



# Appeal Decision

Site visit made on 17 January 2022

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

an Inspector appointed by the Secretary of State

**Decision date: 11 February 2022**

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**Appeal Ref: APP/L3245/W/21/3274886**

**Land West of Castle View Terrace, Ludlow, Shropshire, SY8 2NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Shropshire Homes Ltd against the decision of Shropshire Council.
  - The application Ref 20/02971/FUL, dated 24 July 2020, was refused by notice dated 27 November 2020.
  - The development proposed is for the erection of 6 No. dwellings, associated parking and formation of vehicular access.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellants submitted a Landscape and Visual Impact Assessment (LVIA) after the Council had determined the application. The Council has not objected to the late submission and has considered its contents and submitted its views at the Final Comments stage of the appeal. Whilst landscape issues did not form part of the Council's refusal, I have taken the LVIA into account as part of my consideration of the value of the appeal site as open space, which would involve some consideration of qualities of the space in terms of character and appearance and to assist in my consideration of third-party representations. Given the Council has only focussed on two reasons for refusal, I have dealt with this issue under the *Other Matters* section of my decision.

## Main Issues

3. Accordingly, the main issues in this appeal are firstly, whether the development would comply with local and national policies directed at controlling the location and rate of development and, secondly whether the loss of the site to development would prejudice the Council's approach to protecting open space in the interests of the wellbeing of its local community.

## Reasons

### *Settlement policy*

4. The development plan for the area consists of the Site Allocations and Management of Development Plan 2015 (SAMDev) and the Shropshire Local Development Framework Adopted Core Strategy 2011 (the Core Strategy). Policy CS1 of the Core Strategy sets out the Council's strategic approach to new development with further explanation of the Council's approach provided in policy MD1 of the SAMDev. Core strategy Policy CS3 sets out that

development within Market Towns and Other Key Centres such as Ludlow must take place within the identified development boundaries and on sites allocated for development. Policies MD1 and policy S10 as it relates to Ludlow, sets out that housing development will be delivered primarily on the allocated housing sites east of the A49 as set out in Schedule S10.1 and identified on the Policies Map as well as infill and windfall developments within the town's development boundary.

5. In addition to supporting the development of the allocated housing sites identified in Settlement Policies S1-S18, Policy MD3 states that residential development should meet the design requirements of the Local Plan and, on sites of five or more dwellings, include a mix and type of housing that has regard to local evidence and community consultation. It explains that the settlement housing guideline is a significant policy consideration. Where development would result in the number of completions plus outstanding permissions providing more dwellings than the guideline, decisions will have regard to the increase in number of dwellings relative to the guideline; the likelihood of delivery of the outstanding permissions; the benefits arising from the development; the impacts of the development, including the cumulative impacts of a number of developments in a settlement; and, the presumption in favour of sustainable development.
6. The appeal site lies within the development boundary for Ludlow and although not allocated for development, it constitutes a windfall site that could be acceptable for development in principle. I am not aware that the site has been put forward as a site allocation as part of the forthcoming and emerging Shropshire Local Plan although this has only recently been submitted for examination and so carries only limited weight in present time decision-making in any event. Neither is there any suggestion that the appellant has looked to provide local evidence to explain why the mix and type of housing proposed would be acceptable here or that this is as a result of genuine community consultation and involvement.
7. From the Council's evidence, in Ludlow between 2006/07 and 2020/21, a total of 515 dwellings have been completed and, at March 2021, there were 761 dwellings committed on sites with planning permission or through the prior approval process. I agree with the Council that the guideline figure has been exceeded to a significant extent. From what the Council contends, delivery rates have been lower in recent years but from both the evidence of small/medium and larger sites, there appears to be a strong prospect of continued delivery to a point where the residential development guideline identified in Policy MD3 will be exceeded significantly at 2026. That said, I recognise that the delivery of housing is a key ambition of Government and that Policy S10 should not be viewed as a ceiling.
8. Nevertheless, in the absence of any conflicting evidence to the contrary, I am satisfied that the housing requirements of Policy S10 will be exceeded during the plan period by a significant amount. Ceiling or no ceiling, the appeal development would be in serious conflict with the expectations of this Policy and undermine an up-to-date development plan as it applies to Ludlow. Even if the target figure is not regarded as a ceiling, I am also required to consider Policy MD3, which in relation to windfall developments, requires compliance with other relevant local plan policies to achieve sustainable development and I now turn to those below.

*Open space*

9. I would agree with the Council that whether an area of open space is public or private is immaterial in terms of how it is viewed by a local community and until the appellants acquired the site, from representations received from local people, it appears that the land has been used informally by the community for recreation for a long period of time. There is little argument therefore that the land is well-regarded by the local community although as the appellant suggests, it is probably true that by today, the site is a green space that the local community walk past rather than through.
10. Castle View Terrace is characterised by Victorian and Edwardian terrace and semi-detached properties generally located on the eastern side of the street with many fronting almost directly onto the road with shallow front gardens. The density of development in the area is fairly high and parking is difficult due to the narrowness of the road. Although the land has been used for grazing, the appeal site contributes positively to the amenity of the area by providing greenery and a break in the otherwise built-up area. Furthermore, the open nature of the site allows for extensive and attractive views across the town and the Teme Valley, to the Welsh Marches foothills beyond, providing a visual connection from this part of the town to the countryside.
11. The proposed terrace of six houses would front onto Castle View Terrace where the site is more level and would occupy a significant proportion of space. The two-storey development would affect views across the valley from the houses opposite. However, when viewed from the street, the proposal would result in the loss of much of the currently open aspect and associated amenity value of the site, resulting in harm to the character and environmental quality of the area. It would also impede views from the PRoW of the town and countryside and Ludlow Castle. Although the site is clearly within the urban area, at this point along Castle View Terrace and due to the landform immediately to the west, the site creates the impression and feel of a transitional space between the urban area and edge of countryside.
12. Although the appeal site is in private ownership, a public right of way runs in a north-south direction along the eastern fringes of the appeal site, which provides a link from New Road to Bringewood Rise. I note comments that the PRoW is extensively used by local people and from what I saw at my site visit, it is clear that the site does have recreational value for, and is much valued by, the local community. This has certainly been demonstrated through the extensive and well-thought-through comments received in relation to the application and appeal. In this regard, I note that the appellants propose to provide an area of publicly accessible landscaped open space as part of the development, which would be a benefit of this appeal development. However, the steep topography of these remaining areas would further limit informal recreational use to a significant degree.
13. It is also noted that 10 off-road parking spaces would be made available for use by existing residents of Castle View Terrace, where off-street parking appears problematical.
14. Despite the site being in private ownership as noted above, the proposed development would result in a loss of open space in an area which, according to the Council, has recognised deficiencies and where the countryside beyond is in intensive agricultural use and unavailable for community recreational use.

Whilst no specific evidence, such as studies or assessments of open space, has been provided that would support the formal protection of this space, the site provides one of the few green, open and meaningful spaces in the immediate locality.

15. The appellant has identified other areas of accessible natural greenspace in Ludlow, but none are within the immediate vicinity but rather outside the town and therefore not convenient to many users. From comments received and supported by what I gleaned from my site visit, there is no easy access to the River Corve ANG other than via a steep hill and I could not observe a connection to the larger ANG to the north-east other than one which would require the crossing of a busy trunk road.
16. The proposal involving the loss of a much-valued open space would therefore conflict with Policies CS6 of the Core Strategy and MD2 of the SAMDev. These Policies, amongst other things, seek to protect and enhance Shropshire's natural, built and historic environment by taking account of those features that contribute to local character and contribute to the health and wellbeing of local communities while preventing the loss of facilities unless adequate provision is made for their replacement. Turning to the the Glossary to the National Planning Policy Framework (the Framework), this defines open space as all open space of public value and which, amongst other things, are those that act as a visual amenity. Although the site is not specifically identified as protected open space in the development plan, it does have both amenity value and recreational value, which would be harmed by this development and where Paragraph 99 of the Framework should apply.

### **Other matters**

17. The appellant's LVIA findings have not not been seriously questioned by the Council or contradicted in third party representations. I have no evidence to disagree with the LVIA methodology or its findings. Nevertheless, I have found that the development would lead to unacceptable loss of a much-valued area of open space and in this regard would also cause harm to visual amenity in respect of this loss.
18. My attention has been drawn to an argument that the proposed development would harm the appreciation of the settings of designated heritage assets including, Ludlow Castle and other listed buildings within the Ludlow Conservation Area and that I should assess these thereby following the duties set out in s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, the site itself is not a designated heritage asset and is some distance from Ludlow Castle and the Conservation Area for instance. As the site itself falls outside any meaningful association with these designated heritage assets and consequently would not lead to a position where the significance of any designated heritage asset would be harmed, I do not consider that I need to apply the statutory test in this instance.

### **Planning Balance and Conclusion**

19. Although the proposal would not cause harm to designated heritage assets, the proposal would conflict with the development plan on the basis that there is no justifiable reason at present to depart from the Council strategic settlement policy that sets out to achieve realistic housing targets on allocated sites before releasing further development opportunities on the basis of sustainable

- development considerations. It would also conflict with SAMDev policy that provides the Council's criteria-based approach to the delivery of housing beyond the strategic housing guideline.
20. Although the appeal site is not protected open space, the development would undermine the overall aim of SAMDev Policy MD2 which seeks to achieve sustainable development, including through highlighting the importance of open space provision albeit in new development. This is consistent with Paragraphs 98 and 99 of the Framework which seeks to ensure that existing areas of open space are not built upon unless an assessment has been undertaken that they are surplus to requirements or that they would be replaced by equivalent or better provision and thereby recognising their importance for the health and well-being of communities.
  21. Paragraph 8 of the Framework outlines the overarching interdependent objectives for planning to achieve sustainable development: social, economic and environmental.
  22. In terms of the social objective, the benefit of construction of new homes is recognised. However, the housing delivery targets for Ludlow as identified in Policy S10 has already been exceeded by a considerable amount and thus Government's imperative is weakened. The appellant's arguments that the appeal site would be accessible to a wide range of shops and services of Ludlow is recognised. These factors weigh in favour of the scheme.
  23. However, the benefits would be modest, and would be outweighed by the harm to the health and well-being of the community which would result from the loss of open space and its associated amenity and recreation value. As a result, the social role of sustainable development would not be achieved.
  24. I acknowledge that the design and materials of the dwelling houses would be acceptable, and that no concerns have been raised in relation to ecological or highway issues. However, these factors, which represent a lack of harm, are neutral in the planning balance.
  25. Whilst I have found modest economic benefits and neutral-to-modest environmental benefits, these would not outweigh the overall social harms identified. The proposal is in direct conflict with the development plan and there are no other considerations that outweigh the harm identified. For the reasons given, I conclude that the conflict with the development plan is not outweighed by other considerations, including the Framework.
  26. I therefore conclude that the appeal should fail.

*Gareth W Thomas*

INSPECTOR