

Appeal Decision

Inquiry held on 12, 13 July and 15-17 November 2016

Site visit made on 14 July 2016

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 06 January 2017

Appeal Ref: APP/L3245/W/15/3133616

Land off Tarporley Road, Whitchurch, 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 Muller Property Group against the decision of Shropshire Council.
 - The application Ref 15/00916/OUT, dated 27 February 2015, was refused by notice dated 29 July 2015.
 - The development proposed is the erection of up to 39 no. dwellings (access for approval).
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Procedural matters

1. The application was made in outline, with all matters reserved except for access though an indicative layout was supplied and a number of illustrative details given in the Design and Access Statement.
2. A signed and dated Agreement under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted by the appellant. This ensures the provision of affordable housing at a level of at least 10%, up to a maximum of 20%, if the prevailing rate has not increased by the time the scheme is built out. It also secures the provision, and ongoing maintenance, of public open space. I return to these matters below.
3. In the light of the provisions of the 106 Agreement¹, the Council confirmed that it was no longer pursuing refusal reason 4 in respect of affordable housing. In addition, the Council confirmed that it was satisfied that the issue of drainage could be dealt with by means of a suitably worded condition were outline planning permission to be granted. Accordingly, refusal reason 5 was no longer being pursued. I have dealt with the appeal on this basis.
4. The appellant's witness, John Sumner IEng AMICE, Sumner Consultancy Ltd., and the Council's witness, Mr J Hughes, Welsh Water, who were going to give evidence on drainage, were not called.

Decision

5. I dismiss the appeal.

¹ Inquiry Document 21

Application for costs

6. At the Inquiry an application for costs was made by Muller Property Group against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

7. I consider the main issues to be:
 - 1) whether or not a 5 year supply of deliverable housing land can be demonstrated;
 - 2) the effect of the proposal on the setting of nearby heritage assets;
 - 3) the effect of the proposal on the character and appearance of the area; and
 - 4) whether this would be a sustainable form of development having regard to national and development plan policies in respect of the delivery of new housing.

Reasons

Background and policy

8. The appeal site extends to around 1.69 hectares and is currently in agricultural use as grazing land. It stands within 500 metres of Whitchurch town centre and has a short section of roadside frontage onto Tarporley Road. A public footpath runs along its north western boundary while dwellings are located to both sides of the road frontage and opposite. Access is gained from Tarporley Road which runs between the town centre and the A49. The appeal site slopes away from Tarporley Road to a low lying area with a pond.
9. Proposed under this outline planning permission is the erection of up to 39 no. dwellings, with access submitted at this stage for approval and all other matters reserved for later approval. The Development Plan for the area includes the adopted Shropshire Local Development Framework Core Strategy - March 2011 (CS)² and the Site Allocations and the Management of Development Plan (SAMDev)³ (adopted December 2015).
10. CS Policy CS1 sets the overall strategic approach, and the housing and employment land targets for the plan period. The policy seeks sustainable development, focusing development within Shrewsbury, the market towns and key centres. A housing requirement figure of 27,500 is set out for the plan period to 2026. Whitchurch is identified in the CS as a market town and one of the key settlements for development under CS Policy CS3. This sets the strategic framework for development in these settlements. It states that balanced housing and employment development will take place within the development boundary and on sites allocated for development.
11. The appeal site adjoins the Whitchurch settlement boundary as defined in SAMDev Policy S18 which shows the extent of the development boundary and the location of housing and employment allocations. The appeal site is neither allocated for development in the SAMDev nor does it fall within the Whitchurch

² Core Document CD3

³ Core Document CD4

development boundary. However, CS Policy CS5 does not preclude development in the countryside stating that, "*development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits...*". It is also common ground that greenfield sites may be required in order to meet Shropshire's housing requirement to 2026.

12. CS Policy CS6 states that development should protect, restore, conserve and enhance the natural built and historic environment and should be appropriate in scale, density, pattern and design, taking into account local context and character. In addition, CS Policy CS17 seeks that all development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment, and should not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.
13. Finally, SAMDev Policies MD2 and MD13 seek inter alia to protect, conserve, sympathetically enhance and restore Shropshire's heritage assets by ensuring that wherever possible, proposals avoid harm or loss of significance to designated heritage assets including their settings.

Housing land supply

14. The appellant contended that the CS housing requirement figure is out-of-date as it is based on the West Midlands Regional Spatial Strategy (RSS), which it is claimed, has been superseded by more recent demographic forecasts. As a result, all CS policies that are relevant to the supply of housing should be considered out-of-date. In addition, the appellant argued that the Council's full objectively assessed housing needs⁴ (FOAHN) cannot be considered to be in accordance with the National Planning Policy Framework (NPPF)⁵ and the Government's on-line National Planning Practice Guidance (PPG)⁶.
15. The appellant's Figure 3A⁷ sets out a housing requirement of 1996 dwellings per annum (dpa) based on the adjustments to the FOAHN contained in the Key Differences Table⁸. This gives a supply at best, when the under-delivery, 20% buffer and the Council's supply figure are factored in, of around 4.46 years. The Council's FOAHN figure, in the appellant's view, under-estimates the housing requirement figure by having too low a starting point and failing to make sufficient adjustments for a number of key factors (which I deal with below).
16. While this appeal is not a local plan examination and it is not my role to set a specific housing requirement figure, my attention was drawn to the judgement in the case of West Berkshire⁹ where it was found to be incumbent upon the Inspector, in that case, to identify the housing requirement for the purposes of calculating 5 year housing land supply in the area. Unlike that case however, in this instance the LPA does have a housing requirement figure as set out in both

⁴ Rebuttal Proof of Evidence, Edward West

⁵ Core Document CD1

⁶ Core Document CD2

⁷ Addendum Proof of Evidence, Helen Howie, 18 October 2016

⁸ Inquiry Document 18

⁹ Legal Cases L5

the adopted CS and the SAMDev. Furthermore, in the case of Oadby¹⁰, to which reference was also made, the judgement concerned a Strategic Housing Market Area which covered a number of administrative areas whereas a single Council area is involved in this instance.

17. Nevertheless, the appellant claimed that significant new evidence is available which gives rise to concerns regarding the CS housing requirement being out-of-date. It was argued that the CS is based on an extremely old evidence base that has been superseded by new projections and forecasts. However, if supported by evidence, there is no reason why a figure derived for example from a RSS should not be used. I heard that the CS figure was considered by the Inspector at the SAMDev Examination¹¹ under the test of soundness and was not found to be inconsistent with the NPPF. I note the view of a colleague on this matter at a recent appeal ref APP/L3245/W/15/3137161¹² wherein the Inspector noted that; *the OAN that underpins the housing requirement figure within the adopted CS, and which the SAMDev uses to identify housing sites within the local authority area is, in this case, a pragmatic and methodically tested one.*
18. Historically, while I note that housing completions have been persistently less than the housing requirement for 2001, the requirement figure has been well above the defined need based on the relevant demographic projections at the time. In which case, it would appear that the RSS figure has not constrained housing need in Shropshire. The Council published its FOAHN to inform the partial review of the development plan on 4 July 2016. This considered the CS requirement figure which runs until 2026 and calculated a housing requirement figure of 25,178 over the period 2016-2036.
19. However, the appellant also cited concerns¹³ regarding the Council's FOAHN. I note that the main points in dispute are whether it is better to use one 'forecasting house' or an average of 3 in assessing need, the use of 2012 rather than 2014 Department for Communities and Local Government (CLG) projections, sensitivities around 5 and 10 year migration trends and suppressed household formation rates amongst the 25-34 age group, insufficient adjustment for concealed households, the impact of the new University Campus in Shrewsbury on population retention and increased-in-migration, and most notably in the appellant's view with regard to population growth, the matter of the treatment of unattributable population change (UPC).
20. It is the case that the NPPF under Paragraph 47 seeks to boost significantly the supply of housing and indicates that to achieve this, local planning authorities (LPA) should use their evidence base to ensure that their LP meets the FOAHN for market and affordable housing in the area. In this regard, the PPG advises that estimating future housing need is not an exact science and there is no one methodological approach or dataset which will provide a definitive assessment. Nevertheless, the starting point for establishing housing need should be the latest household projections published by the CLG. The PPG sets out that plan makers may consider sensitivity testing, specific to their local circumstances, based on alternative assumptions in relation to underlying demographic projections and household formation rates.

¹⁰ Core Document CD15

¹¹ Core Document CD6

¹² Inquiry Document 16

¹³ Mr McColgan Proof of Evidence

21. It also sets out that account should be taken of the most recent demographic evidence, including the latest Office for National Statistics (ONS) population estimates. In addition, the PPG indicates that the housing need figure suggested by household projections should be adjusted to reflect appropriate market signals. The appellant contended that the Council's FOAHN fails to do this and is therefore not PPG and NPPF compliant.
22. In my judgement, the use of 2012 ONS data accords with the PPG and while the Council, unlike the appellant, did not adjust for UPC, the issue is covered in the FOAHN where it is noted that the ONS excludes UPC from its projections. Moreover, it was not demonstrated that UPC can be ascribed to an identifiable cause or that it is not, in some measure, associated with errors of recording at the 2001 census. Therefore, while a historically large figure in Shropshire, there is nothing to suggest given the refinements to census data capture, that any future UPC would be of a similar magnitude. In addition, I heard that an adjustment for UPC is not an explicit requirement of the PPG and I have no reason to conclude in this instance that the absence of such an adjustment renders the FOAHN fundamentally flawed.
23. The Council assessed the position within Shropshire with national trends and against other comparator LPAs. Notwithstanding the appellant's criticisms, I consider that the evidence is sufficiently robust to demonstrate that the Council's FOAHN took account of levels of past provision, concealed households, market signals (in respect of affordability), employment forecasts and other local factors such as the creation of a university campus in Shrewsbury and the closure of Shrewsbury prison. The indicators set out in the PPG were assessed and no worsening trends were identified in Shropshire in respect of land prices, affordability, concealed households and house prices. Adjustments were made accordingly where it was deemed necessary.
24. While I note this is not to the extent canvassed by the appellant, it does satisfy the requirements and guidance of the NPPF and PPG. Furthermore, from the evidence, I have no reason to conclude that the use by the Council of an economic forecast from Oxford Economics, rather than a comparison of a range of forecasts, has resulted in data that cannot be considered to be robust. Moreover, in looking at market signals, I consider that the Council considered affordability as set out in the PPG and the Kings Lynn judgement (*Borough Council of Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government, ELM Park Holdings Ltd, [2015] EWHC 2464 (Admin), CO/914/2015*).
25. I am therefore content that the Council's FOAHN does not conflict with the policies and guidance contained in the NPPF and PPG, and provides (based on the annual housing requirement figure in the CS against which no outweighing material considerations have been identified) a reasonable assessment of the housing requirement for the area. The Council was satisfied that the CS housing requirement of 27,500 (1390dpa to 2021) of which 9,000 is affordable, is sufficient to help deliver the 1st 10 years of the FOAHN and is the figure employed within the SAMDev to identify housing sites. This is a pragmatic figure for the purposes of this appeal, though I note the common ground between the parties that it should not be viewed as a maximum figure.
26. With regard to the 5 year housing land supply, NPPF paragraph 49 states that '*...housing applications should be considered in the context of the presumption*

in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...'. In this regard, the Council for the 5 year period up to 2021 claims a supply of around 5.97 years. This is based on the CS 5 year requirement of 6,950 plus a past under delivery of 1,998 to which a 20% buffer is applied giving a total of 10,738. A supply of 12,829 was identified by the Council that includes dwellings with planning permission as well as windfall sites.

27. In not disputing the Council's overall housing supply figure for the plan period, the appellant nevertheless pointed out that the Council faces an enormous challenge in boosting housing delivery with around 16,500 to be delivered by the end of the plan period. Concerns were raised that the Council cannot demonstrate sufficient deliverable sites to meet the CS housing requirement. It was pointed out that the Council would be heavily reliant on windfall sites to meet the delivery target and it was argued that this is reflected in SAMDev Policy MD3 which permits windfall development both within and outwith the defined settlement boundaries in order to boost the number coming forward. Table 1 of the appellant's Statement of Case shows that 5,427 dwellings are to be delivered in the rural area up to 2026 and it was argued that sites such as the appeal site will be needed to achieve this figure.
28. The appeal scheme would provide additional homes that would contribute to the NPPF objective to boost significantly the supply of housing. CS policy CS1 indicates that 35% of Shropshire's residential development over the plan period will be in rural areas to provide a 'rural rebalance'. The policy states: *development and investment will be located predominantly in community hubs and community clusters, and will contribute to social and economic vitality; and, outside these settlements development will be primarily for economic diversification and to meet the needs of local communities for affordable housing.*
29. However, I heard that there are sufficient permissions/commitments in the pipeline to meet the housing requirement to 2026. In the case of Whitchurch, the guideline for housing development has already been reached and should this change in the future, SAMDev Policy MD3 provides for positive action if a settlement is struggling to achieve its housing guideline. The matter of windfall sites was addressed by the Inspector at the SAMDev Examination who was content that settlement development boundaries could be drawn. This would suggest that windfall sites could come forward within settlements rather than there being a total, or very heavy, reliance on rural sites.
30. It was argued that in line with the decision at West Felton¹⁴, a spatial approach should be adopted in terms of housing allocation. However, as that appeal concerned housing supply rather than delivery, I do not consider it to be directly comparable. In which case, with a housing requirement of around 10,738 and a supply of around 12,829, I am content that the Council is able to demonstrate a 5 year supply of deliverable housing land.

The effect on the settings of heritage assets

31. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) states that special regard should be paid to the desirability of

¹⁴ Appeal Decisions AD9

- preserving the settings of listed buildings, where those settings would be affected by proposed development. The NPPF defines the setting of a heritage asset (which includes a building listed for its architectural and historic interest) as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral.
32. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. Historic England guidance, *The Setting of Heritage Assets*¹⁵, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
33. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
34. The designated heritage assets that would be affected in this instance are The Old Rectory (a Grade II* listed building), 18th century Game Larder, The Coach House and adjoining walls, Outbuilding, the mid-18th century Ice House (all Grade II listed buildings) and the Church of St Alkmund (a Grade I listed building). The parties have described the significance of these heritage assets, including the contribution made by their respective settings and have also assessed the effect on significance which would arise as a result of the impact on these settings. This approach is in line with the advice in NPPF paragraphs 128-9. The parties agree that the proposal would not affect the fabric of the listed buildings, and I see no reason to disagree.
35. The Old Rectory stands to the east of the appeal site. Its setting includes an enclosing stand of trees to the north and west (which isolate it visually from the appeal site) and the supermarket development to the south/south-west. The supermarket was erected around 2012 and includes a large car park. It replaced commercial buildings which occupied a smaller footprint on the site. The Old Rectory has a shared setting and group value with the church and the other Grade II listed buildings mentioned above arising from a historic and functional association. It does not feature prominently in any views from the surrounding landscape.
36. From what I observed, the proposal would not harmfully influence the visual relationships between the Old Rectory, the church and the nearby Grade II listed buildings. The Old Rectory is obscured from view from the appeal site by the stand of trees. Landscaping proposals, which would be a matter for approval under a later application were outline planning permission to be granted, could ensure that suitable planting is retained and enhanced on the boundary with the appeal site. In which case, I consider the proposed

¹⁵ Core Document CD24

- development would be peripheral to the setting of the Old Rectory and would not affect the contribution it makes to the heritage asset's significance.
37. With regard to the Game Larder and Coach House, they are located close to the Old Rectory. Indeed their immediate setting is characterised by the courtyard formed by the Old Rectory and the Coach House. This shared setting is strongly influenced by the mass of the nearby supermarket. As with the Old Rectory itself, the proposal would not harmfully influence the visual relationships they have with the Old Rectory, the church and the other nearby Grade II listed buildings.
 38. As for the Outbuilding and the Ice House, they are located close to the supermarket, to the east of the appeal site and south of the Old Rectory. The supermarket building stands between the proposal and these historic assets. Their immediate setting is characterised by the supermarket and its car park into which they have been incorporated. The proposal would have a very limited effect on the visual relationship they share with the church and the other nearby listed buildings.
 39. In overall terms, the settings of these heritage assets have changed considerably as a result of the construction of London Road, the suburban expansion of Whitchurch and the recently completed supermarket which abuts the eastern boundary of the appeal site. The supermarket development in particular has influenced the settings of these heritage assets. Its bulk and car park layout have resulted in a strong inter-visibility between it and the heritage assets, giving it a commanding presence within their settings.
 40. The boundary planting between the Old Rectory, Coach House and Game Larder and the proposal, along with the intervening presence of the supermarket between the proposal and the Ice House and Outbuilding, would be likely to prevent the proposed housing development from detracting from the contribution the setting of each of these heritage assets makes to their significance.
 41. Furthermore, the proposal (both individually and cumulatively with the supermarket development) would not affect inter visibility between the church and the other identified heritage assets given their geographical relationship, with the church standing well to the south. In addition, intervening built development between the appeal site and the church, including the supermarket, would mean that the proposal would not affect the setting of the church itself.
 42. My attention was also drawn to a nearby non designated asset known as Highfields House. This stands to the west of the appeal site at a higher level and is a fairly typical sub-urban Victorian house. From the evidence and what I observed, while attractive it is of limited architectural and historic interest. Given the intervening distance and change in level between it and the appeal site, I consider that the proposal would have a very limited impact on the contribution its setting makes to its significance.
 43. I therefore conclude, paying special regard to the desirability of preserving the setting of listed buildings, as set out in Section 66(1) of the PLBCA, that the proposed development would preserve the settings of the listed buildings. Accordingly, the proposal would accord with NPPF paragraph 132 and there

would be no conflict with CS Policies CS6 and CS17, and SAMDev Policies MD2 and MD13.

Character and appearance

44. The appeal site is located to the north east of Tarporley Road on the northern edge of the built-up area of Whitchurch. It comprises an area of agricultural pasture through which footpath (0234/52/1) passes. It is enclosed by an established hedge on its north-eastern boundary while an area of woodland abuts the south-eastern boundary, beyond which stands the supermarket. A small pond is located next to the northern boundary which is bordered by trees.
45. Adjoining land uses include residential along Tarporley Road, commercial to the east and agricultural to the north and north-east, leading to the Hill Valley Golf Club. The terrain is gently undulating and surrounding roads and recreational routes include the B5395, the Great English Walk Footpath and Route 45 Cycle Way; *The Mercian Way*. There are no landscape designations affecting the appeal site but in character terms it forms part of the *Shropshire, Cheshire and Staffordshire Plain National Character Area*¹⁶ (NCA 61). At the local level its landscape type is identified as *Settled Pastoral Farmlands*¹⁷ (the majority of the site) and *Urban*. A key characteristic of the *Settled Pastoral Farmlands* is a pastoral land use in a lowland agricultural landscape.
46. The appellant further sub-divided the local area into 12 site specific landscape character areas, placing the appeal site within Area 1 *Urban Agricultural*¹⁸. It was argued that Area 1 had a less direct area of visibility than the other areas in this classification and had direct physical links to urban Whitchurch. Nevertheless, despite being on the urban periphery and being in part characterised as an *Urban* landscape type, I observed that the appeal site has a strong pastoral identity. As such it shares its affinity with the open landscape character of the countryside to the north and north-east notwithstanding the presence within this area of the Golf Course. Furthermore, although an undesignated landscape, the appeal site possesses an attractive and tranquil quality that provides an open setting for this part of Whitchurch.
47. While I note the North Shropshire Landscape Sensitivity and Capacity Study 2008¹⁹ regarded the appeal site as having a high landscape sensitivity, from what I observed, as part of a pastoral landscape that fringes the urban edge of Whitchurch, it would have a moderate sensitivity to change. As to the magnitude of change that would be wrought by the proposal, the submitted Landscape and Visual Impact Assessment (LVIA)²⁰ includes 6 no. representative views of the proposal within 750m of the appeal site boundary and distinguishes between its effect on landscape character and its visual impacts on views experienced by visual receptors.
48. I have given careful consideration to the appellant's landscape evidence, including the LVIA and fully appreciate that the landscape to which the appeal site belongs is not rare, or of exceptional quality, and that the site itself has no particular landscape or historic heritage designation. However, it forms part of

¹⁶ Core Document CD14

¹⁷ Core Document CD15

¹⁸ Mr Bright Proof of Evidence

¹⁹ Core Document CD16

²⁰ Core Document CD17

the wider open pastoral landscape to the north of the town and is an integral part of the local landscape character. In my judgement, the development would introduce an overtly urban form of development that would be highly incongruous within this pastoral setting.

49. One of the core principles of the NPPF is that the intrinsic character and beauty of the countryside should be recognised. Building up to 39 new houses with associated infrastructure on the appeal site would lead to an erosion of that natural quality, and as a result, the proposal would cause landscape harm. This magnitude of change (and thus of harm) from a tranquil pastoral landscape of moderate sensitivity to a housing development would, given the proposed mitigation and reflecting the presence nearby of the urban fringe, be moderate.
50. In terms of its visual impact, the development would be prominently seen from closer range views (LVIA Photograph 3 from footpath 0234/52/1, Photograph 4 and Photograph 5). It would also feature prominently in views from the public footpath crossing the Golf Course (LVIA Photograph 6). Although not part of any nationally promoted footpath, 0234/52/1 had the appearance of being a well-used route, presumably by local residents. The introduction of built form with the attendant urbanising elements such as roads, driveways, gardens and street-lighting would be visually jarring and would significantly change the experience of those using the footpath from that of a tranquil, pastoral landscape to that of a sub-urban townscape.
51. I acknowledge the commitment to open space provision within the development but I consider that it would nevertheless increase the quantity of development in the area, introducing built form to a pastoral field that is currently seen as part of the edge of the countryside as it sweeps up to the urban fringe. The lower lying nature of the appeal site relative to surrounding built form serves to increase the sense of tranquillity which the development would encroach upon. This effect would be localised but given the proximity of the roads and footpaths, I consider that the effect would be one of significant harm in visual impact terms.
52. The change to the intrinsic pastoral character of the area which would be seen from Tarporley Road and in particular footpath 0234/52/1, would, I conclude, have a moderately adverse effect on local landscape character and result in a significantly adverse visual impact. There would be conflict with CS Policies CS5 and CS17 in this regard. The proposal would also be at odds with NPPF paragraph 7 which makes clear that *'contributing to protecting and enhancing our natural, built and historic environment is an aspect of sustainable development'*.

Other matters

53. I note that in terms of highway safety, ecology, trees, drainage/flood risk, sewerage, archaeology and the living conditions of nearby residents, the Council, as advised on these matters by the County Highway Officer, the Council Ecologist, the Council Drainage Engineer and Welsh Water, raised no objections, subject to suitably worded conditions being attached to any grant of outline planning permission. From my assessment, I have no reason to disagree.

54. A signed and dated S106 was submitted by the appellant. This covers the completion and transfer of open space and the provision of affordable housing at a rate of between 10 and 20%. In the light of the evidence presented at the Inquiry, I consider that the obligations in the S106 meet the tests set out in the NPPF and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010. I can therefore give the S106 significant weight.
55. The appellant drew my attention to several appeal decisions in the District which also considered the CS housing requirement where housing developments were permitted. Be that as it may, I am not aware of the detailed considerations of those Inspectors and I do not consider them to be directly comparable to this case given the different development plan context and agreement that in those instances there was no current housing requirement figure.

Benefits of the proposal

56. The provision of up to 39 dwellings, between 10 and 20% of which would be affordable, would serve to boost the supply of housing (in particular affordable units, in a District where an affordable housing need exists). The S106 also includes the provision of public open space. Although mainly to the benefit of occupiers of the development, there would be some benefit the wider community. The scheme would also be likely to create construction jobs, deliver investment in construction, increase annual household expenditure in the local area, make a contribution through the Community Infrastructure Levy of around £4,400 per dwelling and bring about biodiversity enhancements. Collectively, I afford these benefits substantial weight.

Planning balance and conclusion

57. I recognise that Whitchurch offers a range of community facilities and services, and links to public transport connections that are within easy access of the appeal site. However, sustainability encompasses economic, social and environmental dimensions, which go beyond whether or not a proposal would be situated within a sustainable location.
58. The benefits of the proposal as set out above are substantial and would accord with the economic, social and environmental dimensions of sustainable development, particular as it would serve boost the supply of housing, including affordable, over and above the minimum figure set out in CS Policy CS1. However, the environmental dimension of sustainability is also concerned with protecting and enhancing the natural environment.
59. In this regard, although there would be no harm to the settings of nearby designated and non-designated heritage assets, or under the *other matters* set out above, I have found that the proposal would cause moderate harm to local landscape character and would have a significantly harmful visual impact from nearby vantage points. Accordingly, there would be significant environmental harm in allowing the proposed development to take place. This would conflict with CS Policies CS5 and CS17. This conflict with the development plan would not be outweighed by the benefits of the proposal including those brought about by the 106 Agreement.

60. From the evidence, I consider that the proposal would not be sustainable development and there are no material considerations that would warrant a decision other than in accordance with the development plan. Accordingly, the appeal is dismissed.

Richard McCoy

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant of Counsel	Instructed by the Council Solicitor
He called	
Edward West BA(Hons), MCD, MRTPI	Principal Policy Specialist
Ruth Hitchin MA	Senior Conservation & Design Officer (North)
Keith Hampshire BA, DipLA, CMLI	Director, ESP Ltd
Karen Townend BSc(Hons), MA, MRTPI	Principal Planning Officer

FOR THE APPELLANT:

Thea Osmund-Smith of Counsel	Instructed by Helen Howie, Berrys
She called	
Richard Bright BA(Hons), Dip LA, CMLI	Principal, Bright & Associates
Helen Howie MA(Hons), MCD, MRTPI	Planning Consultant, Berrys
Anthony Martin BA, MA, MCifA	Heritage Consultant
Paul McColgan	Principal Associate Director, GL Hearn

DOCUMENTS

- 1 Council's letter of notification of the Inquiry
- 2 Appearances on behalf of the appellant
- 3 Letter from Welsh water dated 28 April 2014
- 4 Letter from Welsh water dated 13 August 2014
- 5 Letter from Welsh water dated 3 December 2015
- 6 Proposal for Hydraulic Modelling Assessment of Foul Sewerage
- 7 Cheshire East Borough Council and Secretary of State for Communities and Local Government and Renew Land Development Ltd, [2016] EWHC 571 (Admin), CO/5040/2015
- 8 Judgement, Barratt Homes Limited v Dwr Cymru Cyfyngedig (Welsh Water), [2009] UKSC 13
- 9 Site visit itinerary
- 10 Email dated 22 July 2016 setting out historic and current developed floor-space on the adjoining site
- 11 Email from Ruth Hitchen in respect of the Sainsbury site
- 12 Email from Helen Howie in respect of the Sainsbury site
- 13 Shropshire Council and Secretary of State for Communities and Local Government, BDW Trading Limited Trading as David Wilson Homes (Mercia), Magnus Charles Howat, Martin John Howat, [2016] EWHC 2733 (Admin), CO/2850/2016

- 14 List of draft conditions
- 15 Oadby and Wigston Borough Council and Secretary of State for Communities and Local Government, Bloor Homes Ltd, [2015] EWHC 1879 (Admin)
- 16 Appeal decision ref. APP/L3245/W/15/3137161
- 17 North Wiltshire District Council v Secretary of State for the Environment and Clover, Court of Appeal, 12 April 1992
- 18 Table of differences between GL Hearn and Council approach to OAN
- 19 SAMDev Plan Inspector's Report extract on Windfall
- 20 Council's critique of Unilateral Undertaking
- 21 Signed and dated Section 106 Agreement

PHOTOGRAPHS

- 1 Aerial photograph of Sainsbury site pre development
- 2 Aerial photograph of planting belt to the west of the Old Rectory

CORE DOCUMENTS

- CD1 The National Planning Policy Framework
- CD2 Planning Practice Guidance
- CD3 Shropshire Core Strategy (adopted March 2011)
- CD4 Site Allocations and Management of Development Plan (adopted December 2015)
- CD5 Type and Affordability of Housing SPD (adopted September 2012)
- CD6 SAMDev Plan Inspector's Report October 2015
- CD7 EV2 Strategic Housing Land Availability Assessment (SHLAA) July 2014 – map of Whitchurch with key
- CD8 EV3b Strategic Housing Market Assessment (SHMA) March 2014
- CD9 EV3c Strategic Housing Market Assessment (SHMA) Update Addendum July 2014
- CD10 EV77 SAMDev Background Paper March 2014
- CD11 EV79 Housing Delivery Technical Background Paper July 2014
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- CD17 Landscape and Visual Appraisal, Relating to the Proposed Residential Development, Tarporley Road Residential Development, prepared for Müller Strategic Projects Ltd. by Bright & Associates, February 2015
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- CD21 Wigley, A, 2007, The Shropshire Historic Landscape Character Assessment,

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- CD24 Department for Communities and Local Government, 2016, Planning Practice Guidance – Conserving and Enhancing the Historic Environment CD25 Historic England, 2015, The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning:3
- CD26 Nexus Heritage, February 2015, Land at Tarporley Road, Whitchurch, Shropshire Heritage Statement, Report No:3219.R01c
- CD27 Development Management Report, Application number: 15/00916/OUT, Outline application (access for approval) for residential development of up to 39 dwellings, Land Adj Bollandfield Tarporley Road Whitchurch Shropshire SY13 1LW, Shropshire Council
- CD28 Development Management Report, Application number: 15/00433/OUT, Outline application (access for approval) for residential development, Land East of Tarporley Road Whitchurch Shropshire Shropshire Council
- CD29 Development Management Report, Application number: 13/03413/OUT, Outline permission (access for approval) for residential development (up to 86 dwellings) to include vehicular access (off Tarporley Road)

APPEAL DECISIONS

- AD1 Land East of Village Hall, Welshampton, Shropshire 24th May 2016, APP/L3245/W/15/3033490
- AD2 Teal Drive, Ellesmere, Shropshire 16th May 2016 APP/L3245/W/15/3067596
- AD3 Land North of Gorse Lane, Bayston Hill, Shropshire 21st March 2015, APP/L3245/W/15/3127978
- AD4 The Bell Hotel, Cross Houses, Shropshire 23rd February 2016, APP/L3245/W/15/3134152
- AD5 Land adjacent Park View, Broseley, Shropshire 18th February 2016, APP/L3245/W/15/3006489
- AD6 Land East of Station Road, Condover, Shropshire 20th January 2016, APP/L3245/W/15/3007926
- AD7 Land East of Nobold Lane, Longden Road, Shrewsbury 19th January 2016, APP/L3245/W/15/3011886
- AD8 Land at Bromfield Road, Ludlow, Shropshire 30th November 2015
- AD9 Land at The Cross, West Felton, Shropshire 30th November 2015
- AD10 Ash Grove, Wem, Shropshire 23rd September 2015, APP/L3245/W/15/3029727
- AD11 Brook Cottages, Ford, Shropshire 19th May 2015 APP/L3245/A/14/2228348 ref paragraphs 23 & 30
- AD12 Land at Hill Top Farm, Northwich 3rd September 2015 APP/A0665/W/14/3000528
- AD13 Land at Fountain Lane, Davenham, Cheshire APP/A0665/A/14/2226994; ref paragraph 24
- AD14 Land south of Cirencester Road Fairford 22nd September 2014 APP/F1610/A/14/2213318
- AD15 Land south of Greenhill Road, Coalville, Leicestershire 5th January 2016 APP/G2435/W/15/3005052

LEGAL CASES

- L1 Anita Coleman v SoS for DCLG and North Devon District Council and RWE NPOWER RENEWABLES LIMITED [2013] EWHC 1138 (Admin)
- L2 Oadby and Wigston Borough Council v SoS for DCLG and Bloor Homes [2015] EWHC 1879 (Admin)
- L3 City and District Council of St Albans v Hunston Properties and SoS for DCLG [2015] EWHC 1879 (Admin)
- L4 Gallagher Homes and Lioncourt Homes v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin)
- L5 West Berkshire District Council v SS CLG & HDD Burghfield Common Ltd [2016] EWHC 267 (Admin)
- L6 Wychavon District Council v SS CLG & Crown House Developments Ltd [2016] EWHC 592 (Admin)
- L7 Suffolk Coastal District Council v Hopkins Homes Ltd & SS CLG, and Richborough Estates Partnership LLP v Cheshire East BC & SS CLG [2016] EWCA Civ 168
- L8 SS CLG v West Berkshire DC and Reading BC [2016] EWCA Civ 441
- L9 Stroud District Council v SS CLG and Gladman Developments Ltd [2015] EWHC 488 (Admin)
- L10 Secretary of State for Communities and Local Government v BDW Trading Limited [2016] EWCA Civ 493
- L11 Oxted Residential Ltd. V Tandridge DC [2016] EWCA 414
- L12 The Queen on the Application of Gladman Developments Ltd v SoSCLG, Borough Council of Wellingborough [2016] EWHC 683 (Admin)
- L13 R(Forge Fields Society) v Sevenoaks DC [2015] EWHC 1895 (Admin)
- L14 Crane v Secretary of State for Communities and Local Government and Harborough District Council [2015] EWHC 425 (Admin)
- L15 Wenman v SSCLG [2015] EWHC 925 at paragraphs 74 – 80
- L16 Barnwell Manor Wind Energy Ltd v East Northants DC [2014] EWCA Civ 137
- L17 Gladman Developments Ltd. V Wokingham Borough Council [2014] EWHC 2320 (Admin)
- L18 R (on the application of Gladman Developments Ltd.) v Aylesbury Vale District Council [2014] EWHC 3423 (Admin)
- L19 Langton Homes Limited v SoS CLG and Harborough District Council [2014] EWHC 487 (Admin)
- L20 Bloor Homes East Midlands Limited v SoSCLG and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)
- L21 South Northamptonshire Council v SoS CLG, Barwood Land and Estates Limited [2014] EWHC 573 (Admin)
- L22 Stratford on Avon District Council v SoSCLG and J S Bloor (Tewkesbury) Limited, Hallam Land Management Limited, RASE (Residents Against Shottery Expansion) [2013] EWHC 2074 (Admin)