



For Shropshire
Council use

Respondent
no:

Shropshire Council Site Allocations and Management of Development (SAMDEV) Plan

**Pre-Submission Draft (Final Plan)
17 March 2014 – 28 April 2014**

Representations Form

Please note you can also make representations to the SAMDev Pre-Submission Draft using our online form via:

www.shropshire.gov.uk/samdev

This is a formal consultation on the legal compliance and soundness of the Site Allocations and Management of Development (SAMDev) Plan before it is submitted to the Secretary of State for examination by an Independent Planning Inspector. For advice on how to respond to the consultation and fill in this representations form please see the guidance notes available on the Council's website at www.shropshire.gov.uk/samdev.

Your details: Who is making this representation?

Name:	Michael Burrow
Organisation (if applicable):	Savills
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Email:	mburrow@savills.com
Telephone:	0121 634 8433

If you are acting as an Agent, please use the following box to tell us who you are acting for:

Name:	Mr & Mrs R Cundall
Organisation (if applicable):	
Address:	
Email:	
Telephone:	

Your Representations

Please note, you must use a separate form for each representation you wish to make.

(Please refer to the accompanying Guidance Notes on Making Representations when completing this section)

In the box below please give the policy, paragraph or section of the Policies Map your representation relates to:

Policy Map S10 Inset 1

Is your representation in support or objection? (please tick as appropriate)

Support	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Object	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

In respect of your representation on the policy, paragraph or section of the Policies Map, do you consider the SAMDev Plan is:

Legally compliant	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

If your representation considers the SAMDev Plan is not sound, please say whether this is because it is not (*Please tick all that apply*):

Positively prepared	
Justified	<input checked="" type="checkbox"/>
Effective	
Consistent with National Policy	

In the box below please specify your reason for supporting or objecting.

If you are objecting, you should make clear why the document is unsound having regard to the issues of 'legal compliance' or whether the document is not positively prepared, justified, effective or not consistent with national policy (Continue on a separate sheet if necessary).

The south-western portion of the Development Boundary shown on Ludlow Policy Map S10 (Inset 1), between the properties known as 'Maryvale' and 'The Lodge' is not considered to be justified because it appears to be neither logical nor based on objective evidence. The Development Boundary shown on Policy Map S10 (Inset 1) in the area in question is unchanged from that shown on the South Shropshire Local Plan Proposals Map, which is considered to be a drafting error.

The Development Boundary has been drawn tightly around both 'Maryvale' and 'The Lodge', excluding the curtilage of these properties. This situation is contrary to other properties in the immediate area, which have some or all of their curtilage included within the Development Boundary.

The advice received from Shropshire Council was that the SAMDev is the only Development Plan Document through which Development Boundaries could be altered.

The location of the area of the Ludlow Development Boundary in question, and a review of the evidence base, physical features and context is set out in a separate document, which is being submitted to accompany this representation, and which was submitted to a previous SAMDev consultation stage in 2011.

As set out in the supporting document, there appears to be no physical features or evidence base reasons to justify why the Ludlow Development Boundary should remain tightly drawn around these properties within the SAMDev. As it stands, the existing dwellings would be considered under the broad principles proposed by SAMDev Policies MD1, MD3 and S10 and extensions to the dwellings and other development in the curtilage would be considered under SAMDev Policy 7a/b, which appears illogical and inconsistent with the situation occurring for neighbouring properties.

Please use the box below to explain the changes you think should be made to the SAMDev Plan in order to make it legally compliant or sound?

You should explain your suggested revisions to the policy, paragraph or section of the Policies Map, and why this change would make the plan legally compliant or sound. Please be as precise as possible (Continue on a separate sheet if necessary)

The Ludlow Development Boundary should be altered on Policy Map S10 (Inset 1) to include the curtilage of Maryvale and the Lodge, as highlighted within the supporting document, to amend what is considered to be a drafting error and allow for the consistent application of Development Plan policies.

Please be sure that you have provided all the information necessary to support your representations and any changes you are proposing. After this stage you will not be able to make any further representations about the SAMDev Plan to Shropshire Council. Any further submissions will only be possible at the invitation of the Inspector conducting the examination, who may seek additional information about the issues he/she has identified.

Do you consider it necessary to attend and give evidence at the examination?

Yes, I wish to give evidence about my representation at the examination.

☒

No, I wish to pursue my representations through this written representation.

☐

If you wish to attend the examination, please explain why you think this is necessary in the box below:

It is considered appropriate to retain the right to appear at Examination, to discuss the issues raised by the representations in ore detail.

Do you wish to be notified of any of the following? *Please tick all that apply. We will contact you using the details you have given above.*

When the SAMDev Plan has been submitted for examination	<input checked="" type="checkbox"/>
When the Inspector's Report is published	<input checked="" type="checkbox"/>
When the SAMDev Plan is adopted	<input checked="" type="checkbox"/>

Please return this form by 5pm on Monday 28 April 2014

You can e-mail it to:

Planning.policy@shropshire.gov.uk

Or return it to: Planning Policy Team, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Please note, we will acknowledge receipt of representations made by e-mail.

Data Protection Act 1998 and Freedom of Information Act 2000

Representations cannot be treated in confidence. Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires copies of all representations to be made publically available. The Council will place all the representations and the names of those who made them on its website, but will not publish personal information such as telephone numbers, emails or private addresses. By submitting a representation on the Pre-Submission SAMDev Plan you confirm that you agree to this.

SHROPSHIRE SITE ALLOCATIONS AND MANAGEMENT OF DEVELOPMENT DPD

Representations made on behalf of Mr and Mrs R Cundall

July 2011



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SECTION ONE: INTRODUCTION

Introduction

We have been instructed by Mr and Mrs R Cundall to submit representations to the Shropshire Council emerging Site Allocations and Management of Development (SAMDEV) DPD. Our clients seek the amendment of the Ludlow Development Boundary to the south west of Ludlow around 'The Lodge' on Camp Lane and 'Maryvale' at the corner of Camp Lane and Mill Street (figure 1), both of which our clients own.

Development Boundary Context

The adopted South Shropshire Local Plan (2005) Proposals Map shows the development boundary around the south west of Ludlow, along Camp Lane, to be tightly drawn around both 'The Lodge' and 'Maryvale' (figure 2). Between these two properties the Development Boundary follows Camp Lane. The Local Plan defines the Development Boundary as '*the limit to development outside which development will be generally resisted*'.

The adopted Shropshire Core Strategy (2011) policy CS3 states that balanced housing and employment development of appropriate scale and design will take place inside town development boundaries.

However, the reason for drawing the boundary so tightly around both the Lodge and Maryvale is unclear. Section two of this representation therefore provides an analysis of the immediate area to ascertain if there are any logical landscape reasons for the current Development Boundary alignment around 'The Lodge' and 'Maryvale'. Section three states the effect of the exclusion of the curtilages of 'The Lodge' and 'Maryvale' from the Development Boundary and section four proposes how the Ludlow Development Boundary should be amended.

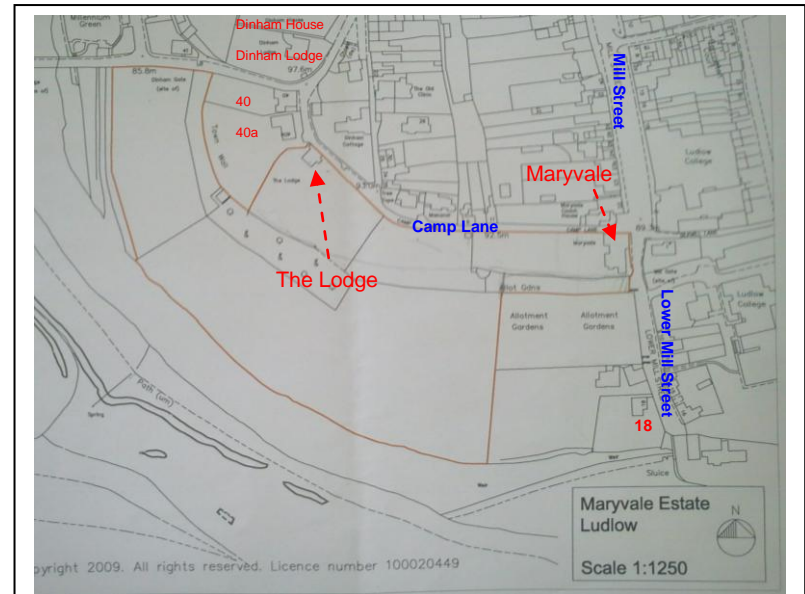


Figure 1: Location Plan

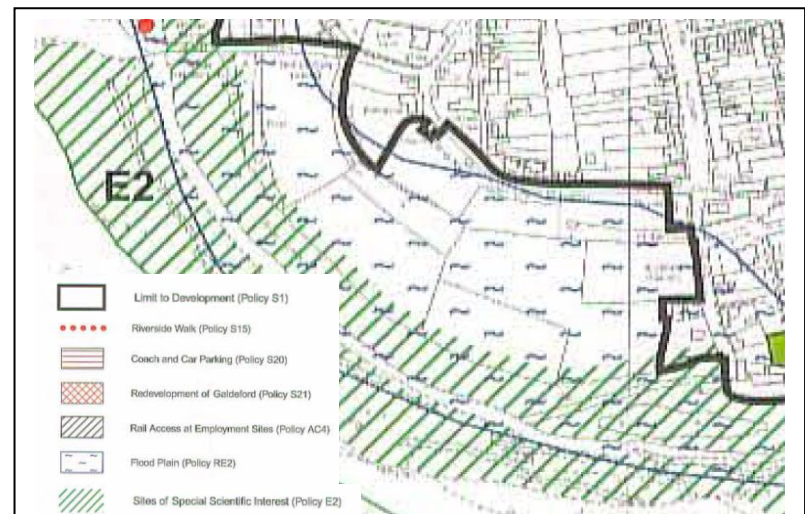


Figure 2: South Shropshire Local Plan Proposals Map extract

SECTION TWO: AREA ANALYSIS

This section looks at the physical characteristics of the landscape that could have contributed to the decision to draw the Ludlow Development Boundary tightly around 'The Lodge' and 'Maryvale', focusing on:

- Flood Risk
- Historical Landscape
- Landscape Character
- Curtilage Size
- Visibility

Flood Risk

The adopted South Shropshire Local Plan (2005) also shows the area between 'The Lodge' and 'Maryvale', extending from Camp Lane to the River Teme, to be within the flood plain (figure 2). Whilst this may provide an explanation for originally drawing the line of the Development Boundary in this location, our clients contest the flood plain boundary.

Our clients have been liaising with the Environment Agency (EA) to query this flood plain boundary because it is not consistent with the steeply rising topography. The EA acknowledged (in 2002) that reliance on digital topography data can produce some peculiar boundaries in instances where land rises steeply and that river modelling methods will be used for the River Teme to produce better estimates of the extent of flood plain. The EA stated that it is anticipated that an improved outline on the next indicative flood plain map will eliminate the error in this area of Ludlow.

The current indicative EA flood map now shows the area between 'The Lodge' and 'Maryvale' and much of the area to the south, between the properties and the River Teme, to be outside flood zones 2 and 3 (figure 3). The Shropshire Council Strategic Flood Risk Assessment (SFRA) mapping is also consistent with this (figure 4).

We therefore firstly recommend that if Shropshire Council is showing the floodplain on the Ludlow map within the SAMDEV, it is drawn accurately to reflect the up to date EA and SFRA mapping. More importantly we stress that the line of the Development Boundary along Camp Lane cannot now be restricted on flood plain grounds.



Figure 3: Environment Agency indicative flood map extract (2011)



Figure 4: Shropshire Strategic Flood Risk Assessment map extract

Historic Landscape

i) Conservation Area

The Ludlow Conservation Area (figure 5) was designated in 1970 and therefore pre-dates the adopted Local Plan (2005). The section of the settlement boundary along Camp Lane and Lower Mill Street is well inside the Ludlow Conservation Area. The Ludlow Conservation Area Statement (2008 Revision), prepared by South Shropshire District Council, does not identify any specific feature of conservation interest / character which would necessitate drawing such tight Development Boundaries along Camp Lane / Lower Mill Street. We therefore consider that the location within the Ludlow Conservation Area does not justify drawing the development boundary tightly around 'Maryvale' and 'The Lodge'.

ii) Town Walls

A licence to build the Ludlow town defences was granted in 1233. Documentary evidence suggests that some gates were completed before 1284, but that the southern part of the circuit and Broad Gate were not completed before 1290¹. The location and line of town walls (figure 6) reflects the topography of the landscape. We note that the town walls are recorded as a Scheduled Ancient Monument.

There are two surviving sections of the town wall in the vicinity of 'Maryvale' and 'The Lodge' (figure 7), both of which have been recently repaired by our clients:

- Town Walls from Site of Mill Street Gate Westwards. Grade II Listed. Outhouse to rear of 'Maryvale' rests on wall. D-shaped bastion at western end. Approximately 100m in length and approximately 3-5m high. Listing NGR: SO5098674329.
- Town Walls from Site of Dinham Gate south eastwards. Grade II Listed. 200m long and approximately 2-4m high. Listing NGR SO5083174362.

Nevertheless, the section of town walls extending south eastwards from Dinham Gate also passes to the rear of both 40 and 40a Camp Lane, at which point the line of the town wall co-exists with the line of the Ludlow Development Boundary. We therefore consider that the location of (surviving sections of) the town wall to the rear of both 'Maryvale' and 'The Lodge' is not sufficient reason to draw the Development Boundary tightly around 'Maryvale' and 'The Lodge'.

¹ Dalwood (1996). Archaeological Assessment of Ludlow, Shropshire (including Luford)

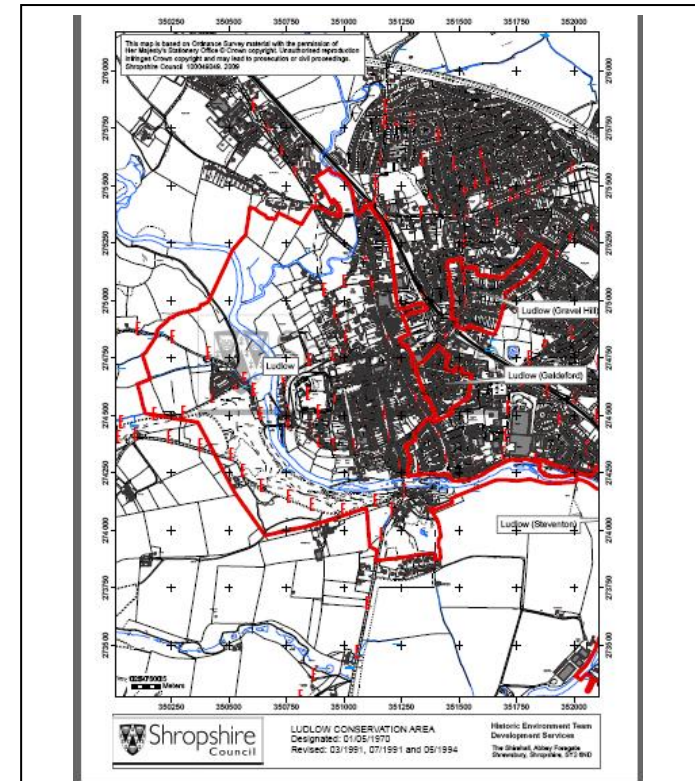


Figure 5: Ludlow Conservation Area Map

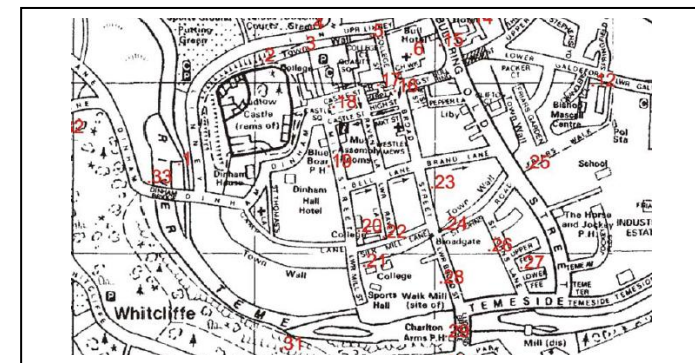


Figure 6: Map showing Ludlow town wall¹

Landscape Character

The Shropshire Landscape Character Assessment (figure 8) does not differentiate between the areas inside and outside of the Development Boundary to the south west of Ludlow and instead classifies the whole area from Camp Lane down to the River Teme as having 'urban' character. The character of the land around 'Maryvale' and 'The Lodge' is therefore no different to that of the single dwellings at 40 and 40a Camp Lane and 18 Lower Mill Street, around which the Development Boundary is not tightly drawn. We therefore consider that Landscape Character is not sufficient reason to draw the Development Boundary tightly around 'Maryvale' and 'The Lodge'.

Curtilage Size

The planning unit for a single private dwelling house is the whole of the land occupied with the house. The lawful use of the whole of the planning unit falls within use class C3. The exception to this is if any part of this land can be identified as being physically or functionally separate from the whole. Our understanding of the planning units for 'Maryvale' and 'The Lodge' and neighbouring properties along Camp Lane, Lower Mill Street and Dinham are shown on figure 9.

In *Hon. David McAlpine v SOS & Another* [1994] the curtilage of a residential property is defined as being characterised by a small area about the house, sharing an 'intimate association' with the house, not necessarily physically enclosed but regarded by law as part of one enclosure with the house. This is further emphasised in *Collins v Secretary of State for the Environment* [1989], where the Court upheld an Inspector's findings that an area of rough grass largely neglected which lay beyond the well cut lawns near the dwelling house did not form part of its curtilage even though this land was in the same occupation. As the areas within the planning units for all the properties shown on figure 9 comprise the dwelling as well as cultivated lawns / vegetable gardens, and in some cases also forecourt areas, we consider that the curtilages are co-extensive with the planning units, in accordance with the above definitions.

'The Lodge' was originally the Coach House for 'Maryvale', but was separated from 'Maryvale' in the 1920s. The current Lodge is built on top of an earlier building. The original 'Maryvale' curtilage extends to 0.22ha. Our clients bought the parcel of land between The Lodge and 'Maryvale' in 1991 and cultivated it in to additional garden area for 'Maryvale'. These two areas are shown on figure 9 separated by a broken line.



Figure 7: Surviving section of Ludlow town wall along Camp Lane



Figure 8: Ludlow Landscape Character Assessment map extract

The analysis of curtilage sizes presented in table 1 shows that the size of 'The Lodge' and (original) 'Maryvale' curtilages are not considered disproportionate to others in the immediate vicinity within the Development Boundary. Therefore we consider that curtilage size is not sufficient to have excluded the entire curtilages of both 'Maryvale' and 'The Lodge' from the Development Boundary.

Visibility

'Maryvale' and 'The Lodge' are not considered to be more visible from the River Teme / Camp Lane / Whitcliffe than the nearby properties of 40 and 40a Camp Lane and 18 Lower Mill Street. A high wall along the southern side of Camp Lane prevents views in to the land around both 'Maryvale' and 'The Lodge' from Camp Lane. In common with both 40 and 40a Camp Lane, both 'The Lodge' and 'Maryvale' are largely screened from view from the river by wall and / or trees. From the limited number of places on Whitcliffe where views of this area can be gained, all properties along Camp Lane and Lower Mill Street are visible. We therefore consider that property visibility is not sufficient reason to draw the development boundary tightly around 'Maryvale' and 'The Lodge'.

Area Analysis Conclusion

Based on an analysis of flood plain, historical landscape, landscape character, curtilage size and visibility in this area of Ludlow, and through comparison of the physical landscape around 'Maryvale' and 'The Lodge' with that of neighbouring properties, there is no apparent landscape reason or evidence base for justifying drawing the Development Boundary so tightly around 'Maryvale' and 'The Lodge'. The Development Boundary should therefore be redrawn to redress this drafting error.

Address	Approx. Curtilage Size	Comments
40 Camp Lane	0.09ha	Property on southern edge of Ludlow and whole curtilage included within development boundary
40a Camp Lane	0.23ha	Property on southern edge of Ludlow and whole curtilage included within development boundary
18 Lower Mill Street	0.18ha	Property on southern edge of Ludlow and whole curtilage included within development boundary
Dinham Lodge, Dinham	0.15ha	Property and curtilage within development boundary
Dinham House, Dinham	0.26ha	Property and curtilage within development boundary
The Lodge, Camp Lane	0.31ha	Property on southern edge of Ludlow and whole curtilage excluded from development boundary
Maryvale, Mill Street	0.22ha (original) + 0.23ha (additional)	Property on southern edge of Ludlow and whole curtilage excluded from development boundary

Table 1: Analysis of curtilage sizes

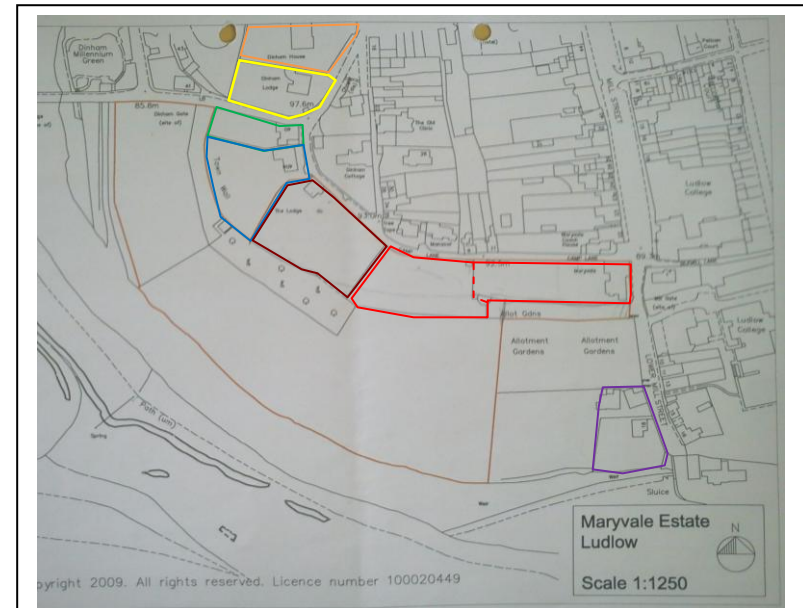


Figure 9: Planning units / curtilages

Our clients are not expressly concerned about the effect on their permitted development rights of the exclusion of the curtilages of 'Maryvale' and 'The Lodge' from the Ludlow Development Boundary, as permitted development rights apply irrespective of whether the curtilage is inside or outside the Development Boundary.

'The Lodge' is experiencing structural problems and our clients may need to replace this building with another single dwelling within the curtilage in due course. Whilst such development would be considered acceptable in principle within the Development Boundary (Core Strategy policy CS3), subject to compliance with residential design and conservation policy, if the replacement dwelling is located outside of the 'Lodge' footprint, it could be classified as a new market dwelling in the countryside and therefore resisted by the Council as contrary to countryside planning policy (Core Strategy policy CS5).

Please note that our clients are therefore not proposing that The Council allocates this area for housing growth, they are just seeking to correct a drafting error in the current Ludlow development boundary.

To correct the drafting error, our clients propose that the line of the development boundary is amended south of Camp Lane to follow the line of the Town Wall, as shown in figure 10. Whilst this does not include the whole of the curtilages for both 'Maryvale' and 'The Lodge', it does include the majority of 'The Lodge' curtilage and the majority of the 'Maryvale' curtilage, including the whole of the original (pre-1991) Maryvale' curtilage as well as the vegetable garden area of the additional curtilage.

We therefore look forward to seeing the boundary amended to correspond to the line of the town wall in this area of Ludlow as part of the next stage of the SAMDEV document.

