

## **CABINET 8 MARCH 2023**

### **Question from Roger Evans**

**As a former Shropshire County Councillor for this area I have noted the recent events concerning the Greenfields Recreation Ground.**

**I note the recent decision of the Supreme Court concerning this land in Shrewsbury where the local community appealed a planning decision.**

**Would the Council Leader or other person give the council an update please on what may now need to happen.**

### **Response**

This matter relates to a planning permission which was granted by Shropshire Council to a developer in 2018 for 15 dwellings on land off Greenfields recreation ground, Falstaff Street, Shrewsbury. The decision to grant planning permission was challenged by a local resident in the High Court on the basis that the land was previously in the ownership of Shrewsbury Town Council, having originally been acquired by a predecessor authority as open space almost 100 years ago. Before selling the land, Shrewsbury Town Council should have given notice of their intention, and invited and considered any representations made. In the absence of compliance with that requirement, it was alleged that a trust over the land in favour of the public still existed and should have been considered before granted planning permission.

The High Court ruled that any trust did not survive the sale to a third-party developer and upheld the grant of planning permission. The resident appealed to the Court of Appeal who unanimously upheld the planning permission. The Court of Appeal's judgment was challenged by the local resident in the Supreme Court with a hearing being held on 7 December 2022. The Supreme Court's judgment was handed down on 1 March 2023 and following very detailed consideration of the relative legislative provisions and caselaw overturned the Court of Appeal's judgment, concluding that despite the current owner having had no notice of any public rights, the trust did in fact survive that sale. Further, the Supreme Court held that because they could not be sure that legal position would have made no difference to the planning decision, the planning permission would be quashed.

This means that when the Order is made giving effect to that judgment, the planning permission will no longer be in existence which means that there will then be an undetermined planning application before the Council for determination. Careful consideration will need to be given to the implications of the Court's judgment in the context of current local and national planning policy before any further recommendation can be formulated.

So far as the ownership of the land is concerned, it remains in 3<sup>rd</sup> party ownership and any further consideration of that (including any possible mediation) is a matter for Shrewsbury Town Council and the current landowner, not Shropshire Council whose involvement in this matter has been as local planning authority. We will be working with LGA and Royal Town Planning Institute to understand what the judgement means for the planning system as a whole.

The Court's order will also require the Council to pay costs, up to a cap because the matter is environmental and therefore subject to cost protection under the Aarhus Convention. The precise terms of that order are still to be agreed.