11 (Ecology) and 12 (Flood Storage) attached to Planning Permission 12/02275/FUL DISAPP 15th November 2016
  - 16/02803/AMP Amendment to Permission 12/02275/FUL (Resiting of Plot 2) GRANT 16th August 2016
  - 16/05582/AMP Non-material amendment attached to permission 12/02275/FUL GRANT 19th December 2016
  - 17/00230/FUL Erection of three detached dwellings with garages; formation of new vehicular accesses GRANT 17th May 2017
  - 19/00826/FUL Erection of 8no dwellings with car shelters; reprofiling of ground; restoration of stone boundary wall and creation of 2no vehicular access points PDE
  - 19/05519/FUL Re-profiling of ground; erection of four detached houses; restoration of stone boundary wall to The Linney; creation of a managed woodland area (on the lower level of the site) with access track for maintenance PCO
  - SS/1/08/20632/TC Coppicing of Alder; Ash; Elderflower; Hawthorn; Cherry Rowans & Leylandii/Laurel. Reduce height of Alder; Maples & Hornbeams to clear power cables. NOOBJ 16th May 2008
  - SS/1/4565/L/ Repair and rebuilding of existing boundary wall to a height of 5 ft. PERCON 26th May 1994
  - SS/1/4564/P/ Repair and rebuilding of existing boundary wall to a height of 5 ft. PERCON 26th May 1994
  - SS/1988/751/P/ Erection of two purpose built conservatories and installation of 2 dormer windows. PERCON 11th October 1988
  - SS/1988/751/L/ Erection of two purpose built conservatories and installation of 2 dormer windows. PERCON 11th October 1988
  - SS/1986/654/L/ Installation of 3 velux roof lights. PERCON 12th December 1986
  - SS/1985/591/P/ Use of derelict quarry for winter storage of circus equipment and the stationing of a residential caravan, rear of. REFUSE 7th February 1986
  - SS/1985/590/P/ Use of existing buildings for storage and repair of antique furniture, bric-a-brac and associated objects. REFUSE 7th February 1986
  - SS/1985/589/P/ Incorporation of land and buildings within curtilage of dwellinghouse, land adjoining. PERCON 14th February 1986
  - SS/1985/327/P/ Erection of two dwellings and formation of vehicular and pedestrian access. REFUSE 30th July 1985
  - SS/1983/372/P/ Erection of two dwellings and formation of a vehicular and pedestrian access. REFUSE 20th October 1983

- SS/1984/137/L/455 Erection of an extension to existing dwelling. PERCON 15th May 1984
- SS/1984/137/P/ Erection of an extension to existing dwelling. PERCON 15th May 1984
- SS/1/99/009973/TC Pruning of an Ash tree and a Sycamore tree and pollarding of Willow trees. NOOBJ 13th July 1999
- SS/1/99/009920/TC Lopping of Sycamore and Ash tree. WDN 22nd April 1999
- SS/1/06/18738/LB Installation of a satellite dish PERCON 16th November 2006
- 14/04678/VAR Application for variation of condition 11 (ecology/bat surveys) attached to permission 12/02275/FUL to allow for modifications to report WDN 14th December 2015
- 16/01767/DIS Discharge of Conditions 3 (Materials), 4 (Windows and Doors), 5 (Landscaping), 7 (Archaeology), 8 (Tree Protection), 9 (Drainage Details), 10 (Arboricultural Method Statement), 11 (Ecology) and 12 (Flood Storage) attached to Planning Permission 12/02275/FUL DISAPP 15th November 2016
- 16/02803/AMP Amendment to Permission 12/02275/FUL (Resiting of Plot 2) GRANT 16th August 2016
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- 17/00230/FUL Erection of three detached dwellings with garages; formation of new vehicular accesses GRANT 17th May 2017
- 19/00826/FUL Erection of 8no dwellings with car shelters; reprofiling of ground; restoration of stone boundary wall and creation of 2no vehicular access points PDE
- 20/00119/DIS Discharge of conditions 4 (WSI) 5 (Tree Protection) 9 (Ecological Measures) 10 (Construction Environmental Management Plan) 11 (External materials) 12 (Exterior soil/vent/waste pipes/rainwater foods and boiler flues) 13 (External Joinery) and 19 (Details of access/layout/construction/sightlines) associated with planning application number 17/00230/FUL DISAPP 11th March 2020
- 20/01127/VAR Variation of condition no.5 (phased tree protection) pursuant of 17/00230/FUL to allow for a commencement to be made on Plot 1 by protecting the remainder of the site through an approved type of fencing around the edge of that plot GRANT 16th April 2020

#### Appeals

- 20/02817/NONDET Erection of 8no dwellings with car shelters; reprofiling of ground; restoration of stone boundary wall and creation of 2no vehicular access points INPROG

#### 11. Additional Information

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

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

- Planning Submissions in Support of Application, FBC Manby Bowdler LLP, December 2019
- Arboricultural Report, Old Oak Tree Care, 14<sup>th</sup> December 2019
- Revised Landscape Plan, Design with Nature Ltd, Undated;
- December 2019
- An Assessment of the Potential for Land Contamination at The Linney, Ludlow – Desk Based Study with Walkover Survey, Smallbrook Environmental, May 2019;
- Heritage Assessment in relation to the Proposed Erection of Four Detached Dwellings with Garages; and formation of New Vehicular Accesses on land adjacent to Linney House, Ludlow, CJR Heritage Services, 14<sup>th</sup> December 2019;
- Linney House, Ludlow, Flood Risk Assessment, Final V2-01, Thomas Mackay Environmental Solutions, 13<sup>th</sup> December 2019;
- Statement in Support of the New Planning Proposal in Relation to its Biodiversity Benefit over the Existing Planning Consent, Land adjacent to Linney House, Linney, Ludlow, Shropshire SY8 1DP, Churton Ecology 8<sup>th</sup> December 2019,
- Ecological Impact Assessment of Land adjacent to Linney House, Linney, Ludlow Shropshire, SY8 1DP, December 2019;
- Archaeological Desktop Evaluation and WSI Proposal for Land At The Linney, Ludlow Shropshire, undated;
- Design and Access Statement Land Adjacent to Linney House Ludlow, CJR Heritage Services, December 2019;
- Landscape and Visual Appraisal (Version 3), Design with Nature Ltd, June 2020;
- Arboricultural Method Statement, Old Oak Tree Care, 3<sup>rd</sup> June 2020;
- Landscape and Habitat Management Plan for Linney, Ludlow, Shropshire, SY8 1DP (Version 2), 11<sup>th</sup> June 2020;
- Assessment of Stone Boundary Wall Repairs, Linney House, Ludlow, CJR Heritage Services, May 2020.

Cabinet Member (Portfolio Holder)  
Councillor Gwilym Butler

Local Member  
Cllr Andy Boddington

Appendices  
APPENDIX 1 – Conditions  
APPENDIX 2 – Heads of terms for the planning obligation

See Below

## **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 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.

### **CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCE**

3. Prior to the commencement of development (including vegetation clearance, felling, demolition, ground works, re-profiling works, or construction works):

- a) The approved measures for the protection of the trees as identified in the Old Oak Tree Care Arboricultural Method Statement (Ref. OOTC/PC20/389/AMS/rev.1) dated 3<sup>rd</sup> June 2020 and Appendix B Tree Protection Plan (Drawing Ref. PC20/389/TPP/rev.1) dated 10<sup>th</sup> June 2020 shall, notwithstanding the requirements of Condition No. 5, be implemented;

and

- b) The Local Planning Authority has approved in writing that the tree protection measures have been established in compliance with the final approved tree protection plan. (Photographs of the tree protection measures in place will suffice, if sufficient in number and quality to demonstrate that they have been installed as per the approved tree protection plan).

Thereafter, the approved and implemented measures for the protection of the trees shall be maintained for the duration of the site works.

Reason: To ensure that the tree protection is set up and maintained in accordance with the Tree Protection Plan and to safeguard retained trees and/or hedgerows on site and prevent damage during development works, to protect the natural features and amenities of the local area that are important to the appearance of the development.

4. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any site clearance or development works, an updated Arboricultural Method Statement detailing how any approved construction works/service runs/SUDS schemes will be carried out, shall be submitted to the Local Planning Authority.

The updated Arboricultural Method Statement shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.

Reason: To ensure that permitted work within an RPA is planned and carried out in such a manner as to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

5. Notwithstanding any details submitted on other approved plans and particulars, ground clearance, demolition or development works shall not take place until a scheme of supervision for the arboricultural protection measures (the Arboricultural Method Statement including the Tree Protection Plan) has been submitted to and approved in writing by the Local Planning Authority. This scheme will include details of a named arboricultural clerk of works (Person or company) with proof of commissioning provided for the duration of the works.

Reason: To ensure the satisfactory oversight and delivery of tree protection measures on site that require the supervision by a competent arboriculturist as is identified in the approved arboricultural method statement and associated tree protection plans

6. No works will commence until the Local Planning Authority has approved in writing that the Tree Protection Measures have been established in compliance with the final approved Tree Protection Plan (Photographs of it in place might suffice).

Reason: To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan.

7. Notwithstanding works to be carried out in accordance with the (Ref. OOTC/PC20/389/AMS/rev.1) dated 3rd June 2020 and Appendix B Tree Protection Plan (Drawing Ref. PC20/389/TPP/rev.1) dated 10th June 2020, any tree felling and/or stump removal works within 5m of the boundary wall adjacent to The Linney shall be carried out in phases, with tree works for each phase only being undertaken at the time that the works to the adjacent section of the boundary wall are carried out, in accordance with the approved schedule of works for a phased programme of repairs and rebuilding of the boundary wall (required by Condition No. 16).

Reason: To safeguard the integrity of the boundary wall until such time as each section of the wall is repaired and rebuilt, in accordance with the approved phased programme of works.

8. (a) Notwithstanding the submitted landscaping details, updated version of the following documents shall be submitted to and approved in writing by the Local Planning Authority:
  - Landscape Habitat and Management Plan;
  - Landscape Plan;
  - Softworks Plan (Drawing Ref. LIN-DD-01); and
  - Specification and Schedules (Drawing Ref. LIN-DD-02)

The updated versions of the documents shall incorporate an amended landscaping

scheme that shall extend the compensatory woodland planting to occupy all of the land between the 'cordon sanitaire'/5m river maintenance corridor including the area of previously proposed wildflower sward on the former terrace sides to the north of the house plots and the proposed management measures shall omit the proposed halo thinning and coppicing of the existing mature trees.

The amended landscaping scheme will include details of:

- a) the quantity, size, species, position and the proposed time of planting for all trees to be planted, together with;
- b) an indication of how the trees will integrate with the existing and planned future landscape and the built development over the long term, with regard to their mature size and anticipated ongoing maintenance;
- c) measures for soil amelioration, or the introduction of fresh top soil that accords with recommendations in BS3882:2015 Specification for Topsoil, for areas of landscape planting; with appropriate volumes of soil in those areas to ensure the successful establishment to independence in the landscape of the trees planted therein;
- d) Measures for the protection and post planting and early years maintenance of the planted trees, hedges and shrubs, as appropriate to ensure successful establishment; and
- e) Details of other hard and soft landscaping as appropriate.
- f) Planting plans for the creation of wildlife habitats and features and ecological enhancements;
- g) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- h) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- i) Native species used are to be of local provenance (Shropshire or surrounding counties);
- j) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- k) Details of treatment of the buffer with the River Corve to minimise disturbance, particularly at night;
- l) Implementation timetables
- m) A schedule of the annual review meetings and report to undertaken in accordance with Condition No 31.

(b) The delivery of tree planting and landscaping provisions will be completed within the first planting season following completion of the development or before the first occupation of the site, whichever is the earlier.

(c) All tree, shrub and hedge planting and other landscape works included within the approved plan and specifications shall be carried out in accordance with the agreed layout and specifications and in accordance where applicable with good practice as set out in BS8545:2014 -Trees: from nursery to independence in the landscape: recommendations.

(d) If within a period of five years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of



the same species and size as that originally planted shall be planted at the same place.

Reason: To ensure that design and layout of general landscape provision and the choice and establishment of replacement trees and blocks of woodland is suitable to the design of the development and the ongoing sustainable amenity of the local area and to ensure the biodiversity afforded by appropriate landscape design.

9. The updated Landscape and Habitat Management Plan approved in accordance with Condition No. 8 shall be implemented in accordance with the approved details.

Reason: To ensure the development of structurally sound mature blocks of woodland in order to safeguard the long-term value of retained trees and/or hedgerows and new planting at the site and to protect the natural features and amenities of the local area that are important to the appearance of the development consistent with Shropshire Local Development Framework Core Strategy Policies CS6 and CS17 and Shropshire Council Site Allocations and Management of Development Policies MD2 and MD12.

10. No development shall take place (including vegetation clearance, felling, demolition, ground works, re-profiling works or construction works) until a plan showing the boundaries of the curtilages of the individual dwellinghouses and the boundaries between the individual dwellinghouses and the adjacent area of riparian woodland, and details of all walls, fences and hedges that will define those boundaries are submitted to and approved in writing by the Local Planning Authority.

The defined curtilages of each individual dwelling shall exclude any areas of the shared accesses and pathways and the area of riparian woodland as proposed in the approved landscaping and tree planting proposals and shall include the area between the boundaries of the individual dwellings and the boundaries of the site, including the River Corve and The Linney.

The approved boundaries shall thereafter be maintained in accordance with the approved details.

Reason: For the avoidance of doubt as to the definition of the residential curtilages of the dwellings hereby approved, to ensure that the riparian woodland as proposed in the approved landscape and tree planting proposals can be protected and is managed for the long-term in accordance with the principles of the development and is consistent with aspirations of the Shropshire Council Local Development Framework Core Strategy Policies CS6 and CS17 and Shropshire Council Site Allocations and Management of Development Policies MD2 and MD12 and to provide adequate privacy and an acceptable external appearance that enhances the character and appearance of the Conservation Area.

11. No development (including vegetation clearance, felling, demolition, ground works, re-profiling works, or construction works) shall take place until a scheme of the surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented for each dwelling before that dwelling is first occupied/brought into use (whichever is the sooner).

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

12. Prior to the commencement of development details of the design and construction of the site accesses, including samples of the material finishes of all hard surfaces to be used in the construction of the accesses, shall be submitted to and approved in writing by the Local Planning Authority. The accesses shall thereafter be constructed in accordance with the approved details, prior to the commencement of any on site clearance, demolition, tree felling, ground re-profiling or construction works and thereafter maintained for the lifetime of the development.

Reason: Highway and Pedestrian Safety.

13. Prior to the commencement of development details of the design and construction of the passing place shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of protection measures to ensure the safety of pedestrians and the details including samples of the material finishes of all hard surfaces to be used in the construction of the passing place including the pedestrian protection. The passing place including the pedestrian protection measures shall thereafter be constructed in accordance with the approved details, prior to the commencement of any on-site clearance, demolition, tree felling, ground re-profiling or construction works and thereafter maintained.

Reason: Highway and Pedestrian Safety.

14. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) details of the contractors working and lay-down area including any temporary buildings;
- b) the parking of vehicles of site operatives and visitors;
- c) loading and unloading of plant and materials;
- d) storage of plant and materials used in constructing the development
- e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f) wheel washing facilities;
- g) measures to control the emission of dust and dirt during construction
- h) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- i) a Construction Traffic Management Plan, including all HGV routing & unloading proposals; and
- j) an appropriate community liaison and communication strategy, to inform affected local residents and businesses, throughout the works.

Reason: To avoid congestion in the surrounding area, minimise disruption and to protect the amenities of the area.

15. No development approved by this permission (including vegetation clearance, felling, demolition, ground works, re-profiling works or construction works) shall commence until a photographic survey (Level 2), as defined in English Heritage's guidance 'Understanding Historic Buildings: A Guide to Good Recording Practice', of the entire length of the boundary wall adjacent to The Linney has been submitted to and approved in writing by the Local Planning Authority.

Reason: This information is required before development commences to record the historic fabric of the boundary wall prior to development.

16. Prior to the commencement of development, a schedule of works for a phased programme of repairs and rebuilding of the boundary wall adjacent to The Linney shall be submitted to and approved in writing by the Local Planning Authority. No work shall be carried out other than in accordance with the approved schedule.

Reason: To safeguard the positive contribution the boundary wall makes to the character and appearance of the Conservation Area.

17. No development shall take place (including vegetation clearance, felling, demolition, ground works, re-profiling works, or construction works) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements (e.g. river buffer zone, integrated bat and bird boxes, artificial otter holts) will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices including protection measures for otters, bats and badgers) to avoid impacts during construction.
- c) Use of protective fences, exclusion barriers and warning signs including a 20m buffer fenced off parallel to the banks along the length of the water course where no ground disturbance should occur.
- d) Requirements and proposals for any site lighting required during the construction phase. No construction activities will take place outside daylight hours unless they are quiet and suitably screened from the river corridor (e.g. internal works to the buildings);
- e) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- f) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.
- g) The times during construction when an Ecological Clerk of Works needs to be present on site to oversee works;
- h) Identification of Persons responsible for:
  - (i) Compliance with legal consents relating to nature conservation;
  - (ii) Compliance with planning conditions relating to nature conservation;
  - (iii) Installation of physical protection measures during construction;
  - (iv) Implementation of sensitive working practices during construction;

- (v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - (vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
- i) Pollution prevention measures including protection of the River from sediment and pollution during construction.

All construction activities shall be implemented strictly in accordance with the approved plan.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

18. No development shall take place (including vegetation clearance, felling, demolition, ground works, re-profiling works, or construction works) until a lighting plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall:

- a) identify those areas/features on site that are particularly sensitive for bats, badgers and otters, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
- b) show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK.

Reason: To minimise disturbance to bats, which are European Protected Species and to ensure that the external appearance of the development is satisfactory and that the character and appearance of the Conservation Area is enhanced.

19. If the development, or each phase of a phased development, hereby permitted does not commence by the 1<sup>st</sup> November 2020, a badger inspection shall first be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.

20. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has:

- (i) secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which shall first to be submitted to and approved in writing by the Local Planning Authority and thereafter implemented:
- (ii) and the report of the programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is known to hold archaeological interest and to ensure its investigation and report prior to the development of the site.

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

21. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

22. Prior to the above ground works commencing samples and/or details of all external materials of the buildings (the dwellinghouses and garages), including:

- Stonework and mortar, including details of the mortar bedding and jointing;
- Brickwork including bond, type and colour;
- Details of guttering, flues, ducting and soil pipes; and
- Roofing materials details including details of any rooflights; and
- All hard and soft surfacing.

shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory and that the character and appearance of the Conservation Area is enhanced.

23. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

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

24. Before relevant works commence samples of stone for use in repairs and new work to the boundary wall adjacent to The Linney shall be made available to and approved in writing by the Local Planning Authority.

Reason: To safeguard the positive contribution the boundary wall makes to the character and appearance of the Conservation Area.

25. Mortar for bedding and jointing stonework for the boundary wall adjacent to The Linney shall be a lime mortar which matches the original in colour, texture and surface finish. Sample panels of stonework approximately 1m square to match the existing shall be erected on site and approved in writing by the Local Planning Authority before relevant work commences.

Reason: To safeguard the positive contribution the boundary wall makes to the character and appearance of the Conservation Area.

26. Prior to first occupation / use of the buildings, the makes, models, locations and timetable for the installation of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 6 woodcrete bat boxes shall be erected on mature trees along the river corridor.

- A minimum of 3 woodcrete bat tubes will be integrated into new buildings.
- A minimum of 4 swift bricks will be integrated into new buildings.
- A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), open-fronted nest boxes (for flycatchers, robins etc.) and/or small birds (for tits etc.)

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

27. Prior to first occupation of the dwellinghouses an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating creation of the otter holts and bat loft, as set out the Ecological Impact Assessment (Churton Ecology, December 2019), and installation of the bat and bird boxes in accordance with Condition No. 26. The report shall include photographs of these features.

Reason: To demonstrate compliance with the conditions to ensure the protection and enhancement of populations of bats and otters, which are European Protected Species, and other wildlife in accordance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and countryside Act 1981 and the NPPF 2019.

28. Prior to the first occupation of the dwellinghouses hereby approved the programme or repairs and rebuilding of boundary wall adjacent to The Linney shall have been completed and all surplus or unused construction materials, waste, plant etc removed from the site.

Reason: To ensure the satisfactory completion of the programme of or repairs and rebuilding of boundary wall adjacent to The Linney in order to safeguard the character and appearance of the Ludlow Conservation Area and to ensure highway and pedestrian safety.

## **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

29. Site preparation, construction works, associated deliveries to and removal of materials from the site shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays or Public Holidays.

Reason: To safeguard the amenities of the area.

30. The proposed groundworks on the site shall provide a minimum ground level of 84.50mAOD as stated in the submitted Flood Risk Assessment.

Reason: To minimise the risk of fluvial flooding from the watercourses.

31. a) Not later than the 1<sup>st</sup> April following the occupation of the first dwelling on the site, an annual review meeting will take place on the site attended by a representative of the site management company and an officer of Local Planning Authority to review the implementation of the updated Landscape Habitat and Management Plan to be approved in accordance with Condition No. 8).
- b) A written report of the annual review of the implementation of the updated Landscape Habitat and Management Plan, shall thereafter be submitted within one calendar month of the date of the site meeting.
- c) Further annual review meetings shall thereafter take place no later than 1<sup>st</sup> April in each calendar year thereafter for further four years (i.e. for the first five years), and after 10 years, 15 years and 20 years (in accordance with the schedule to be included in the Landscape Habitat and Management Plan).

Reason: To ensure the satisfactory implementation of the Landscape Habitat and Management Plan and to ensure the development of structurally sound mature blocks of woodland in order to safeguard the long-term value of retained trees and/or hedgerows and new planting at the site and to protect the natural features and amenities of the local area that are important to the appearance of the development consistent with Shropshire Local Development Framework Core Strategy Policies SC6 and CS17 and Shropshire Council Site Allocations and Management of Development Policies MD2 and MD12.

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no development relating to Schedule 2, Part 1, Classes A, B, C, D, E and F shall be erected, constructed or carried out.

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

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no development relating to Schedule 2, Part 2, Classes A (Gates, fences, walls etc) shall be erected, within 8 metres of the top of the bank of the River Corve (Main River).

Reason: To ensure access to the Main River is maintained to allow for any maintenance or improvement works and to prevent any impact on flood flows and flood risk elsewhere.

## **INFORMATIVES**

### **Highways**

#### Visibility Splays

The access for domestic vehicles, onto a highway is required to be measured from a point 2.4m back from the carriageway edge at a height of 1.05m (drivers' eyeline) for 30m in



each direction for a 20mph speed limit or a road where the speeds are commensurate with 20mph speeds. The visibility splay should be such that the boundaries are no higher than 900mm to obtain a view of approaching traffic and no higher than 600mm to obtain a view of small pedestrians along a footway or shared space. It should also be noted that the visibility sightlines must be permanently available and not be reliant on hedge maintenance.

#### Passing Place

The dimensions and design of the passing place must be undertaken to highway standards and it will require prior formal agreement with the Local Highway Authority.

The widening of the highway shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base.

A sign denoting that this is a passing place only will be required to prevent its use as a parking place.

#### Works on, Within or Abutting the Public Highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details: <https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

#### No Drainage to Discharge to the Highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

#### Mud on the Highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

**Drainage**

Soakaways

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100-year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10-year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10-year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways be not feasible, drainage calculations should limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Urban Creep

Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

- Less than 25 10
- 30 8
- 35 6
- 45 4
- More than 50 2
- Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

'Curtilage' means area of land around a building or group of buildings which is for the

private use of the occupants of the buildings.

### Use of Non-Permeable Surfacing

If non-permeable surfacing is used on the new accesses, driveways and parking areas or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new driveway run onto the highway.

### Foul Water Sewerage

The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

### **Contaminated Land**

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document: <http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

### **Ecology**

#### Bats

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

If any evidence of bats is discovered at any stage, then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an

active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree and scrub removal and demolition work should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season, then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests, then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

### General Wildlife Protection

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage, then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard

box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>

### **Works within 8m of the River Corve**

Any works in, under, over or within 8 metres of the River Corve (Main River) will require a permit from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2010. This would have formerly been called a Flood Defence End 3 Consent. For more advice to confirm whether a permit is required, what type, and exemptions please ring 03708 506506 and ask for the local Partnerships and Strategic Overview Team. Also go to: <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits>

## **APPENDIX 2 – HEADS OF TERMS FOR THE PLANNING OBLIGATION**

1. That the applicant will pay an affordable housing contribution of £54,000 in lieu of on-site provision in accordance with the calculation set out in paragraph 4.20 of the Council's Type and Affordability of Housing Supplementary Planning Document (September 2012).