



## Appeal Decision

Site visit made on 1 February 2021

by **Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

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**Appeal Ref: APP/L3245/W/20/3250229**

**Land adjacent to Linney House, The Linney, Ludlow, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Linney House Developments Ltd against Shropshire Council.
  - The application Ref 19/00826/FUL, is dated 5 February 2019.
  - The development proposed is for the reprofiling of ground, restoration of stone boundary wall and construction of eight houses.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Linney House Developments Ltd against Shropshire Council. This application is the subject of a separate Decision.

### Procedural matters

3. The appellant challenges the Council's description of the proposed development and explains that it was originally further described in the application form as involving the 'Demolition of single storey garage and part stone shed. Restoration with the formation of revised access points of the existing stone roadside boundary wall. Reprofiling of ground and the construction of eight detached dwellings, together with comprehensive landscaping and the formation of a natural riverside communal area'. I have considered the appeal on the basis of the appellant's preferred description.

### Main Issues

4. The main issues in this appeal are:
  - Whether the site is a suitable location for housing, and
  - Whether the proposed development would preserve or enhance the character and appearance of the Ludlow Conservation Area.

### Reasons

#### *Suitability of location*

5. The development plan for the area consists of the Site Allocations and Management of Development Plan 2015 (SAMDev) and the Shropshire Local

Development Framework Adopted Core Strategy 2011 (the Core Strategy). Policy CS1 of the Core Strategy sets out the Council's strategic approach to new development with further explanation of the Council's approach provided in policy MD1 of the SAMDev. Core strategy Policy CS3 sets out that development within Market Towns and Other Key Centres such as Ludlow must take place within the identified development boundaries and on sites allocated for development. Policies MD1 and policy S10 as it relates to Ludlow, housing development will be delivered primarily on the allocated housing sites east of the A49 as set out in Schedule S10.1 and identified on the Policies Map as well as infill and windfall developments within the town's development boundary.

6. Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev establishes that new market housing will be strictly controlled outside market towns and only permitted in specified circumstances, including where the development meets evidenced housing need and other relevant policy requirements. Policy MD3 makes clear 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 other considerations set out in the Policy.
7. The proposal seeks permission for the reprofiling of a former quarry area within the grounds of Linney House, a Grade II listed building immediately to the east and comprising of some 1.1Ha, which would facilitate the erection of eight detached open market houses with car shelters, the restoration of an existing stone boundary wall and the provision of two passing places along the narrow highway. The Linney marks the northern limits of the development boundary for Ludlow; the appeal site lies wholly outside these limits. The Linney forms the site's southern boundary with the winding River Corve delineating the northern boundary.
8. The site has a distinctly woodland character with a substantial number of mature and semi-mature trees, some of which have self-seeded along the terraces of the former quarry area and adjoining the riverbank. Whilst some tree clearance has taken place in recent years, the site maintains a distinct woodland block both from The Linney and from higher ground within the town, including from the castle ramparts and from Coronation Avenue and the countryside to the north.
9. Although there are two dilapidated buildings adjoining The Linney that would be removed as part of the proposals, they do not alter the general appearance of a block of woodland that seamlessly blends into and contributes towards the distinctly rural character and wider countryside to the north. This is particularly evident from more elevated land within the town and where the foreground of development on the southern side of The Linney has an altogether more built-up character and a sense that The Linney is a remarkably appropriate northern limits to the town. The development would lead to an urban encroachment into this area along the banks of the River Corve to the serious detriment of the wider rural character and appearance. Additionally, as the site lies outside the development boundary, the proposal would conflict with the strategic aims of Policies CS5 and MD7a.
10. My attention has been drawn to previous extant planning permissions<sup>1</sup> for three large detached open market houses at the appeal site, which the appellant

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<sup>1</sup> Council References 12/02275/FUL and 17/00230/FUL

claims represents an important fallback position that should be afforded substantial weight. Moreover, the appellant is of the view that it provides a starting point that as a matter of principle, housing development is acceptable on this site. I have no doubt that there is a strong prospect in the event of this appeal being dismissed, that the three dwellings will be built out and in this regard, the consideration of the fallback is a material consideration that should carry some weight in terms of the principle of development at this location.

11. For this matter to be determinative however, the approved development would need to be less desirable than what is now proposed. It is very clear to me that a scheme for 8 houses cannot reasonably be comparable with the consented scheme given the land-take and tree clearance that would be involved. The urbanisation effects of eight houses at this location by comparison to three houses would be considerable and in the context of this location, harmful. Therefore, I give limited weight to the fallback.
12. The Council's latest figures on its five year land supply position suggests that the number of completions together with sites with planning permission, Prior Approvals and allocations are well in excess of the Housing Guideline figure for Ludlow and this is not disputed by the appellant. As set out in the above policies, additional sites outside development boundaries will only be required if the housing guidelines is unlikely to be met or if there are other over-riding material considerations. The Council does not dispute that the overall quality of the appeal scheme represents a well-designed contemporary styled development lying immediately adjacent to the development boundary. However, the same could be true about many other well-conceived schemes and I am not persuaded that these factors alone should override development plan policies that are currently meeting the needs of the local area in terms of housing delivery. Moreover, I also share the Council's concerns with respect to the effects on the conservation area, which I deal with later.
13. In the absence of any conflicting evidence to the contrary, I am satisfied that the housing requirements of Policy S10 will likely to be achieved during the plan period. Even if that was not the case, I am also required to consider Policy MD3, which in relation to developments falling outside adopted development boundaries, requires compliance with other relevant local plan policies and I now turn to those below.

#### *Character and appearance - Conservation Area*

14. The Ludlow Conservation Area comprises a wide range of exquisite and grand buildings below the castle and the classic market building with its hill of Georgian buildings descending down to the River Teme and its tributary River Corve. The Conservation Area includes broad expanses of open countryside on the lower valley floor to the west and the north, which includes the appeal site. The countryside setting is an important part of the character and appearance of the Conservation Area. The arc of the surrounding countryside makes a significant contribution both in terms of its historic relationship with the town and its castle and to their settings. The setting of the castle in particular takes full advantage of views outwards from the castle ramparts towards the countryside to the west and north.
15. The appellant claims that the proposed development has been carefully devised primarily with the intention to resolve potential flooding problems arising from past quarrying operations. Taking the natural slope of Linney House that lies

above areas of flood risk, the land would be recontoured at similar levels to provide appropriate building platforms. Two access points to the site would be formed at the site's southern and northern corners with two passing places constructed by setting back and rebuilding the stone wall that forms the boundary with The Linney. According to the Council's Tree Officer and supported by the appellant's arboricultural report, the proposal would see the removal of a significant portion of the existing woodland. Whilst the report suggests that the majority of trees on site that would be lost are of relatively low amenity value, there is also an acknowledgment that their loss could only be compensated by the provision of considerable new replacement planting and subsequent management.

16. The appellant explains that the proposal has been the subject of lengthy and protracted pre-application discussions in relation to the design of the proposed dwellings and the need for particular attention to be given to the lower portion of the site adjoining the river margin in terms of new planting and effective management of existing trees. The Council appears not to object to the design of the houses, which in my view are of contemporary design and which would incorporate an acceptable palette of materials that would be consistent with what may be found in the immediate locality. Furthermore, I acknowledge that replacement planting would take place along The Linney.
17. I have carefully considered the appellant's Landscape and Visual Impact Assessment (LVIA) and note its conclusions that the effects arising from the development would be Moderate Adverse leading to Slight Adverse as the replacement tree planting proposed in the tree report reaches maturity. The Council does not dispute the findings and robustness of the appellant's landscape and visual assessment. However, I share the Council's concerns that the findings of the LVIA rely heavily on existing trees falling outside the appeal site whilst the extent of tree felling proposed and the limited space available for effective landscaping between the plots would mean that the proposed mitigation would not be entirely effective either in the short term or long term. Simply, the proposal would lead to the erosion and fragmentation of what is presently a highly natural and, in addition, potentially ecologically rich habitat in local terms, particularly given its riverside location.
18. During my site visit I was able to view the site from each of the selected viewpoints. The site visit took place at the height of winter when leaf cover was very significantly reduced. Other than viewpoint 3, which I consider would be more appropriately categorised as Moderate-Adverse using the descriptors of the LVIA, I am satisfied that such analysis accurately portrays the impacts. However, even at Moderate-Adverse, this level of impact in this case would be unacceptable due to the loss of the woodland, which is a significant local landscape feature. Moreover, the loss of some of the woodland would be very noticeable at a number of sensitive receptors from elevated parts of the conservation area and would be harmful as a result.
19. In addition, there would be significant encroachment into the riverside views towards the castle and the town from open fields within the conservation area to the north and the west, which would be harmful. Moreover, the appeal development when viewed along a lengthy section of The Linney would have an unacceptable urbanising effect to the detriment of the character and appearance of this part of the conservation area. These features presently

make a highly positive contribution to this heritage asset's significance and which would not be sufficiently mitigated with the proposed landscaping.

20. Consequently, the proposal would fail to either preserve or enhance the character or appearance of the Ludlow Conservation Area contrary to the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act). Insofar as local development plan applies to the development proposed in this context, I also consider that the proposal fails to comply with policies CS6 and CS17 of the Core Strategy and Policies MD2, MD13 and S10 of the SAMDev. Such policies set out to ensure that new development, amongst other things, protects, conserves and enhances the historic environment and context together with the character and significance of heritage assets.
21. I acknowledge that the development would also be within the setting of Linney House a Grade II Listed Building; however, no objection to this aspect was raised by the Council and I am satisfied that in the exercise of my duties under section 66(1) of the 1990 Act, the proposed development would not be harmful to the setting of this building due to the building's orientation, its own setting within an enclosure of mature trees and the level of additional landscaping.
22. Paragraph 196 of the Framework advises that, where the significance of a designated heritage asset, in this case the Ludlow Conservation Area, would be unacceptably harmed by a proposed development, the degree of harm should be assessed and where less than substantial harm is concluded, that harm should be weighed against any identified public benefits of the proposal. In this instance, I find that the level of harm would be of the magnitude of less than substantial.
23. The public benefits of the proposal in this instance include the benefits that would accrue from eight additional houses in a relatively sustainable location close to the Ludlow town centre and its wide range of services. The appellant is also willing to provide two passing places along The Linney, which is predominantly a single lane carriageway for much of its length and to rebuild the existing historic stone boundary wall along the frontage of the site with The Linney. In addition, eight dwellings would provide some economic and social benefits. There would also be a requirement for affordable housing to be provided in the form of off-site financial contributions. However, the latter would be a requirement of the Council's prevailing policy and therefore the weight afforded to affordable housing would be limited. Given the number of dwellings involved, the totality of public benefits involved would at best be limited. As a counter, paragraph 193 of the National Planning policy Framework sets out that, when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This factor unequivocally outweighs the identified public benefits.

### **Other matters**

24. The appellant has provided a Unilateral Undertaking that would provide an affordable housing contribution despite believing that none is necessary due to the additional financial burden of providing highway improvements, which along with the rebuilding of the boundary stone wall is estimated would cost in the region of £150,000. However, as I am dismissing the appeal on the

substantive matters detailed above, I need not consider the matter further at this time.

25. My attention has been drawn to a revised scheme proposal for the development of the appeal site. This scheme does not form part of the current appeal and has had no bearing on my consideration of the merits of the appeal proposal.

**Conclusion**

26. I have found that the appeal scheme would not be a suitable location for further development having regard to the prevailing development plan and notwithstanding that there is an extant permission for a smaller scheme at this site. Moreover, whilst there are limited public benefits associated with the appeal development, they do not outweigh either this policy harm nor the harm that to the character and appearance of the conservation area that I have identified. Therefore, taking all matters into account, I conclude that the appeal should be dismissed.

*Gareth W Thomas*

INSPECTOR