



Appeal Decision

Hearing held on 30 March 2017

by **D R Cullingford** BA MPhil MRTPI

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

Decision date: 05 July 2017

Appeal Ref: APP/L3245/W/15/3067596

Land at Teal Drive, Ellesmere, Shropshire, SY12 9PX

- This appeal is made under section 78 of the Town and Country Planning Act 1990 against the refusal to grant planning permission.
- The appeal is by David Wilson Homes (Mercia) against the decision of the Shropshire Council.
- The application (ref: 14/03370/FUL and dated 28 July 2014) was refused by notice dated 19 February 2015.
- The development is described as the 'erection of 68 dwellings to include on-site open space provision'.
- This decision supersedes that issued on 16 May 2016. That decision was quashed by order of the High Court.

Decision

1. I dismiss this appeal.

Main issue

2. From what I have heard, read and seen, I consider that this appeal turns on whether the proposal would:
 - i) intrude noticeably into the countryside beyond the town,
 - ii) make a significant contribution to the provision of market and affordable housing required at Ellesmere,
 - iii) be warranted, or otherwise, by the balance of social, economic and environmental consequences of the scheme.

Reasons

The site

3. The site extends to nearly 3.4ha across 2 small grass fields, each immersed amongst mature hedgerows (decked in white blackthorn blossom when I saw them), some fine hedgerow trees and one or two sylvan belts of foliage. It lies beyond, but adjacent to, the suburban estates at the northern edge of Ellesmere. The site slopes towards the east and away from the adjacent estates, the lowest point being in a marked depression towards the middle of the south eastern boundary, before rising with the surrounding hedgerow-enclosed fields of this 'principal timbered farmland' landscape that stretches to the horizon.
4. Back garden fences create a rather stark edge to the town along the south western boundary with Heron Close, Teal Drive and Kingfisher Walk: to the north west a belt of trees, including some tall black poplars, guard the grounds and the Listed structure of The Grange from view: the south eastern boundary is formed

by a short section of back garden fences behind 3 or 4 dwellings in Diksmuide Drive and a belt of trees and other foliage along the bed of an old railway line: the north eastern boundary is a field hedge. Just beyond the appeal site, the belt of trees on the old railway line gives way to a row of poplars, many drastically reduced to reveal the rear elevations and small back gardens of the dwellings in Hill Crest; those gardens appear to encompass the old railway track bed. A footpath runs along part of the old railway line from the head of Diksmuide Drive entering the appeal site to cross the south eastern corner and continue as the Ellesmere Circular Walk through woods and fields to Welshampton and back beside the Mere to the centre of Ellesmere.

5. Ellesmere is designated as one of the 'market towns and other key centres' under policy CS1 of the Core Strategy. It is thus a 'sustainable place' where development is intended to contribute to greater self-sufficiency in locations that are focal points for local transport networks, employment opportunities and services (as set out in the explanation to policy CS3). There is a nursery, a primary and a secondary school: there are buses to nearby towns and villages, as well as around the town itself and to Shrewsbury: there are many small shops, cafés and pubs in the town centre and a superstore towards its edge: there is a library, a medical centre, a fine town hall (a grade II Listed Building), play areas and the imposing St Mary's Church (a grade I Listed Building): and there are the attractions of the Mere, the Boathouse Visitor Centre and Wildlife Shop and the Llangollen Canal. There are also employment opportunities at plants such as Fullwood's and at the Business Park. The site is thus located on the edge of a 'sustainable' place earmarked in the Core Strategy to accommodate significant residential development.

The proposal

6. The application is submitted in detail for full planning permission. As described by my colleague, a discrepancy arose at the previous Inquiry between the 'site layout plan' (12095/PO2 Rev I) and the 'location plan' (12095/PO1) because superimposing one on to the other appeared to show that retention of the field hedge along the north eastern boundary (as shown on the former) would not be possible, the latter implying that the layout extended beyond the 'red line' site boundary; the Inquiry proceeded on the basis that the existing hedgerow would be removed and replaced by new planting. However, whether or not that would actually be necessary may still be in doubt because the preliminary 'engineering layout' (AAC5042/100, dated August 2014) clearly shows the retention of the field hedge. The accurate position can only be properly ascertained by detailed surveys. Nevertheless, for the purposes of this redetermination, I am going to assume that the existing hedge along the north eastern boundary could be retained, as indicated on the 'engineering layout'.
7. The plans show how 68 dwellings could be arranged around a series of culs-de-sac with a single access from Teal Drive and a noticeable area of open space containing a balancing pond, new planting and some existing field hedgerows towards the south eastern boundary. The intention is to retain most of the existing trees and hedgerows and to 'contain' the proposed estate behind additional landscaping. The proposal would accommodate detached, semi-detached and a few 'affordable' terraced dwellings. The open market dwellings would be 3, 4 and 5 bedroom houses and the 'affordable' dwellings would offer 1, 2 and 3 bedroom homes. Most of the dwellings would be 2-storey structures, but

some would be 2½ storeys high. The larger dwellings are shown at a lower density towards the north eastern boundary beyond a central retained field hedge, the balancing pond and the main area of open space: the smaller dwellings at higher densities are shown towards the south western boundary beside the existing estate. The back gardens there would be quite modest at roughly 10-11m deep and adjoin more spacious back gardens in Heron Close about 13-15m deep. Responding to one of the proposals in the recent Housing White Paper, it is suggested that the appellants would accept a condition to start development within 12 months of permission being granted.

8. A section 106 Agreement provides for 10% of the properties to be offered as 'affordable homes', 70% as social rented properties and 30% as shared ownership or discounted dwellings. This is 'policy-compliant' being consistent with the 'target rate' for Ellesmere and the distribution sought by the Council. The offer includes 2 each of 1-bedroom and 2-bedroom properties and 3 dwellings with 3 bedrooms (7 dwellings in all); these are shown located towards the south eastern corner of the site. In addition, a section 106 Obligation would now serve to increase that provision by offering a further 7 properties as affordable shared ownership or discounted dwellings. The scheme would thus provide just over 20% of the dwellings as affordable homes (double the policy-compliant requirement for Ellesmere), albeit that the tenure would not match the distribution currently sought.
9. Suggested conditions, apart from the 'quick start' indicated above, would ensure that the scheme would be implemented as intended and that details (including hard and soft landscaping, landscape management, tree protection, certain boundary treatments and materials) would be as set out on specific schedules or as subsequently approved by the Local Planning Authority. In the same vein details of foul and surface water drainage systems would be submitted to, and approved by, the Local Planning Authority together with details of the design and construction of the estate roads, the provision of visibility splays, footways and the like. A Construction Management Plan (including hours of operation) would be devised and implemented: risk avoidance measures pertaining to a chance encounter with a great crested newt put in place: a restriction on new windows in the southwest elevations of dwellings shown on plots 1, 12, 13 and 30 would be imposed to prevent unacceptable overlooking: and, a lighting plan to prevent any potential harm to bats would be agreed with the Council.

Planning policy and the main issues

10. The Development Plan currently consists of the adopted Core Strategy (2011) and the Site Allocations and Management of Development Plan, adopted in December 2015 and referred to as the SAMDev. (Policies in the former are identified by the prefix 'CS' any other prefix denotes a policy in the SAMDev.) Those Plans cover the period 2006-2026. A new Local Plan is in preparation to provide a vision for Shropshire up to 2036. It is at an early stage, although a 'full and objective assessment of housing need' has been published on which the current 5-year supply of housing land is based; it is agreed that there is now almost a 6-year supply of deliverable housing sites. In relation to the new Local Plan, a 'call for sites' has been completed and 'issues and options' considered. The expectation is that the 'preferred plan' will be published towards the end of this year with the 'draft' submitted for examination towards the end of 2018.

11. The existence of over a 5-year supply of deliverable housing sites means that the policies in the current Development Plan cannot be considered as being 'not up-to-date' through the mantra set out in paragraph 47 of the Framework (NPPF). On the contrary, both the Core Strategy and the SAMDev have been found sound and adopted, the latter very recently. In relation to those documents, the appeal site lies beyond the development boundary for Ellesmere (as denoted on 'S8 Inset 1' of the Adopted Policies Map) and in the surrounding countryside, where policies CS5 and MD7a seek to severely restrict residential development to certain prescribed types and purposes, none of which would be met by the appeal scheme. Nevertheless, Ellesmere is identified as a sustainable place and one of several 'second tier' settlements (below Shrewsbury) intended to accommodate significant levels of housing and employment development in accordance with policy CS1. Schemes are to be of an appropriate scale and design, reflecting the distinctive character of those 'market towns and district centres', as required by policy CS3. The appropriate housing requirement for Ellesmere is indicated to be between 500 and 1,000 new homes. This is translated as a 'settlement housing guideline' of around 800 new dwellings via policies MD3 and S8. That 'guideline' is not a ceiling, although it is a 'significant policy consideration' (policy MD3.2). Indeed, the Plan might condone almost any 'sustainable' housing scheme that accords with its policies, subject to the specific considerations identified in policy MD3. And, where circumstances indicate that a 'settlement housing guideline' might not be met, additional sites beyond the 'development boundary' could be considered, subject to meeting the matters identified in policy MD3 and the settlement policies of the Plan; currently the evidence indicates that the 'settlement housing guideline' for Ellesmere is likely to be exceeded. Even so, it remains the case that schemes should be determined in accordance with the Development Plan (where relevant), unless material considerations indicate otherwise. The advice in the Framework is always an important material consideration and, as the appellants point out, the exhortation to boost the supply of housing significantly could warrant residential development beyond the development boundary, as some appeal decisions, including those made by the Secretary of State, testify.
12. In the light of those considerations, the Council consider that the scheme would entail unacceptable harm to the countryside by forming a substantial intrusion into the fields and farmland beyond Ellesmere and breaching the development boundary, contrary to the policies cited above. The proposal would also undermine the strategy and the plan-led approach to development at Ellesmere since sufficient sites have been identified to deliver the housing required over the next 6 years or so and there is every prospect of delivering that housing, itself representing a significant boost in supply, over the Plan period. The conditions warranting the consideration of additional housing land beyond development boundaries have not been met. On the contrary, as of March 2016, evidence indicates that the settlement guideline for Ellesmere was likely to be achieved and even exceeded by about 15% while the strategy for the town entails substantial development (for 250 dwellings together with a marina, commercial and leisure uses) on the southern side of the town rather than towards the north. And, although the provision of affordable housing would be welcome, it is considered that the need in Ellesmere is not particularly pressing, compared to other settlements, and that provision would be better made in accordance with the allocations identified and permissions granted in line with the Plan.

13. Local people endorse the reason for refusal. But, they also raise additional concerns, including the proximity of some of the new dwellings to their homes and the impact of the scheme in overlooking and over-shadowing their properties. Other worries, such as surface water run-off and the use of Teal Drive as the sole access to the new estate, are addressed by the Flood Risk and Transport Assessments.
14. In response, it is pointed out that, although the proposal would project beyond the current development boundary for Ellesmere, its physical and environmental impact was previously endowed with only a 'minor level of weight against the scheme'. The proposal would introduce no new element into the 'urban edge' and be visually contained by existing and proposed vegetation. It would be seen from parts of the footpath across the site, a section of which would need to be diverted, but the harm to the overall route would be negligible. Indeed, such observations were previously echoed in the Planning Officer's report and in the previous decision letter; although the latter has been quashed the Inspector's views about the impact of the development were not challenged. Moreover, even though it is accepted that the Council can now demonstrate a 5-year supply of deliverable housing sites, a 'step change' in the level of delivery will be necessary to achieve the provision required. The appeal proposal could contribute to achieving that 'step change' by making a start within 12 months of permission being granted. The settlement guidance figure may be exceeded, but that is not a maximum and the result would still be within the range identified in the Core Strategy; in any case, no evidence is adduced to show that such an 'exceedance' would stymie development on allocated or permitted sites. The benefit of 'boosting the supply of housing' at a sustainable place, together with all the other benefits of the scheme, would outweigh the minor environmental harm identified. In particular, the scheme would offer double the number of affordable dwellings normally required; evidence indicates that past provision has amounted to only about half the annual need identified in the SHMA. And, both the Housing White Paper and some appeal decisions by the Secretary of State (for example, that at Watery Lane, Lichfield) demonstrate the overwhelming imperative for more housing both as a 'moral duty' and to address the affordability gap. Permission for the appeal proposal would chime with those aims.
15. In addition, a new Local Plan is emerging to address development needs up to 2036. The appeal site is not only beside a sustainable settlement identified as a 'market town and district centre', but it has also been identified as a 'preferred' housing site at the 'preferred options' stage of the then emerging SAMDev (2012) and as a housing site with 'long term potential' in the SHLAA (2014). It has now been put forward in response to the Council's 'call for sites' in connection with the new Local Plan, currently undergoing consultation at the 'issues and options' stage. All the options involve a requirement for additional dwellings in the 'market towns' and the expressed previous preference for additional housing on the appeal site must make it a reasonable contender to accommodate the residential development likely to be required at Ellesmere. Such considerations warranted the Council not challenging what they regarded as a flawed decision at Foldgate Lane, Ludlow. The same considerations should apply here, especially as there is little merit in deferring a decision on a site likely soon to be deemed suitable for development.
16. Taking all those matters into account, I identify the issues set out above.

Intrusion into the countryside

17. The scheme would breach the development boundary around Ellesmere and project some 140m beyond the back gardens in Heron Close and about 170m from the gardens behind Diksmuide Drive. It would obliterate 2 grass fields seen as fairly typical components of the 'principal timbered farmland' landscape surrounding this part of the town and transform an area of countryside into a housing estate. This rural landscape may not be particularly special and, in spite of the obvious use of these fields by local people, it does not appear to exhibit many attributes that would warrant its protection and enhancement as a 'valued' landscape, in line with the advice in paragraph 109 of the Framework. But, it is quietly attractive. A succession of hedgerows surrounding small grass fields, and punctuated by some majestic trees, creates a sylvan rural scene gently undulating towards the horizon. The appeal proposal would be seen to intrude into that scenic vista and obliterate an element of countryside beyond the town. As my colleague previously observed *'the proposal would result in built development extending out to the north into the open countryside, beyond the existing confines of the settlement. The scheme [would] remove the openness of the appeal site that contributes to the rural fringe of the settlement and there would be a significant change to the site itself. This in itself would result in some harm'*.
18. Those damaging effects would be evident to those living nearby and to walkers on the footpath across the site, either pursuing the carefully marked and gated 'circular walk' or delving into deeper countryside via the network of available paths. Those are exactly the recipients usually perceived to be amongst the most sensitive to such visual change in the *Guidelines for Landscape and Visual Assessment*. I disagree with my colleague that the topography would enable residents to retain views of the open countryside beyond the scheme at regular intervals. A sizeable section of the proposed estate would be built at similar, or even slightly higher, levels than the existing dwellings and, due to the density, disposition and layout, it would largely obscure views of the rising land towards the horizon beyond the north eastern boundary of the appeal site. However, I concur with my colleague that the pleasant views of the open countryside from the footpath across the appeal site would be lost and replaced by the evident presence of the new housing estate. True, that would only represent a short section of the 'circular walk' as a whole. But, I think that that 'focus' rather misses the point. An attractive element of the footpath would be lost, for the effect of emerging from a wooded section of the old railway line between existing estates into fields that herald the presence of open countryside would be obliterated by the intervening presence of yet another estate. The pond and the landscaped open space would not be perceived as 'open countryside'.
19. Of course, the appeal site does lie beside existing estates and at an urban edge to the town. In views from the footpath back towards Ellesmere the estates at Hill Crest and Teal Drive are evident and, in both cases, the back garden fences and rear elevations present a rather harsh edge to the settlement. The proposal would thus not add to the elements already apparent within this 'urban fringe', although it would increase the evident presence of suburban dwellings. It would offer the opportunity to 'soften' the north eastern boundary by retaining and reinforcing the existing hedge, although it would also result in the urbanisation of undeveloped fields and extend the spread of housing estates into the countryside. Although part of the proposed development would 'nestle' in a fold in the landscape on the lower parts of the site, sections of the estate would stand on higher ground and be

seen to encroach into the surrounding fields and farmland. Hence, although the site is partially contained by hedgerows and modest tree belts around The Grange (to the north west) and along the old railway line (to the south east), the impact of the new estate would be evident from the site itself, from the end of Teal Drive, from the surrounding dwellings and from the footpath across a couple of the fields beyond the site. I consider, therefore, that the scheme would be seen to intrude noticeably into the countryside beyond the town.

The contribution to market and affordable housing

20. The proposal would provide 68 dwellings, 14 of them affordable. This would represent a moderate contribution to the 'land supply' currently identified in Ellesmere, amounting to roughly 11% over the Plan period, and a negligible contribution to the dwellings required in Shropshire (roughly 0.2%). It is agreed that the Council can now demonstrate almost a 6-year supply of deliverable housing sites and, given that the Core Strategy and the SAMDev have both been found sound and adopted (the latter very recently) there should be a reasonable prospect that the housing trajectory derived from those documents could be achieved and that that achievement would meet the 'full and objective assessment of housing need' identified over the Plan period. No contrary evidence is adduced. Indeed, in relation to Ellesmere the evidence indicates that the 'settlement housing guideline' is likely to be exceeded, perhaps by as much as 15%, so that a plan-led reason for countenancing additional residential development beyond the 'development boundary' (in accordance with policy MD3) is not met. In those circumstances, it seems to me that the contribution of the appeal proposal to the housing provision required is not especially compelling.
21. The claim is that a 'step change' in the level of delivery would be necessary to achieve the housing provision required and that the appeal proposal could make an important contribution to that provision with a 'quick start' to building on the site. But the agreed 5-year supply of housing sites entails a noticeable 'step change' in delivery from about 1,400 a year in 2015/16 to an annual delivery of about 1,700 by 2020/21; the housing trajectory (as set out in the Annual Monitoring Report) predicts that level to be maintained and slightly increased to about 1,800 by 2025/26. It follows that the Development Plan itself embodies a 'step change' in the delivery of suitable sites for housing and encompasses measures to 'boost significantly the supply of housing', just as the Framework extols; indeed, it seems to me that the Council have carefully undertaken all the tasks itemised in paragraph 47 of that document. Hence, although the appeal scheme might be regarded as a moderate addition to an advocated 'boost in the supply of housing' it would not, in itself, be necessary to achieve such a 'boost'; that is already planned and predicted and the evidence indicates that it is likely to occur with or without the appeal proposal.
22. The appellants suggest that both the Housing White Paper and some appeal decisions (particularly that by the Secretary of State at Watery Lane, Lichfield) demonstrate the overwhelming imperative for more housing both as a 'moral duty' and to address the affordability gap. Clearly, in the Watery Lane decision the Secretary of State gave 'very substantial weight' to the economic and social benefits of additional affordable and market housing. But the scale of that scheme was substantial, both in terms of the annual housing requirement and the 5-year supply of deliverable housing sites. The appeal scheme is not. Hence, the economic and social benefits are, accordingly, not comparable. As for the

'affordability gap', I doubt that the additional provision of 68 dwellings would have any discernible effect, even in Ellesmere, not least because the price of housing is, in my view (and as much research has demonstrated), generally inelastic in relation to any realistically practical supply of new dwellings.

23. Of course, since the Hearing the Supreme Court has issued its decision relating to *Suffolk Coastal District Council v Hopkins Homes Ltd and anor; Richborough Estates Partnership LLP and anor v Cheshire East Borough Council* [2017] UKSC 37. The Council assert that the case does not alter the relevant considerations here; it is agreed that more than a 5-year supply of housing land exists so that the 'tilted balance' set out in paragraph 14 of the Framework is not invoked. I agree. Nevertheless, the appellants suggest that relevant elements of the ruling might include confirmation that the over-riding purpose of a Plan is to deliver the development required (to which the appeal scheme could contribute) and the legitimacy of giving less weight to 'countryside policies', if it is appropriate to do so. However, in this case it is not appropriate to down-play the impact of the scheme on the countryside; the evidence indicates that the ensuing damage would currently be incurred unnecessarily, since there is every prospect of the Plan itself delivering the development required and in line with a 'full and objective assessment of housing need'.
24. The scheme would offer double the number of affordable dwellings normally required, amounting to 20% of the units proposed, albeit only 14 dwellings. The 'snapshot' provided by the Homepoint Register indicates that some 92 households are currently registered as seeking affordable accommodation in Ellesmere. If 10% of the dwellings now likely to be provided in the town were to materialise as affordable homes (in accordance with current policies), that figure would be met, but only just. In reality, of course, as a result of single dwellings, small schemes and other considerations rather fewer affordable homes would be likely to ensue. The contribution from the appeal scheme could thus be relevant. However, all but 10 of those on the Homepoint Register are seeking affordable rented properties, rather than shared ownership or discounted dwellings. The distribution offered by the appeal scheme would not reflect that expressed need, the substantial majority of the affordable dwellings on offer being put forward on the basis of the latter rather than the former type of tenure.
25. The appeal site has been identified as a 'preferred' housing site at the 'preferred options' stage of the then emerging SAMDev (2012) and as a housing site with 'long term potential' in the SHLAA (2014). It has now been put forward in response to the Council's 'call for sites' in connection with the new Local Plan and all the options currently under consideration involve a requirement for additional dwellings in the 'market towns'. But the new Local Plan is still in a fairly embryonic and fluid state. There is nothing to indicate what options are likely to be pursued or which of the 'sites with long term potential' currently identified in the SHLAA are likely to reflect the strategy that eventually emerges. I do not accept, therefore, that previous preferences expressed for developing the appeal site must necessarily continue to pertain. The new 'strategy' for Ellesmere will need to build on the success or otherwise of the current approach and the relative merits of development on the appeal site evaluated in that context. I realise that the Council decided not to challenge the appeal decision at Foldgate Lane, Ludlow because that site was expected to emerge in the 'call for sites' and additional housing land was likely to be allocated at Ludlow. The same is true in relation to

the appeal site at Ellesmere. But I have no basis on which to second-guess what the new 'strategy' for the town might entail. And, although permission for the appeal scheme now might not seriously prejudice the outcome of those deliberations (although it might well limit the options available), such a decision would serve little planning purpose, given the level of housing provision likely to be achieved through proper adherence to the Development Plan.

26. Taking all those matters into account, I consider that, although the appeal scheme would result in additional market and affordable housing, it would add little to the likely achievements of the Development Plan, designed as it is to boost significantly the supply of housing. And, although the scheme would offer more affordable homes than current policies require, their type or tenure would not reflect the expressed needs of those seeking such accommodation in Ellesmere.

The planning balance and conclusion

27. I have found that this scheme would be seen to intrude noticeably into the countryside beyond the town. It would thus cause some environmental damage. In doing so, it would breach the development boundary for Ellesmere (as denoted on 'S8 Inset 1' of the Adopted Policies Map) and lie in the surrounding countryside. It would not be commensurate with any of the prescribed types or purposes of development set out as acceptable in the countryside by policies CS5 and MD7a. And, by altering the character of the countryside beyond this corner of Ellesmere it would fail to be of an appropriate scale and design or to reflect an element in the character of this 'market town', as required by policy CS3 and, for that matter, policy MD7a. The conditions set out in policy MD3 for warranting additional residential development beyond the development boundary would not be met and, although there is no evidence to indicate that the proposal would stymie development elsewhere, the proposal would not accord with the strategy for Ellesmere, as envisaged in policy S8. In all those ways, the scheme would be damaging and contrary to the Development Plan, which is up-to-date and, in part, recently adopted.
28. Nevertheless, the scheme would entail some environmental mitigation through the provision of open space accessible to prospective occupants and the wider community. It would also retain most trees and hedges and provide for additional ecological enhancements. Moreover, a scheme for 68 dwellings, including 14 affordable homes, would provide both social and economic benefits, even though few of the affordable units would reflect the overwhelming requests for social rented properties in Ellesmere. Additional economic benefits might entail the creation of construction jobs, spending from the prospective occupants and, according to the appellants, the new homes bonus. But, the evidence indicates that adherence to the adopted Development Plan would suffice to 'boost significantly the supply of housing' as advocated in the Framework. Moreover, the projected trajectory currently indicates that the 'full and objectively assessed need' for housing over the Plan period is likely to be met. Hence, although the appeal proposal would add to the provision of housing here, it would not reduce an anticipated deficit or ensure that an otherwise unachievable requirement would be met. On the contrary, the Plan itself is designed to boost the delivery of housing and to more than meet the provision required. In those circumstances, I consider that the social and economic benefits of the scheme would not be sufficiently compelling to warrant the damaging effects of the proposal in constituting an unacceptable form of residential development intruding into the

countryside beyond the town; the retained trees, hedgerows, open space and ecological enhancements would not adequately ameliorate the harmful effects of the proposed estate.

29. Of course, Ellesmere is a 'market town' and a sustainable place. Hence, development of the appeal site, being on the edge of the town, must constitute reasonably sustainable development, even though the walk to the primary school across town might take a good 20 minutes with children in tow. The Framework advises that there should be a presumption in favour of sustainable development. But, that advice does not condone disregarding the Development Plan. The Framework itself indicates as much for a 'core planning principle' is that planning should be genuinely plan-led and empower local people to shape their surroundings. The proposal would be contrary to the Development Plan. The Framework is an important material consideration. But, for the reasons outlined above, I have found that the balance of economic, social and environmental considerations is against the scheme. Hence, the material considerations identified here do not constitute a reason to determine this appeal other than in accordance with the Development Plan.
30. I have considered all the other matters raised. I rather agree with local people that, although the dwellings beside the south western boundary would not flout the minimum separation distances normally applied, they would not entirely reflect the more generous provision usually evident at the existing properties. However, I accept that there would be scope to address such matters through the imposition of the suggested conditions. I doubt that the same would apply to the dwellings shown along the north western boundary. Although the gardens there would be longer, they would be close to the line of black poplars in the grounds of The Grange. Those trees would loom above those properties and cast afternoon and evening shadows across a substantial part of the rear gardens there, so rendering those gardens somewhat dank and dreary.
31. Hence, for the reasons given, and having found nothing sufficiently compelling to alter my conclusion, I find that this appeal should be dismissed due to the conflict of the scheme with the Development Plan.

David Cullingford
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Helen Howie	MA MCD MRTPI	Planning Consultant, Berrys, Shrewsbury
Thea Osmund-Smith	of Counsel	Instructed by: Helen Howie Planning Consultant, Berrys, Shrewsbury

FOR THE LOCAL PLANNING AUTHORITY:

Philip Mullineux	MTCP MRTPI	Principal Planner, Shropshire Council
Edward West	MA MRTPI	Local Plan Section, Shropshire Council
Keith Hampshire	BA, DipLA CMLI	Director of ESP Ltd, Landscape and Environmental Consultancy
Sarah Clover	of Counsel	Instructed by: Ms Miranda Garrard, Solicitor to Shropshire Council

INTERESTED PERSONS:

Brian Udal	Local resident and representing residents of the properties surrounding the site
Rose Ward-Allen	Local resident and owner of The Grange
Elaine Gough	Local resident
Cllr Judith Williams	Ellesmere Town Council
Cllr Ann Hartley	Ellesmere Urban Ward, Shropshire Council
Averil MacDonald	Local resident
Roger Ward	Local resident
Hugh Farrington	Local resident

DOCUMENTS

- Document 1 List of persons present at the Hearing
- Document 2 Statement of Common Ground
- Document 3 Appellant's statement of case and appendices 1-6 ~ Helen Howie
- Document 4 Appellant's final comments and additional documents ~ Helen Howie
1. Section 106 Agreement
 2. Fixing Our Broken Housing Market ~ DCLG
 3. SoS appeal decision and report; Watery Lane, Lichfield, February 2017; 2224345
 4. Muller Property Group v SoS and Cheshire East Council, [2016] EWHC 3323 Admin
 5. Suffolk Coastal DC v Hopkins Homes Ltd and SoS & Richborough Estates Partnership LLP and Cheshire East BC and SoS [2016] EWCA Civ 168
- Document 5 Council's final comments
- Document 6 Council's statement of case and appendices 1-13
- Document 7 Signed section 106 Agreement and additional section 106 Obligation
- Document 8 Inspector's index and summary of the representations from local people
- Document 9 Representations from local people
- Document 10 Agenda for the Hearing
- Document 11 Appeal decision; Aston Road, Wem, March 2017; 3141633
- Document 12 Appeal decision; Bicton Lane, Bicton, February 2017; 3139173 & 3141878
- Document 13 Appeal decision; Prescott Road, Baschurch, March 2017; 3009694 & 3009717
- Document 14 Council's statement of case and appendices 1-17
- Document 15 Statement ~ Brian Udall
- Document 16 Statement ~ Cllr Judith Williams
- Document 17 Council's response to consultation on Supreme Court decision relating to *Suffolk Coastal District Council v Hopkins Homes Ltd and anor; Richborough Estates Partnership LLP and anor v Cheshire East Borough Council* [2017] UKSC 37, dated 4 June 2016
- Document 18 Appellant's response to consultation on Supreme Court decision relating to *Suffolk Coastal District Council v Hopkins Homes Ltd and anor; Richborough Estates Partnership LLP and anor v Cheshire East Borough Council* [2017] UKSC 37, dated 4 June 2016

PLANS

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|-------|---|----------------------------------|-----------------------------|
| Plans | A | Selection of application plans | |
| | | 1 Location plan | 12095/PO1, June 2014 |
| | | 2 Proposed site plan | 12095/PO2, Rev I, June 2014 |
| | | 3 Proposed street scenes | 12095/PO3, Rev B, June 2014 |
| | | 4 Preliminary engineering layout | AAC5042/100, August 2014 |
| Plan | B | Ellesmere Circular Walk | |

DOCUMENTS SUBMITTED AT THE PREVIOUS INQUIRY

1. Opening Submissions, submitted by the appellant.
2. Opening Submissions, submitted by the Council.
3. Erratum to Penny Bicknell's Proof of Evidence, submitted by the appellant.
4. Ellesmere Circular Walk, submitted by the appellant.
5. North Shropshire Landscape Sensitivity and Capacity Study, submitted by the appellant. Appeal Decision APP/L3245/W/15/3067596
6. Revised Landscaping Plans: 1414-PL3-02 Rev A (Document Ref 6.1); 1414-PL3-07 Rev A (Document Ref 6.2); and 1414-PL3-08 Rev A (Document Ref 6.3), submitted by the appellant.
7. Extract (Page 79) from the Guidelines for Landscape and Visual Impact Assessment (Third edition), submitted by the appellant.
8. Appeal Decision – APP/L3245/W/15/3006489, dated 18 February 2016, submitted by the appellant.
9. Revised Location Plan: P01 Rev B, submitted by the appellant.
10. Revised Location Plan with Landowners Full Ownership Shown: P01-1, submitted by the appellant.
11. Appeal Decision – APP/L3245/W/15/3134229, dated 22 February 2016, submitted by the Council.
12. Appeal Decision – APP/L3245/W/15/3129922, dated 10 February 2016, submitted by the Council.
13. Bundle of emails in relation to the Canal Wharf SAMDev Site Allocation, submitted by the Council.
14. Signed and dated Section 106 Agreement, submitted by the appellant.
15. Full copy of the Shropshire Council Core Strategy (2011), provided by the appellant.
16. Shropshire Council North Planning Committee Minutes, dated 20 January 2015 Submitted by the appellant
17. Shropshire Council North Planning Committee Minutes, dated 17 February 2015. Submitted by the appellant
18. Email from Adrian Cooper, Team Leader, Environment & Economic Policy, Shropshire Council, dated 19 December 2014, submitted by the appellant.
19. Full copy of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015), provided by the Council.
20. Errata to Keith Hampshire's Proof of Evidence, submitted by the Council.
21. A3 copies of the viewpoint photographs within Keith Hampshire's Proof of Evidence, submitted by the Council.
22. Planning Practice Guidance – Housing and economic development needs assessments.
23. Appeal Decision – APP/L3245/W/15/3138049, dated 24 February 2016, submitted by the Council.
24. High Court Judgement Daventry District Council vs Secretary of State for Communities and Local Government and Gladman Developments Limited, dated 2 December 2015. Submitted by the Council
25. High Court Judgement Crane vs Secretary of State for Communities and Local Government and another, dated 23 February 2015. Submitted by the Council Appeal Decision APP/L3245/W/15/3067596
26. High Court Judgement Stratford on Avon District Council vs Secretary of State for Communities and Local Government, dated 18 July 2013. Submitted by the Council

27. Appeal Decision – APP/L3245/W/15/3134152, dated 23 February 2016, submitted by the appellant.
28. Closing Submissions for the Council.
29. Legal Analysis, submitted by the Council.
30. Closing Submissions for the appellant.
31. Costs application, submitted by the Council.
32. Appellant's defence against the Council's costs application.
33. Various emails, provided by Philip Mullineux of the Council.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. High Court Judgement: Wychavon District Council vs Secretary of State for Communities and Local Government and Crown House Developments Ltd [2016] EWHC 592 (Admin) (Case No: CO/4348/2015), submitted by the appellant.
2. The Council's views on the High Court Judgement: Wychavon District Council vs Secretary of State for Communities and Local Government and Crown House Developments Ltd [2016] EWHC 592 (Admin) (Case No: CO/4348/2015).
3. Court of Appeal Judgement: Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Borough Council and another [2016] EWCA Civ 168.
4. Appellant's submissions in response to the Council's views on the High Court Judgement: Wychavon District Council vs Secretary of State for Communities and Local Government and Crown House Developments Ltd [2016] EWHC 592 (Admin) (Case No: CO/4348/2015).
5. Appeal and Costs Decisions: APP/L3245/W/15/3127978, dated 21 March 2016 Submitted by the Council
6. Email containing appellant's views to appeal and costs decisions: APP/L3245/W/15/3127978, dated 21 March 2016.

COUNCIL'S CORE DOCUMENTS

Reference	Document (Appeal Decisions)
LPA1	APP/L3245/W/15/3018212
LPA2	APP/L3245/W/15/3033290
LPA3	APP/L3245/W/15/3031289
LPA4	APP/L3245/W/15/3013831
LPA5	APP/L3245/W/15/3039099
LPA6	APP/L3245/W/15/3135723
LPA7	APP/L3245/W/15/3134584
LPA8	APP/L3245/W/15/3029893
LPA9	APP/L3245/W/15/3129558
LPA10	APP/L3245/W/15/3133206
LPA11	APP/L3245/W/15/3131788
LPA12	APP/L3245/W/15/3011886
LPA13	APP/L3245/W/15/3138824
LPA14	APP/L3245/W/15/3133018
LPA15	APP/L3245/W/15/3132270
LPA16	APP/L3245/W/15/3028981
LPA17	APP/L3245/W/15/3007929
LPA18	APP/Y3425/A/14/2217578
LPA19	APP/G2815/A/13/2209113

APPELLANT'S CORE DOCUMENTS

Reference	Document
A1	Shropshire landscape typology
A2	Swan Hill, Ellesmere site location plan
A3	Bomere Heath site location plan
A4	Whittington site location plan
A5 (<i>WITHDRAWN</i>)	<i>Summary of SHMA (WITHDRAWN)</i>
A6	Shropshire Council SHMA, March 2014
A7	Shropshire Council SHMA, July 2014
A8	The ONS Quarterly Migration Bulletin, November 2015 and Commentary on figures from industry analysts
A9	High Court Judgement (West Berkshire vs Secretary of State for Communities and Local Government and HDD Burghfield Common Ltd) 16th February 2016

Richborough Estates