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## Appeal Decision

Hearing held on 29 June and 12 October 2016

Site visit made on 29 June 2016

**by Nigel Harrison BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 December 2016**

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**Appeal Ref: APP/L3245/W/16/3143516**

**Land off A525 Newcastle Road, Woore, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Berrys against the decision of Shropshire Council.
  - The application Ref: 14/05206/OUT dated 18 November 2014, was refused by notice dated 29 July 2015.
  - The development proposed is an outline application for the erection of up to 54 dwellings to include means of access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was made in outline with approval sought for the means of access at this stage. Layout, appearance, landscaping and scale are reserved matters. An indicative site layout plan has been submitted which I shall treat as being for illustrative purposes only.
3. The Hearing was adjourned to allow the parties to comment on the Council's *Full Objectively Assessed Housing Need Report* (FOAN) published on 6 July 2016. The appellant has provided a full written rebuttal in response to the FOAN, and the Council has submitted a response to that rebuttal.
4. The Council's 3<sup>rd</sup> reason for refusal says the proposal conflicts with adopted policy in that no Section 106 Agreement had been submitted in relation to the provision of affordable housing and public open space. However, a signed and dated Section 106 Agreement was submitted at the Hearing, the Council no longer wishes to defend this reason for refusal.

### Main Issues

5. I consider the main issues in this case are:
  - Whether the appeal site would be a suitable location for the development proposed with particular reference to the housing strategy for the area;
  - The effect of the proposed development on the character and appearance of the countryside;
  - The effect of the proposed development on the site's ecological interest;

- Whether the Council can demonstrate a 5 year supply of housing land to meet a full objectively assessed housing need; and
- Whether the proposal would be consistent with the principles of sustainable development.

## Reasons

### ***Suitability of the site: Housing strategy for the area***

6. At the heart of National Policy as stated in paragraph 14 of the *National Planning Policy Framework* (the Framework), is a presumption in favour of sustainable development. For decision making this means: 'Approving proposals which accord with the development plan without delay; and: Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole'.
7. Notwithstanding the general presumption in favour of sustainable development Paragraph 2 of the Framework reiterates the statutory position that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
8. The development plan comprises the *Shropshire Local Development Framework Adopted Core Strategy* (CS), March 2011, and the *Shropshire Council Site Allocations and Management of Development Plan* (SAMDev). This forms the second part of the development plan and was adopted in December 2015 after the date of the decision. It replaces the 'saved' policies of the former *North Shropshire Local Plan* (NSLP). Although the appeal site was outside the development boundary of Woore in the NSLP, no development boundary for Woore has been defined in the SAMDev Plan.
9. CS Policy CS1 sets out the strategic approach to development in the county to meet its needs and make its settlements more sustainable by delivering about 27,500 new homes in the Plan period (2006-2026). It steers the majority of new housing development to Shrewsbury, the market towns and other key centres. In the rural areas development will be concentrated in settlements defined as Community Hubs or Community Clusters. These will accommodate around 35% the county's residential development over the plan period. It is augmented by SAMDev Policy MD1 which concerns the scale and distribution of development.
10. CS Policy CS4 states that in the rural areas, communities will become more sustainable by focusing development in the designated community hubs and clusters and not allowing development outside these settlements unless it meets CS Policy CS5. This policy seeks to ensure that all development in community hubs and clusters is of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies CS Policy CS6. Paragraph 4.69 of the supporting text to CS4 makes it clear that development in community hubs and clusters will be within the village, or on land that has been specifically allocated for development. To prevent fragmented development it adds that windfall development outside the village is not acceptable unless it is an exception site for affordable housing or other development allowed under CS5.

11. Within this strategy for sustainable development the Council says the appeal site should be regarded being within open countryside, where CS Policy CS5 applies. This policy seeks to strictly control new development in the countryside and limits new housing development to that which needs to be located there, including dwellings for agricultural workers, affordable housing to meet local needs, and the conversion of rural buildings. CS5 is augmented by SAMDev Policy MD7a which has similar aims in seeking to manage housing development in the countryside. The Council says the proposal for principally open market housing would not meet any of the permitted exceptions, although the appellant considers Policy CS5 to be of a permissive nature in that the exceptions are not an exhaustive list and do not solely restrict housing development to the specified categories.
12. Furthermore, the appellant suggests that the site is not in open countryside for the purposes of Policy CS5, given that the policy pre-dates the Framework. Nonetheless, I find it broadly consistent with the core principle of the Framework that planning should recognise the intrinsic character and beauty of the countryside. Even though the site adjoins built-up development on its western edge, it is a large open field with a very different character to the urban area, and to my mind clearly forms part of the open countryside on the eastern side of the village. I am therefore satisfied that the site should be regarded as countryside to which Policies CS5 and MD7a apply. When read together as part of the overall strategy, they clearly do not support the continued development of the village with predominantly open market housing.
13. Returning to Policy CS4, Woore is identified as being part of a Woore, Irelands Cross and Pipe Gate Community Hub, and the amount of new housing development envisaged the hub is set out in SAMDev Policy S11.2. Although no specific sites are identified in Woore it says there is limited potential for development of approximately 15 dwellings over the plan period to 2026. This will be delivered through limited infilling, conversions and small groups of houses which may be suitable on certain sites within the villages, avoiding ribbon development along the A51. It adds that any development must respect the sensitive gap between the settlements to prevent coalescence.
14. The appellant questions the basis on which the options for growth in the Woore Community Hub were assessed and says the plan-making process was flawed because 'reasonable alternatives' involving higher levels of development and different options for delivering housing were not considered as part of a sustainability appraisal process. The appellant 15 dwellings is a very low and constraining figure, particularly given the community services and facilities available in the village, and suggests that 95 dwellings over the plan period would be more appropriate, based on Shropshire's annual growth rate of 1%.
15. However, I note that as part of the SAMDev Plan process, a higher figure was considered by the Council and community, but was not taken forward because Woore experienced very significant housing growth during the plan period of the former NSLP, with housing development on two sites alone providing some 75 homes. This view was supported by the SAMDev Plan Examining Inspector. She noted that whilst there are other housing sites which are still being promoted as preferred sites during the examination; in accordance with the strategy founded on the principles of localism, community preference has been a key determining factor in site selection.

16. The Council's statement of case makes it clear that the sustainability of Woore is not in question, as it has been identified as being part of a community hub capable of accommodating some additional (albeit modest) growth in the SAMDev Plan. The appellant contends that the scale of development proposed will help maintain existing facilities and services but does not seek to provide any evidence that these services and facilities need additional support. However, as noted previously Woore has experienced large scale housing provision during the previous plan period, and the SAMDev guideline figure was set to ensure that that future development was of proportionate to the size of the village and the facilities and services which it offers.
17. In addition to supporting the development of the allocated sites and housing guidelines set out in the settlement policies S1-S18, Policy MD3 says planning permission will also be granted for other sustainable housing development. However, it does not give unqualified support for windfall development outside the settlements, but says it must have regard to other policies of the Local Plan, particularly CS2, CS3, CS4, CS5, MD1 and MD7a. Therefore, in my view, for a proposed development to be considered acceptable under this policy, the decision maker has to give consideration to the degree of consistency or conflict it would have with other Local Plan policies.
18. The appellant submits that the site designations in community hubs and clusters provide insufficient capacity to meet the level of development proposed in the rural areas. The SAMDev Examining Inspector commented on the heavy reliance on windfall sites to deliver this figure, but found the Council's expectation that 35% of the overall housing requirement (10,000 dwellings) will be provided in rural areas was realistic given the past record of completions. She concluded that the Council's approach of relying more on windfall development rather than specific site allocations in the hubs and clusters to be consistent with the higher proportion of windfall sites needed in the rural areas. Overall, the Inspector found the SAMDev plan to be sound, and I must consider the proposal in the light of the policies of this recently adopted plan.
19. I have concluded that the appeal site lies within the countryside for planning policy purposes. The proposed development does not fall within any of the exceptions permitted by CS Policy CS5/SAMDev Policy MD7a, and therefore conflicts with these policies. It also conflicts with CS Policy CS4 which presumes against development outside the designated community hubs and clusters unless the exceptions within Policy CS5 can be satisfied.
20. The scale of the development proposed (54 dwellings), is well in excess of the housing 'target figure' for the Woore, Irelands Cross and Pipe Gate Community Hub for the whole plan period, and as such the proposal conflicts with SAMDev Policy S11.2. Furthermore, the proposal would not support the strategic aims and the scale and distribution of development required by CS Policy CS1 and SAMDev Policy MD1. Nor, given the extent of conflict with the various policies cross-referenced in SAMDev Policy MD3, would the proposal receive any support from that direction in terms of representing an acceptable form of windfall development.
21. Accordingly, drawing together all the above, I conclude on this issue that the proposal would not be a suitable location for the development proposed having regard to its conflict with the development strategy for the area.

***Effect on the character and appearance of the countryside***

22. The application site comprises a large field to the east of the village of Woore, adjoined by open countryside to the north, east and south (on the opposite side of the A525 Newcastle Road). There is some sporadic development along the A525 leading outwards from the village, but the area has nonetheless maintains a rural character and appearance.
23. Although no Landscape and Visual Impact Analysis (LVIA) was carried out, the appellant suggests that views of the site are limited, and that the natural steep slope of the land aids screening of the site, with the hedgerow boundaries forming clear delineated boundaries which contain it. As such, it is put to me that the proposed development would not lead to an inappropriate incursion into open countryside.
24. I find it difficult to accept this line of reasoning however. The local topography would mean that any development on the site would be clearly visible on the eastern approach to Woore along the A525 and from other more distant public viewpoints including Gravenhunger Moss to the east. To my mind the proposed development would fundamentally and detrimentally change the character and appearance of the rural setting of the village and the wider surrounding countryside. Nor am I persuaded that this harm would be materially reduced by additional new planting in either the short or long term.
25. I appreciate that the appeal site and the adjoining countryside is protected by no particular landscape quality designation. However, whilst it may not be 'classic' countryside, being on the edge of Woore, its visual character is still overwhelmingly open and predominantly rural. Consequently, I consider the proposed development would result in harmful encroachment into the countryside. I do not agree with the appellant that it would represent a logical rounding-off of this part of the village as the existing housing to the west already gives a strong edge to built development in this part of the village. On the contrary it would extend the built form of the village into the open countryside and in my view the rural character of the eastern approaches to the village would be irrevocably changed through the loss of this open land.
26. Part of the appellant's case is that at reserved matters stage careful consideration will be given to the scale, layout and design of the development to ensure that it is in keeping with the built form of the village and the character of the surrounding area. However, whilst the location and relatively low density might indicate the type of scheme which might follow, I am unconvinced how this could be secured through any application for approval of reserved matters.
27. Overall on this issue I conclude that the proposal would have a detrimental effect on the character and appearance of the surrounding countryside. In this respect it would conflict with CS Policies CS5 and CS6 which together seek to maintain and enhance the character of the countryside and to protect, conserve and enhance the natural environment.

***Effect on the ecological interest of the site***

28. Amongst other matters, CS Policy CS17 requires a development not to have a significant adverse impact on environmental assets or create barriers or sever links between dependant sites. The appeal site is a habitat for bats (it is an

extensive resource for foraging and commuting bats within the vegetated boundaries), nesting birds, and badgers (there is an extensive main breeding badger sett within 20m of the northern boundary of the site and others close to the northern boundary hedgerow). The Council is satisfied that the mitigation measures identified in the Extended Phase 1 Report<sup>1</sup> will ensure that the proposed development would not materially harm the site's ecology insofar as these species are concerned and I find no reason to disagree.

29. However, the Council's second reason for refusal states that the proposal has the potential to impact on great crested newts, listed as a European Protected Species (EPS) in Schedule 2 of *the Conservation of Habitats and Species Regulations 2010* (Annex 4 to the Habitats Directive). It is an offence to deliberately disturb an EPS wherever it occurs; to cause disturbance likely to impair its ability to survive, breed or reproduce; or significantly affect the local distribution or abundance of the species.
30. A survey<sup>2</sup> was completed in June 2015 and confirmed the presence of a small population of great crested newts within ponds 1 and 4 to the south-west of the site and a medium presence was also confirmed in pond 8, which has good connectivity with the site via a drainage ditch. The appeal site provides a suitable terrestrial habitat for the species for foraging and hibernating, and forms part of the interconnecting habitat between breeding ponds in the area.
31. The survey sets out a number of mitigation measures including exclusion fencing and pitfall traps (during development works) in accordance with standard recommended guidance. It also suggests that the proposed area of public open space would be a 'good terrestrial habitat', and that a pond should be formed in this area. The inclusion of other terrestrial opportunities is recommended as part of the scheme, including new hedgerows and an earth embankment surrounded by rough grassland on the north side of the pond.
32. The proposed development would involve considerable ground works over an extended period of time, and is therefore likely to result in disturbance and significant risk to the population of great crested newts. Accordingly, an EPS development licence would be required to allow the development to progress lawfully. Regulation 9(3) of the *Regulations* places a duty on me, as the competent authority to have regard to the requirements of the Habitats Directive. Where it considers the proposal might cause harm to an EPS, three tests in the Habitats Directive have to be considered. Firstly, the development needs to be in the interests of public health and public safety, or for imperative reasons of overriding public interest including those of a social or economic nature; secondly there must be no satisfactory alternative; and thirdly, that the action authorised by the licence will not be detrimental to maintaining the population of the species at a favourable conservation status.
33. The Council is satisfied that the proposed mitigation measures would be acceptable and would not be detrimental to the maintenance of the great crested newt population. I see no reason to take a contrary view and that the third test would be met.
34. However, I cannot be satisfied in relation to the other tests that there would be a reasonable prospect of a licence being granted to allow the development to

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<sup>1</sup> Pearce Environmental Extended Phase 1 Report January 2015

<sup>2</sup> Pearce Environmental Extended Phase 1 and Phase 2 Great Crested Newt Survey Report June 2015

progress lawfully so as not to cause significant harm to the EPS. The appeal proposal would not meet the purpose of public health or public safety. Although there would be some public benefits arising from the provision of new housing, it will be seen from my conclusion on the other main issues and overall planning balance that I have found that the site is unsuitable for residential development for other reasons, and as such I cannot apportion significant weight to this benefit when weighed against the harm to the EPS. For the same reasons there are other alternatives to the development of housing on this site. As such, the proposal would fail to meet the first and second tests and would conflict with the requirements of the *Regulations*, CS Policy CS17, and Government policy as set out in paragraphs 118 and 119 of the Framework.

### ***Housing land supply and full objectively assessed housing need***

35. In order to boost significantly the supply of housing the appellant has drawn my attention to paragraph 47 of the Framework. This indicates that the Council should use an evidence base to plan to meet the full objectively assessed housing needs (FOAN) for open market and affordable housing. The identification of a FOAN is a pre-requisite step for identifying whether a Council can demonstrate a five year supply of housing land. It is not disputed that the Council can demonstrate a five year supply at present (5.97 years based on the latest statement published 26 August 2016).
36. The Council produced a *Full Objectively Assessed Housing Need Report* in July 2016. It provided endorsement of the adopted housing requirement in that housing need over the remainder of the current plan period (2016-2026) is less than, but generally consistent with the current housing requirement. The first 10 years of the report coincide with the next 10 years of the period addressed within the CS housing requirement (2016-2026), and according to the report the need arising in this 10 year period is 13,039 dwellings (equating to 1,304 dwellings per annum). Following on from this, the Council says it is still appropriate to utilise the housing requirement in CS Policy CS1 as the basis for assessing housing land supply in Shropshire. The Council says its FOAN report uses a methodology consistent with that detailed in the Planning Policy Guidance (PPG) in that it identifies an appropriate housing market area and utilises the 2012 based sub-national household projections as the starting point. It also considers the need to make adjustments in response to past planning policy, past housing provision, market signals, future employment forecasts and other locally relevant factors.
37. However, the nub of the appellant's case is that the Council is not able to demonstrate a FOAN, and argues that the July 2016 FOAN report does not represent a Framework-compliant assessment of Shropshire's housing needs. Therefore, in the absence of a FOAN, the appellant contends that Shropshire cannot demonstrate compliance with paragraph 47 of the Framework and Government advice in the *Planning Policy Guidance* (PPG), and that relevant policies for the supply of housing should be considered out-of-date in accordance with paragraph 49.
38. The appellant says the FOAN report has significant shortcomings for a number of reasons: That it does not consider the suppression of household formation rates by historic under-supply or make adjustments to the demographic projections in response; that it makes no adjustments for the shortfalls in housing delivery between 1996 and 2015 despite the fact that the PPG is clear

that under-delivery should be applied as a demographic adjustment; that it does not reflect the Framework and PPG requirement to reflect rising house prices; that it takes inadequate account of affordability problems; that the allowance of 24 dwellings per annum to address concealed households is inadequate; that affordable housing need must be assessed as a 'policy-off' element of the FOAN, and it is therefore incorrect for the council not to include some 'uplift' in its figures; that the job growth assumptions of 465 jobs per annum are unreasonably low, and that the Council's assumption that jobs growth will be countered by a decline in net commuting is a 'policy-off' decision inappropriate in a FOAN.

39. Further to these criticisms the appellant considers that the Development Plan (CS Policy CS1) requirement of around 27,500 dwellings over the plan period has been out-of-date since the publication of the Framework and PPG in 2012, in that it was based upon out-of-date being based on 2006 data and the revoked West Midlands Regional Spatial Strategy and the 2012 sub-national household projections 2012 (SNHP), which have been criticised for under-estimating population figures because of recessionary trends at that time. It was further put to me that both the housing requirement looking forward and the under-provision figure to date needs revising in the light of a Framework-compliant FOAN figure. Overall, the appellant suggests that the actual full, objectively-assessed housing need figure should be significantly higher than those presented in the Council's FOAN report and in CS Policy CS1.
40. In this regard I have taken account of the judgement in the case of *Shropshire Council v SSCLG and BDW Trading Ltd*<sup>3</sup> where a development of 68 houses was allowed on appeal at a site outside the settlement boundary at Teal Drive, Ellesmere. In summary, the judge quashed the decision and found that the Inspector had erred in law by concluding that Council could not demonstrate a five year housing land supply because they did not have a FOAN, and hence did not have a robust housing requirement on which to demonstrate a five year supply. She went on to say that the Inspector was required to make a judgement on the Council's current FOAN or housing requirement based on the evidence before him despite its imperfections. Although the Teal Drive case centred on the Council's Strategic Housing Market Assessment (SHMA) reports (March and July 2014), which have now been superceded by the July 2016 FOAN report, the judge's conclusions remain a valid material consideration. Therefore, for the purposes of this appeal I need to reach a decision on the Council's housing requirement based on the evidence presented.
41. However, even though the Council's methodology has been strongly criticised by the appellant, and upward adjustments have been suggested, I note that it is not the appellant's intention to provide an alternative FOAN. Nor does the evidence in this case lead to a single clear conclusion. As stated by the appellant, and as set out in PPG paragraph 30, limited weight should be given to a FOAN that has not yet been tested. For the same reason, I can only afford limited weight to the appellant's evidence at this time, and although many valid points have been made, these will need to be tested through consultation and examination as part of the upcoming Development Plan review process which is due to commence in early 2017.

<sup>3</sup> [2016] EWHC 2753 (Admin)



42. In these circumstances I consider that the adopted housing requirement figure is the one that should be used in this instance, and that the housing supply requirement in this appeal should be considered against this. In reaching my view I have been mindful of the judge's remarks in the Teal Drive case that an Inspector is not required to undertake the kind of analysis which would be appropriate at a development plan inquiry, but should make a judgement on housing needs and supply in order to properly apply paragraph 49 of the Framework. My decision on this matter does not bind the Council, or another Inspector, or the Secretary of State as to the housing requirement for Shropshire in other applications and appeals. The relevant housing requirement in another case would depend on a separate exercise of judgement at the time of the relevant decision, including relevant policy documents such as the Development Plan review at whatever stage that process has reached.
43. CS Policy CS5 and SAMDev Policy MD7a seek to restrict new development in the countryside, and CS Policy CS4 does not allow development outside the community hubs and clusters unless it meets Policy CS5. As such, these are relevant policies for the supply of housing as referred to in the Framework. In that they define the circumstances where windfall development can take place and set a housing figure for the community hub, SAMDev Policies MD3 and S11.2 are also relevant policies concerning the supply of housing.
44. I have concluded that the Council can demonstrate a five year supply of deliverable housing sites based on the housing requirement contained in the Development Plan and set out in CS Policy CS1. Therefore, in accordance with paragraph 49 of the Framework, these policies can be regarded as being up-to-date and afforded full weight. This in turn means that the second part of paragraph 14 of the Framework is not engaged.
45. In view of this it is now necessary for me to consider whether there are any other material considerations that would indicate that planning permission should nonetheless be granted. Such considerations centre on the effect of the proposed development in terms of its landscape impact and the economic, social and environmental dimensions of the proposal.

***Whether sustainable development: Overall planning balance***

46. The Framework makes it clear that its policies, taken as a whole, constitute what sustainable development means in practice for the planning system. Paragraph 7 of the Framework sets out the three dimensions of sustainable development, namely the economic, social and environmental roles. Paragraph 8 makes it clear that the three roles are mutually dependent and should not be carried out in isolation.
47. There would be economic benefits arising from the construction and occupation of the dwellings, and the provision of housing (with a proportion being affordable housing) would represent a social benefit. Given the acknowledged need for such housing Shropshire, that is a benefit of the scheme to which I afford some weight. However, that weight is tempered by the consideration that the policy requirement to provide a 33% affordable homes applies to all other development that comes forward, and the Council has demonstrated that it has a sufficient supply of housing to meet its needs for the next five years.
48. In addition, the proposal would create direct and indirect jobs and help to support local services and facilities. Indeed, the Council accept that the

proposed development would generate some economic benefits to Shropshire. I recognise that Woore has a modest range of services and facilities which would be easily accessible to future residents. Taken together, these represent material benefits in terms of the social and economic dimensions of sustainable development, although in any event, there would be some conflict with the economic dimension of sustainability which seeks to ensure, among other things, the delivery of housing land in the right place.

49. Bringing these matters together, my conclusion with regard to the harmful environmental impacts of the proposal on the character and appearance of the countryside and my conclusion with regard to the protected species represent significant and overriding objections which must be decisive. The adverse harm which I have identified would substantially and demonstrably outweigh any potential social and economic benefits of the appeal scheme. Nor can other planning and policy considerations simply be set aside. The appeal proposal would clearly conflict with the Council's housing strategy for the rural areas of Shropshire and the community hub of Woore in particular. For these reasons I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework taken as a whole.

### **Other matters**

#### *Other appeal decisions*

50. The appellant has drawn my attention to other allowed appeal decisions at Ash Grove, Wem<sup>4</sup>, The Cross, West Felton<sup>5</sup> and Bromyard Road, Ludlow<sup>6</sup> relating to housing development beyond development boundaries. However these pre-date the adoption of the SAMDev Plan and this Plan now gives greater certainty in terms of the final wording of its policies and the fact that it is now part of the development plan and attracts full weight. Suffice it to say that each application and appeal falls to be determined on its own merits, and the various decisions indicate the finely balanced nature of the cases, and it is clear that each needs to be judged on its own merits.

#### *Section 106 Agreement*

51. A signed and dated planning obligation in the form of an Agreement under Section 106 of the *Town and Country Planning Act 1990* was submitted at the Hearing. It includes a provision that a percentage of the dwellings<sup>7</sup> are "affordable" as defined in the Framework's Glossary, and in accordance with the prevailing policy requirement. This equates to 33% of the total. The owner also covenants to provide and maintain an area of public open space within the site prior to occupation of the first dwelling, together with a scheme of future maintenance for a period of 20 years.
52. The Council and appellant agree that these affordable housing and open space contributions would be necessary in the event that planning permission were to be granted, and I note that they accord with CS Policy CS11, the *Type and Affordability of Housing Supplementary Planning Document*, and with SAMDev Policy MD2. Paragraph 204 of the Framework says planning obligations must be

<sup>4</sup> APP/L3245/W/15/3029727

<sup>5</sup> APP/L3245/W/15/3003171

<sup>6</sup> APPL3245/W/15/3001117

<sup>7</sup> Not less than the Prevailing Target Rate

necessary to make the development acceptable in planning terms, and fairly and reasonably related to it in scale and kind. As the development is also chargeable development, the S106 needs to satisfy the corresponding tests in Regulation 122 of the Community Infrastructure Regulations 2012 (CIL).

53. Having regard to the representations made, I consider the relevant Policy and CIL legal tests have been satisfied. However, I do not consider the provisions of the Agreement would outweigh the particular harm I have found in this case, nor thus render the development acceptable or overcome the planning policy objections to the proposal.

### **Conclusion**

54. Therefore, for the reasons given above, and taking into account all other matters raised, including the comments of Woore Parish Council and a significant number of local residents objecting to the proposal, and a letter in support of the proposal from Woore Cricket Club, I conclude that the appeal should be dismissed.

*Nigel Harrison*

INSPECTOR

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT:**

Helen Howie  
David Hough  
Kevin McDermott

Berrys  
David Hough Properties

### **FOR THE LOCAL PLANNING AUTHORITY:**

Karen Townend (29 Jun only)	Shropshire Council
Philip Milieu (12 Oct only)	Shropshire Council
Edward West	Shropshire Council

## **DOCUMENTS**

- 1 Appeal Decision: APP/L3245/W/16/3145235; Land west of Pear Tree Lane, Whitchurch, Shropshire
- 2 Appeal Decision: APP/L3245/W/15/3133490; Land opposite The Garage, Welshampton, Ellesmere, Shropshire
- 3 Appeal Decision: APP/L3245/W/15/3067596; Teal Drive, Ellesmere, Shropshire, SY12 9PX
- 4 Claim to High Court by Shropshire Council in respect of appeal decision APP/L3245/W/15/3067596: Council's Statement of Facts and Grounds
- 5 Section 106 Agreement dated 26 June 2016
- 6 Shropshire Full Objectively Assessed Housing Need (FOAN) Report Published 4 July 2016
- 7 FOAN Accompanying Note: July 2016
- 8 Appellant's rebuttal of FOAN report: 24 August 2016
- 9 Council's response to the rebuttal of the FOAN