



## **Lilleshall Parish Council**

Clerk to the Council - Catherine Lane  
Lilleshall Memorial Hall, Hillside, Lilleshall, Newport, Shropshire, TF10 9HG  
01952 676379 Lilleshallparishcouncil@gmail.com

Dear Sir

**Telford & Wrekin Local Plan  
Schedule of Proposed Main Modifications (L1)  
Comments by Lilleshall Parish Council**

The following comments are made on behalf of Lilleshall Parish Council regarding the Main Modifications to the Telford & Wrekin Local Plan (TWLP), with Particular reference to the following modifications.

**MM34 – Shrewsbury to Newport Canal**

The Parish Council supports the proposal within this modification and the related policy to safeguard the alignment of the canal. We would also request that this level of protection is applied to other abandoned canal routes within the Borough, particularly the Shropshire Tub Boat Canals which are both unique to the Telford & Wrekin area and have a historical and previously physical connection with the Shrewsbury to Newport Canal

**MM39 – Sustainable Urban Extension**

The Parish Council unequivocally supports the removal of Area H1 from the Local Plan.

**MM62 – Lilleshall Village Strategic Landscape Area (LVSLA)**

The Parish Council request that Telford & Wrekin reinstate the LVSLA within the Local Plan. Both the character and the extent of the area has been formally assessed by a qualified landscape architect using recognised methodology ie. it is a character area in its own right<sup>1</sup> and it is a very valued landscape as demonstrated by the local support given to the area through the ongoing Lilleshall Neighbourhood Plan process.<sup>2</sup>

The visual and historic landscape quality of the LVSLA has also been recognised in two recent Appeal Decisions where the character and value of the landscape were primary factors in the Inspectors rejecting planning applications (ref. Attachments 2 and 3).

At the Examination in Public, the Inspector appeared to agree that the evidence provided by the Strategic Landscape Study supported the value of the LVSLA but he was concerned by the lack of visibility regarding how the LVSLA had been selected and was also concerned that in the apparent absence of the rationale any new supporting evidence could be seen as 'post rationalisation'. In effect – it placed Telford & Wrekin Council in a 'catch 22' position – unable to justify and argue the retention of the LVSLA as this would appear to be 'after the event'.

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<sup>1</sup> Strategic Landscape Study carried out of behalf of Telford and Wrekin Council

<sup>2</sup> Lilleshall Neighbourhood Plan consultation comments ( attached)

## M54 - Lilleshall Parish Council

However, as part of the emerging Lilleshall Neighbourhood Plan, a short supporting technical paper was produced<sup>3</sup> which explains the purpose of the SLA study and why the three SLA's were chosen( ref attachment 4). As the paper explains, other areas of the borough of Telford & Wrekin could equally benefit from character assessment. A pragmatic choice was made based upon simple criteria, time availability and resources.

Whilst the purpose of this paper is to help support our emerging Neighbourhood Plan, we believe that it is equally relevant to the emerging Local Plan.

In summary, the LVSLA is a good practice character assessment of an identifiable area of landscape. It's purpose is to have a better understanding of the area. It's purpose is not to prevent development but to help inform development decisions, to appropriately protect the area from inappropriate development and harm and to aid better planning and design in the area.

In conclusion we believe that the above, requested revisions to the Local Plan will contribute to and enable enhancement of the Borough's natural environment, and in doing so, will conform with the requirements of paragraph 109 of the National Planning Policy Framework.

For and on Behalf of Lilleshall Parish Council

David A. Shaw (Councillor)

### Attachments

Attachment 1 - Strategic Landscape Study - TULP EXAMINATION LIBRARY DOC. C3f.

Attachment 2 - Appeal Ref: APP/C3240/W/16/3149398

Attachment 3 - Appeal Ref: APP/C3240/W/16/3162166

Attachment 4 – Supporting Technical Paper

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<sup>3</sup> Produced for the Lilleshall Neighbourhood Plan by the planning officer who initiated and helped manage the production of the Strategic Landscape Study

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## Appeal Decision

Inquiry opened on 4 April 2017

Site visit made on 7 April 2017

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

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

Decision date: 03 May 2017

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**Appeal Ref: APP/C3240/W/16/3149398**

**Land off Muxton Lane, Muxton, Telford, Shropshire TF2 8PG**

- 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 Gladman Developments Ltd against the decision of Telford and Wrekin Council.
  - The application Ref TWC/2015/0556, dated 18 June 2015, was refused by notice dated 25 November 2015.
  - The development proposed is '*a residential development of up to 78 dwellings with associated access*'.
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### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate decision.
  3. The Inquiry opened on 4 April and it sat for 4 days, closing on 7 April. Following the close of the Inquiry, I made unaccompanied site visits to the site of a previous appeal at Haygate Road, Wellington and to the Monument at the top of a hill in Lilleshall (Lilleshall Monument). I also made an accompanied site visit to view the appeal site, walk some of the local footpaths and to Muxton Primary School, the nearest bus stop and Shropshire Golf Course.
  4. The description of the development proposed on the application and decision notice includes that given in the above header and indicates that the application was made in outline form with all matters of detail, except access, reserved for subsequent consideration. Whilst the appellant has submitted a Framework Plan Ref 5701-L-02 Rev O with the application and an illustrative layout plan with the appeal, I have taken the details provided of layout, appearance and landscaping as being indicative only. I have determined the appeal on the basis of the only matter of detail to be considered being the vehicular access, using those details of the proposed access and highway improvements shown on Drawing No C14188 006 in the Transport Assessment.
  5. At the Inquiry the appellant submitted an engrossed Section 106 (S106) Agreement, dated 6 April 2017. The obligations in the Agreement would secure a contribution towards the improvement of bus stop infrastructure; contributions towards off-site play areas and maintenance of public open space; a contribution towards the provision and/or improvement of primary
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education extensions at Muxton Primary School; the provision and management of informal open space on the appeal site; contributions towards the maintenance of a Sustainable Drainage System (SuDS); a contribution towards traffic calming measures; and a contribution towards the monitoring of a travel plan. Having considered the information provided by the Council, including the Community Infrastructure Levy Regulations (CIL) compliance statement, I am satisfied that all these provisions would be directly related, and would be fairly and reasonably related in scale and kind, to the development. Based on this, I find that all the planning obligations would be necessary to mitigate the effects of the development on local facilities and services and they meet the tests in CIL Regulations 122 and 123(3). I have therefore taken them into account in my determination of this appeal.

6. Following the refusal of the application, the Council has reconsidered its reasons for refusal in the light of further information and has indicated that it no longer wishes to defend its reasons for refusal 3, based on the scale, layout and design of the proposal, and 4, based on the mitigation of its effect on ecology. I am satisfied that these matters would be satisfactorily addressed by appropriate planning conditions and I have therefore not included them as any of the main issues in this appeal.

### **Main Issues**

7. The main issues are the effect of the proposal on the character and appearance of the surrounding countryside, taking account of the physical separation between Telford and Lilleshall and the value of the landscape; its effect on the delivery of Strategic Urban Extensions (SUEs) and associated infrastructure; the sustainability of the location of the site, in terms of the need to travel to facilities and services; and the planning balance, having regard to whether relevant policies are considered to be out-of-date and whether the proposal would represent sustainable development in accordance with the National Planning Policy Framework (Framework).

### **Reasons**

#### ***Character and Appearance***

8. The appeal site adjoins, but is outside, the built up area of Telford as defined in the Wrekin Local Plan 1995-2006 (WLP). It is in agricultural use, consisting of four fields, each of which is enclosed by mature hedgerows along most of the boundaries. I observed at my site visit that the fields consist of grassland that has mainly been used for grazing. Two Public Rights of Way cross the site entering the southern field at two points via stiles off Muxton Lane. They converge at a stile leading into the north western field and the footpath crosses that field towards the village of Lilleshall which is located about 1km to the north east. The other two fields which form the south east part of the site do not have any formal public access.
9. Muxton Lane is signed as a 'no-through road' but does provide access to a number of housing developments via roads from it; the nearest one to the appeal site being Halcyon Court, which is a cul-de-sac that is near to the west corner of the site. Although in the area of the appeal site Muxton Lane has a footway along its south west side adjacent to a hedgerow that acts as a boundary to the built development, it has the character of a rural lane. This is due to its windy alignment, the lack of footway and formal edging on most of

the appeal site side, no street lighting along that part of it and the mature hedgerow with gaps for stiles and a field gate along the site boundary that offer views from the lane across the open field and to the boundary hedgerows that form part of the appeal site.

10. Whilst users of the footway along Muxton Lane are adjacent to built development, at my site visit I found that the views to the north east provide an attractive rural feel and appearance to that part of the lane, particularly when travelling in a south easterly direction. From that footway, the adjacent houses are not particularly noticeable as the boundary hedge in that area is relatively dense with only a few gaps in it and users are more likely to look away from that hedge to gain more open views along the lane. The lane takes you to the Shropshire Golf Club, which is about 660m to the south of the access to the site and is where the footway ends. Muxton Lane appears to me to become increasingly more rural in character as you head south along it.
11. At the time of my site visit the hedgerows alongside Muxton Lane benefitted from spring growth but the openness of the appeal site was clearly apparent through small gaps in the boundary hedge, adjacent to the field gate where there is very limited growth, and at the stiles. The field is likely to be even more visible in winter months when there is less foliage. I also observed that above the hedgerows on the appeal site Lilleshall Monument can be seen in the distance from Muxton Lane, which is where the footpaths take you. As such, it is possible to associate the footpaths from Muxton Lane with an attractive rural route to Lilleshall and beyond, as part of a network of footpaths that include a publicised walking route known as the Hutchison Way.
12. A single vehicular access point is proposed to the south east of the junction of Muxton Lane and Halcyon Court at the existing entrance into the field. The illustrative plans indicate that about three quarters of the site would remain undeveloped and preserved as a managed nature conservation area and wildflower meadow and that the proposed housing would occupy about 2.9 hectares within the southern field, which is adjacent to backs of housing in Granville Drive and north east of Muxton Lane. The proposal would include the translocation of part of the hedgerow between the proposed access and No 87 Muxton Lane to provide the required visibility splay and widening of Muxton Lane.
13. The appellant has indicated at the Inquiry that the hedgerow that would be translocated would be about 45m in length and at my site visit I observed that it is relatively dense and provides significant screening to part of the field. Whilst the appellant has provided evidence to show the success of this process, it would involve an initial significant reduction in the height and scale of the hedge. Based on the appellant's 'Translocation Statement', it would take at least 2 years for the hedgerow to reach anywhere near its present scale. As such, it would take a significant time for the hedgerow to provide a level of screening to the appeal site that would be comparable with that currently provided.
14. In assessing the impact of the proposal on the landscape, I have taken account of a Landscape and Visual Appraisal (LVIA) carried out to accompany the application. In this LVIA reference has been made to the Telford and Wrekin Landscape Sensitivity and Capacity Study 2009 (LSCS), which was updated in 2014 and has assessed the landscape capacity to accommodate housing

development. As the appeal site is not one of the sites covered by the Study, which are sites put forward in the Council's Strategic Housing Land Availability Assessment, the results provide inconclusive evidence as to the sensitivity of the landscape at the appeal site. However, comparing the field to be developed with the assessed sensitivity of nearby sites references TWMu4-64 and TWMu6-64, I find that its landscape is of medium rather than high sensitivity to housing development due to its location near to existing housing but taking account of its rural character and contribution that it makes to the visual amenity of the area.

15. The appeal site has been identified in the Shropshire Landscape Typology as being within the Estate Farmlands landscape type, which covers a wide area. Key landscape characteristics of this area include the trees and hedgerows, as well as the field patterns. I accept that the proposal identifies that the hedgerows and trees would be retained and three of the fields within the site would not lose their character as open fields, which would be secured by planning conditions. However, the character of the southern field would be lost for ever due to the proposed development.
16. The 'Shropshire Historic Landscape Characterisation' describes most of the appeal site, including the part to be developed, as being medieval/post medieval 'Piecemeal Enclosure'. Whilst historic maps have identified that in 1717 the southern field had potentially been subdivided, this evidence is not conclusive and the appellant accepted at the Inquiry the inclusion of this field within the typology, and not as a 'Reorganised Piecemeal Enclosure', which appears to me to be more common in the area of Telford. As such, I find that the fields that are included in the appeal site have a local rarity value as a surviving historic landscape. Whilst the appellant has identified other similarly rare landscape typologies in the area of Telford, in my opinion, this factor adds to the landscape value of the site and increases its sensitivity to housing development.
17. In considering the Council's submissions regarding whether the appeal site represents a 'Valued Landscape' in terms of paragraph 109 of the National Planning Policy Framework (Framework), I have noted that no definition is given. In this respect, I have taken account of the historic field patterns and the relative rarity in the locality of the presence of the 'Piecemeal Enclosure' character that covers 3 of the appeal site fields, as well as the use of the footways and local value that has been given to the site. At the Inquiry, the Council did not criticise the approach taken by the appellant in referring to the Guidelines for Landscape and Visual Impact Assessment (GVLIA), which sets out criteria in Box 5.1.
18. Taking account of the criteria in Box 5.1, the appeal site is not subject to any current national, local or other landscape value designations. The Council has argued that the recreational value of the appeal site, together with its historic field pattern and rarity value as 'Piecemeal Enclosure' provide sufficient reasons to treat it as a 'Valued Landscape'. In this respect, the local 'Hutchison Way' runs alongside and crosses the appeal site and there is evidence of frequent use of the footpaths. However, in my opinion, because of the lack of official access to the remainder of the site and the Hutchison Way not being a nationally recognised long distance footpath, this does not give the site any exceptional qualities in terms of recreational use. The pleasant rural landscape

presented by the site and the reasonable condition of its hedgerows and presence of streams are also not unusual features.

19. I am not convinced that the local rarity of the historic landscape type and the conserved field pattern provide sufficient physical attributes to include the field that is to be developed as a 'Valued Landscape' in terms of paragraph 109 of the Framework. Therefore, I do not accept that the appeal site should have the protection afforded to a 'Valued Landscape' under the Framework. However, I have taken the above factors into account in assessing the degree of harm that the proposed development would cause to the character and appearance of the area.
20. In terms of the visual analysis in the LVIA, the users of the footpaths within the site are assessed as being of high sensitivity. However, I do not agree that the proposal would have moderate adverse effects on these users during construction and on completion. As the footpaths that cross the southern field would be through or next to the area that would be developed with housing, there would be significant harm to the views from them. During construction the harm would result from the activity and works taking place as well as the necessary security measures. Although one of the footpaths is adjacent to the rear of houses in Granville Drive and there is scope for planting adjacent to the footpaths, after completion the whole context of them would significantly change from having open views into the surrounding countryside to being enclosed with limited views between the housing. This would similarly apply, but to a lesser extent due to the width of the lane and the screening provided by the existing hedges, to the views experienced by those that cycle, walk or go on horseback along Muxton Lane.
21. Whilst there would be some benefit to the views from the north western field looking north, due to the proposed wildflower meadow, woodland buffer planting and balancing pond, when looking south there would be a view of urban development either through the gap in the hedge or over the top of the planting adjacent to the Granville Drive development. The views from the Shropshire Golf Course car park, which is used by the public and is in an elevated location looking down onto the appeal site, would be harmed due to the development of the southern field which, even with proposed buffer planting, would be visible. Whilst there are currently partial views of buildings in Granville Drive and of some buildings adjacent to Muxton Lane, the proposed housing would be significantly closer and more prominent, resulting in the loss of an expanse of open field that is clearly visible from the car park. I consider this to represent moderate harm.
22. With regard to views from the Lilleshall Monument, at my site visit I observed that the southern field that would be developed is visible. Any development within that field would be seen as a further encroachment into the countryside that separates Muxton from Lilleshall. I accept that there are already views from the Monument of built development at the edge of Muxton, particularly in Granville Drive, and that the proposal would not reduce the gap between this existing development and Lilleshall. Also, the field to be developed is not included in the proposed Strategic Landscape Area in emerging Telford and Wrekin Local Plan (eLP) Policy NE7, which seeks to protect the gap between settlements. However, even though the views would be distant, this would represent a negative impact of the proposed development which would be apparent as a further encroachment into the countryside.

23. The proposed development would be contained within the existing field boundaries and would act as an extension to the development that is within Granville Drive. However, it would be beyond the boundary hedge to the development to the south west of Muxton Lane, which currently acts as a green edge to the settlement, and would result in the loss of the rural character and appearance of that part of Muxton Lane and the footpaths that cross the southern field adjacent to that development. As such, I consider that the development would be an unacceptable encroachment into the open countryside that provides an attractive visual amenity to those living in Muxton and those using the footpaths and Muxton Lane for recreational purposes.
24. The appellant has accepted that the proposal would represent a breach of WLP Policy H9 and Telford and Wrekin Core Strategy (TWCS) Policy CS7 in terms of being outside the defined Telford settlement boundary. The reason for refusal also refers to WLP Policy OL6 with regard to 'open land'. I am satisfied that the appeal site would relate to this Policy in that it could be considered to be locally important, it is adjacent to a built-up area and contributes to the character and amenity of the area. However, I do not consider it to be 'incidental open land' as its agricultural use is not included in the examples given in the accompanying text and there is nothing before me to show that it is 'incidental'.
25. In relation to TWCS Policy CS11, which seeks to protect and enhance both formal and informal areas of open space, the accompanying text in paragraphs 9.66 to 9.69 gives clarification as to what the Policy covers. Based on this, in my opinion, it is not intended to include agricultural land outside the settlement boundaries that is not available for public use. Whilst the footpaths across the site provide some recreational use and the fields and hedgerows are important for wildlife and biodiversity, the protection of the appeal site under this Policy would not be consistent with the remainder of the wording, which refers to open space standards that appear to me to have not been set. Therefore, I find that neither this Policy nor WLP Policy OL6 apply to the appeal site. With regard to WLP Policy OL11, I find that this is not breached as the proposal would not result in the loss of any trees or woodland.
26. In conclusion on this main issue, I have found that the proposal would result in a serious adverse effect on the character and appearance of the surrounding countryside and would fail to accord with WLP saved Policy H9 and TWCS Policy CS7, as it would represent built development within the open countryside where new development is strictly controlled other than in the exceptional circumstances referred to in Policy H9. It would also be contrary to one of the core planning principles listed in paragraph 17 of the Framework with regard to the need to take account of the different roles and character of different areas and to recognise the intrinsic character and beauty of the countryside.

### ***Strategic Urban Extensions (SUEs)***

27. Although the second reason for refusal alleges that the proposal would undermine the preferred delivery of a SUE with integrated infrastructure proposed in the eLP, the Council has not provided any substantive evidence at the Inquiry to support this concern. I accept that the preferred way to provide the necessary housing is through the plan-led system, based on the allocation of suitable sites that cater for the required services and facilities and provide the necessary infrastructure to support them. However, no substantive

evidence has been provided to demonstrate that the appeal proposal to provide a relatively modest number of additional dwellings to those allocated in the eLP would undermine the provision of the SUEs within that plan or the provision of the associated infrastructure. In addition, I understand that the Priorslee site that has been identified as a SUE in the eLP has been granted outline planning permission for 1100 dwellings.

28. I therefore conclude on this main issue that the proposal would not have an adverse effect on the delivery of SUEs and associated infrastructure.

### ***Sustainability of the Location***

29. The Council and the appellant have agreed distances from the proposed access to the site to some of the local services and facilities and, at my site visit, I walked some of the routes. The nearest railway station in Telford town centre is over 5kms away. The nearest bus stop, which is on Marshbrook Way, is about 500m away, taking a route via a pedestrian alleyway between houses that is currently unlit but the proposal would provide funding for its lighting. This is also a pedestrian route that would be taken from the site access to the nearest primary school, which is about 400m from the access. The bus stop provides access to an acceptable frequency of service to Telford town centre.
30. Whilst some of the necessary services and facilities are within reasonable access by walking from the appeal site, including a doctor's surgery, the Golf Club and a playground, the nearest local shop and post office are some 1.5km away from the access. There is also the option of cycling to services and facilities that are further away, but this would be limited to those that would be able to do so. Although the accessibility of the site to necessary services and facilities would be sufficient to not make it an unsustainable location for housing development, no additional formal facilities would be provided as part of the development as would be likely with the proposed SUEs identified in the eLP.
31. Taking account of the above, I find that the accessibility of the location of the site is not good enough to weigh in favour of the proposed development. However, with the contributions towards off-site infrastructure that would be secured through the S106 Agreement and suggested planning conditions, the proposal would accord with TWCS Policy CS9, as it would afford reasonable opportunity for future residents to access necessary facilities and services and thereby address the issue of social inclusion.

### ***Other Matters***

32. In support of the current appeal, the appellant has referred to a previous appeal decision involving land north of Haygate Road<sup>1</sup>. From my observations at the site visit and the information provided, I consider that this previous appeal involved significantly different circumstances from those of the current appeal, and in particular the scale of the development proposed, its relative location to facilities and services, the potential use of the footpath across the site, the character of the adjacent roads, which appeared to me to be less rural than that of Muxton Lane, and the character of the agricultural land to be developed. Whilst I have noted the points made, and in particular the weight given to the development plan policies and the planning balance used to assess

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<sup>1</sup> Appeal Ref APP/C3240/W/15/3025042

the acceptability of the proposal, no direct comparisons can be made with the current appeal.

33. A number of other appeal decisions have been referred to in support of the appeal, together with permissions that have been granted for new development adjacent to Telford settlement boundary. Whilst I have taken account of the relevant points that have been raised in relation to these other proposals, I have not been given sufficient information regarding the sites to make any direct comparisons with the current appeal proposal. With regard to the development at Priorslee for which outline permission has recently been granted, it involves a SUE, which is at a different scale to that of the current appeal proposal and would include the provision of necessary infrastructure.
34. I have considered the concerns expressed by local residents, some of which I have dealt with under the main issues. I am satisfied that the Transport Assessment that accompanied the application has addressed the matters regarding traffic and highway safety and that there is insufficient evidence to show that the additional traffic, including during construction, would cause any significant harm to the Listed Building at No 45 Muxton Lane. A Flood Risk assessment has been provided and suitably worded conditions would deal with any concerns with regard to flooding. However, I am not satisfied that the harm that would be caused to the character and appearance of the surrounding countryside would be able to be significantly reduced by landscaping or other mitigation measures, secured by planning conditions.

### ***Sustainable Development and the Planning Balance***

35. For the purposes of this appeal, the appellant has accepted that the Council is able to demonstrate a five year housing land supply. There is nothing before me to show otherwise. Therefore, in terms of paragraph 49 of the Framework, I find that the Council can demonstrate a five year supply of deliverable housing sites. However, in considering whether or not relevant policies in the development plan are out-of-date, for the purposes of paragraph 14 of the Framework, I have examined the development plan policies, and in particular those that have been referred to in the reasons for refusal.
36. In terms of both the WLP and the TWCS, they predate the publication of the Framework and the period that they cover, which is 1995 to 2006 for the WLP and up to 2016 for the TWCS, has expired. The relevant TWCS policies include Policy CS7, which appears to me to be the most applicable Strategic Development policy to cover the appeal site, and Policy CS9. I have found for the reasons that I have previously given that WLP Policy OL6 and TWCS Policy CS11 are not relevant to the appeal site.
37. With regard to the consistency of the policies to those in the Framework, I find that the wording of TWCS Policy CS7 is such that it would apply a strict control over new development in the open countryside, even though it also states that outside the three identified settlements development will be limited. In this respect, it is inconsistent with the Framework, which does not include a blanket protection of the countryside for its own sake, but favours sustainable development. I have attached some weight to this Policy as it is the most relevant development plan policy to control where new development in the countryside would be directed, but have limited that weight due to the inconsistencies with policies in the Framework.

38. The Council has accepted that the housing figures contained in TWCS Policy CS1 are out-of-date, as they are based on the now revoked Regional Spatial Strategy, and that WLP Policy H9 has been superseded by TWCS Policy CS7, as it considers that the latter Policy is less absolute. As such, I am satisfied that most of the relevant policies to the determination of the appeal proposal are out-of-date in one way or another, and in particular with regard to the level of housing for which they provide and the protection given to the countryside. In these circumstances, paragraph 14 of the Framework applies the test that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, as specific policies in the Framework do not indicate development should be restricted.
39. The Framework acknowledges that planning law<sup>2</sup> requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. However, it also suggests that it is highly desirable that local planning authorities should have an up-to-date development plan in place. In this respect, the Council's eLP has recently been the subject of an Examination in Public (EiP). The interim findings of that Inspector are given in a note, dated 30 March 2017. These include concerns about the housing site selection methodology, which has led the Inspector to conclude that the housing site selection exercise underpinning the Local Plan is flawed and that this calls into question the ability to reach a finding of soundness. He has recommended that those housing site allocations that have been identified but have not gained planning permission or consent be deleted. As such, I have attached limited weight to the eLP.
40. In weighing the adverse impacts against the benefits of the proposal, I have assessed it against the three dimensions of sustainable development given in the Framework. I have included the economic benefits of the jobs that would be created during construction, a potential increase in spending to support local businesses and services and the economic activity that would be generated by the increase in the supply of market and affordable homes. It would only make a modest contribution to support infrastructure in order to mitigate its effects.
41. The social benefits would be related to the market and affordable housing. The proposal would provide up to 29% of the housing units as affordable, which would be secured by a planning condition that would ensure that at least 80% would be for rent. Although this is below the Council's target for the area, which is set out as 40% in TWCS Policy CS7, it would nevertheless help to address the Council's acknowledged need for affordable housing. As the Framework aims to boost significantly the supply of housing, the addition of up to 78 houses that the proposal would supply would be a significant benefit.
42. With regard to the accessibility of the site to services and facilities, the contributions that the proposal would make towards them would only mitigate the lack of on-site services and facilities that it would provide. The proposal would however offer public access to areas of the site that are currently not officially accessible to the public, which would be of moderate benefit. The social harm that would be caused would be to the attractiveness of the footpaths across the southern field for recreational purposes during construction and following completion of the development.

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<sup>2</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

43. The most severe adverse effects of the development would be environmental. Whilst there would be some biodiversity benefits from the management of three of the fields for wildlife and conservation, the loss to built development of what I consider to be an important and attractive part of the countryside that provides a valued visual amenity to users of footpaths, local residents within Muxton and an important contribution to defining the edge of the settlement would result in substantial harm to the environment.
44. The proposal would involve the loss to agricultural use of some Grade 2 and Grade 3a agricultural land, as identified on the broad agricultural land classification maps. This would represent Best and Most Versatile agricultural land in accordance with the Framework. However, only part of the appeal site that would be developed for housing has been classified as Grade 3a, with the majority of it being Grade 3b. Furthermore, the Council has not objected to the proposal on this basis. As such, I have attached limited weight to this matter in assessing the adverse effects.
45. In reaching my overall conclusions below, I have weighed the very significant adverse effects of the proposal on the environment against the above benefits, of which the most significant result from the provision of market and affordable housing. In doing so, I have also attached what I consider to be the appropriate weight to other relevant matters that have been raised in relation to the economic, social and environmental dimensions of sustainable development given in the Framework, having regard to the weighted balance given in paragraph 14.

### ***Overall Conclusions***

46. I have found that relevant development plan policies are out-of-date for the purposes of paragraph 14 of the Framework. Although I have not found against the proposal with regard to its effect on the delivery of SUEs and associated infrastructure and the sustainability of the location of the site, it would have a significant adverse effect on the character and appearance of the surrounding countryside. It would be in conflict with the development plan as a whole, with particular reference to TWCS Policy CS7, and this, together with the harm that I have identified would significantly and demonstrably outweigh the benefits. As such, the proposal would not represent sustainable development in accordance with the Framework. There are no material considerations that are sufficient to justify the grant of planning permission. Therefore, for the reasons given above and having regard to all relevant matters raised, I conclude that the appeal should fail.

***M J Whitehead***

INSPECTOR

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Jones	Of Counsel, instructed by Jonathan Eatough, Assistant Director, Telford & Wrekin Council
He called	
Fiona Fyfe BSc(Hons) MA(Dist) MA CMLI	Director, Fiona Fyfe Associates
Katherine Stephens BSc(Hons) MA DipUD MRTPI	Team Leader, Development Management Department, Telford & Wrekin Council

FOR THE APPELLANT:

Jonathan Easton	Of Counsel, instructed by Gladman Developments Ltd
He called	
Keith Nye BA(Hons) DipLA MArch CMLI	Director, FPCR Environment & Design Ltd
Kevin Waters MSc BSc(Hons) MRICS MRTPI	Director, Gladman Developments Ltd

INTERESTED PERSONS:

Philip Loughlin MBA BA(Hons)	Local resident and a spokesperson for the 'Campaign against the over development of Muxton Lane'
Brian Taylor	Local resident and a spokesperson for the 'Campaign against the over development of Muxton Lane'

### DOCUMENTS

#### Documents submitted after opening the Inquiry

- INQ 1 Suggested planning conditions, submitted by the Council on 4 April
- INQ 2 Appellant's Note and Examination Inspector's Note on the Examination of the Telford & Wrekin Local Plan (2011-2031), submitted by the appellant on 4 April
- INQ3 Extract from the Shropshire Historic Landscape Character Assessment-Final report, submitted by the appellant on 4 April
- INQ4 Extract of Glossary from the Landscape Sensitivity Study, submitted by the appellant on 4 April
- INQ5 Figure A2: Landscape Cultural Sensitivity Map from the Landscape Sensitivity Study, submitted by the appellant on 4 April
- INQ6 Draft S106 Agreement, submitted by the appellant on 4 April
- INQ7 Opening points on behalf of the appellant, submitted by the appellant on 4 April
- INQ8 Opening Statement on behalf of the local planning authority, submitted by the Council on 4 April
- INQ9 Extract from an Approach to Landscape Character assessment, Natural England 2014, submitted by the Council on 4 April
- INQ10 List of relevant emerging Telford and Wrekin Local Plan policies, submitted by the Council on 4 April
- INQ11 Community Infrastructure Levy Regulations 2010 Statement of Compliance, submitted by the Council on 4 April
- INQ12 Extract from the Town and Country Planning (Development Management Procedure) (England) Order 2015, submitted by the Council on 5 April
- INQ13 Copies of e-mails regarding the emerging Telford and Wrekin Local Plan, submitted by the appellant on 5 April
- INQ14 Inspector's response to the Council, 10 March 2017, with regard to the emerging Telford and Wrekin Local Plan, submitted by the appellant on 5 April
- INQ15 Copy of the speech on behalf of Muxton Community, read by Philip Loughlin, submitted by Philip Loughlin on 5 April
- INQ16 Notes of the speech read out by Brian Taylor, submitted by Brian Taylor on 5 April
- INQ17 Telford and Wrekin Local Plan Examination in Public response to the Inspector's interim note of 30 March 2017, submitted by the Council on 5 April
- INQ18 Council's response to the Inspector's interim note of 30 March 2017, submitted by the Council on 5 April
- INQ19 Copy of the e-petition, submitted by Philip Loughlin on 5 April
- INQ20 Plan of the Haygate Road appeal site, submitted by the Council on 6 April
- INQ21 OS Extract showing the Shropshire Way in the vicinity of the Haygate Road appeal site, submitted by the appellant on 6 April
- INQ22 Copy of the Shropshire Way route map, submitted by the Council on 6 April
- INQ23 Extract from the Agricultural Land Classification Map, submitted by the appellant on 6 April
- INQ24 Plans of the suggested itinerary for the site visit, submitted by the appellant on 6 April
- INQ25 Revised list of suggested planning conditions, submitted by the appellant on 6 April

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- INQ26 Application for costs on behalf of the appellant, submitted by the appellant on 6 April
- INQ27 Certified copy of engrossed S106 Agreement, submitted by the appellant on 7 April
- INQ28 Council's suggested changes to the revised list of suggested planning conditions, submitted by the Council on 7 April
- INQ29 Court of Appeal Judgment in Watermead Parish Council v Aylesbury Vale District Council [2017] EWCA Civ 152, submitted by the Council on 7 April
- INQ30 Extract from The Hedgerow Regulations 1997, submitted by the Council on 7 April
- INQ31 Closing submissions on behalf of Telford and Wrekin Council, submitted by the Council on 7 April
- INQ32 Closing submissions on behalf of the appellant, submitted by the appellant on 7 April
- INQ33 Council's response to the application for costs by the appellant, submitted by the Council on 7 April
- INQ34 Agree list of suggested planning conditions, submitted by the appellant on 7 April

### Appeal Documents

- APP1 Proof of Evidence of Katherine Stephens on behalf of Telford & Wrekin Council
- APP2 Appendices to Proof of Evidence of Katherine Stephens on behalf of Telford & Wrekin Council
- APP3 Landscape Proof of Evidence of Fiona Mary Fyfe on behalf of Telford & Wrekin Council
- APP4 Appendix to Landscape Proof of Evidence of Fiona Mary Fyfe on behalf of Telford & Wrekin Council
- APP5 Proof of Evidence of Kevin Andrew Waters on behalf of the appellant
- APP6 Appendices to Proof of Evidence of Kevin Andrew Waters on behalf of the appellant
- APP7 Proof of Evidence in relation to Landscape and Visual Matters of Keith Nye on behalf of the appellant
- APP8 Appendices to Proof of Evidence in relation to Landscape and Visual Matters of Keith Nye on behalf of the appellant
- APP9 Supplementary Proof of Evidence in relation to Landscape and Visual Matters of Keith Nye on behalf of the appellant
- APP10 Appendices to Supplementary Proof of Evidence in relation to Landscape and Visual Matters of Keith Nye on behalf of the appellant
- APP11 Statement of Common Ground between the appellant and Telford & Wrekin Council
- APP12 Agreed Chronology

### Core Documents

- CD 1 Submitted Planning Application Documents
  - 1.1 Application Covering Letter, Application Form and Certificates
  - 1.2 Location Plan
  - 1.3 Illustrative Framework Plan
  - 1.4 Design and Access Statement
  - 1.5 Landscape and Visual Assessment

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- 1.6 Transport Assessment
- 1.7 Travel Plan
- 1.8 Ecological Report
- 1.9 Arboricultural Report
- 1.10 Flood Risk Assessment
- 1.11 Foul Drainage Analysis
- 1.12 Air Quality Assessment
- 1.13 Noise Assessment
- 1.14 Archaeological Desk Based Assessment
- 1.15 Socio-Economic Statement
- 1.16 Planning Statement (Including S.106 HOT's)
- 1.17 Statement of Community Involvement
- CD 2 Additional and amended documents submitted after Validation
- 2.01 Supplementary Foul Drainage Analysis Report
- 2.02 Phase 1 Site Investigation Report
- 2.03 Outline Biodiversity Management Plan
- 2.04 Bus Service Technical Addendum
- 2.05 Great Crested Newt Response and Plan
- 2.06 Management Plan Costings
- 2.07 Revised Framework Plan (5701-L-02 Rev O)
- 2.08 Revised Sections
- CD 3 Correspondence with Telford and Wrekin Council
- CD 4 Telford & Wrekin Council Decision Notice
- CD 5 Telford & Wrekin Council Planning Officers Report to Planning Committee
- CD 6 First (Quashed) Appeal decision Ref APP/C3240/W/15/3010085
- CD 6A Haygate Road, Wellington Appeal Decision Ref APP/C3240/W/15/3025042
- CD 7 Update Committee Report considering the instant appeal (14 December 2016)
- CD 8 Minutes of 14 December 2016 Committee Meeting
- CD 9A Wrekin Local Plan 2000 (Extracts)
- CD 9B Wrekin Local Plan 2000 – Proposals Map (Extract)
- CD 9C Wrekin Local Plan 2000 – Saving Direction 7 September 2015
- CD 10 Telford & Wrekin Core Strategy (2007) [Extracts]
- CD 11 draft Telford & Wrekin Local Plan Consultation (August 2015)(Extract - p94)
- CD 12 draft Telford & Wrekin Local Plan Consultation Map
- CD 13 Telford & Wrekin Green infrastructure evidence and analysis document (2013)
- CD 14 Telford & Wrekin Council Landscape Sensitivity and Capacity Study (2009)
- CD 15 Telford & Wrekin Council Landscape Sensitivity Study (2014)
- CD 16 Strategic Landscape Study (2015)
- CD16A Extracts from TWLP Publication Version
- CD16B G17 - Telford and Wrekin Housing Land Supply Statement 2016-2021 (Update January 2017)
- CD17-CD25 - not used
- CD 26 Agricultural Land Classification (extract from <http://magic.defra.gov.uk>)
- CD 27 National Landscape Character 66
- CD 28 Shropshire Council Landscape Typology (2006)
- CD29-CD35 - not used
- CD 36 Committee Report - Land between, Castle Farm Way and A5, Priorslee, Telford - TWC/2014/0980

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- CD37-CD49 - not used
- CD 50 Coalville Appeal Decision
- CD 51 Committee Report regarding First Application
- CD 52 Location Plan (2013-055/101) and Development Framework Plan from previous appeal (5701-L-02 rev L)- up to 110 dwellings
- CD 53 Gladman Statement of Facts & Grounds for s288 challenge of first decision
- CD 54 Consent Order quashing first appeal decision
- CD 55 Judgment of Mrs Justice Lang regarding Haygate Road decision
- CD 56 APP/C3240/W/15/3138598 - Mill Lane, Tibberton (8 March 2016)
- CD 57 APP/C3240/W/16/3149054 - 7 Stars Inn, Cold Hatton (25 July 2016)
- CD 58 APP/C3240/W/16/3143217 - the Priory, Dawley Road, Lawley (4 Nov 2016)
- CD 59 APP/K3415/A/14/2224354 - Watery Lane, Curborough, Lichfield WS13 8ES (13 Feb 2017) DL&IR
- CD 60 APP/G2435/A/14/2228806 - Money Hill Ashby-de-la-Zouch (15 February 2016) DL & IR
- CD 61 TWLP Examination - Council's Matter 6 Hearing Statement
- CD 62 Buses 5 & 5A timetable and routes
- CD 63 Buses 5 & 5A timetable and routes (Sept 2016)
- CD 64 Historic Landscape Assessment
- CD 65 Local Plan policies map (publication version)
- CD 66 SHLC Maps
- CD 67 Kestrel Close Newport Appeal Decision Ref APP/C3240/W/16/3144445





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## Appeal Decision

Inquiry held on 6-9 June 2017

Site visit made on 6 June 2017

**by H Baugh-Jones BA(Hons) DipLA MA CMLI**

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

**Decision date: 30 August 2017**

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**Appeal Ref: APP/C3240/W/16/3162166**

**Land south of Wellington Road, Muxton, Telford**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Seabridge Developments Limited against Telford and Wrekin Council.
  - The application Ref TWC/2016/0568, is dated 23 June 2016.
  - The development proposed is outline application for residential development of up to 150 dwellings and associated access, with all other matters reserved.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline with access to be considered at this stage. However, an indicative masterplan is included within the application documents, which shows how the site might be developed and I have also therefore had regard to this in my determination of the appeal.
3. The description of development has changed to that given on the application form. I have reflected this in the heading above.
4. The Inquiry opened on 6 June and sat for four days. At the Inquiry, during the discussion on planning obligations a request for a financial contribution along with a substantial amount of previously unseen evidence was provided on behalf of West Mercia Police. In the interests of fairness and natural justice, I adjourned the Inquiry on the final day of sitting in order for the main parties to respond to this evidence. The Inquiry was subsequently closed in writing. However, it transpires that the evidence provided by West Mercia Police was in fact received by PINS but a technical issue resulted in it not being put before me prior to the Inquiry. Nevertheless, I have had the opportunity to read these submissions and have taken them into account in reaching my decision.
5. I made an accompanied site visit on the first day of the Inquiry to view the site and walk the local footpaths including the Public Rights of Way (PRoWs) through a site off Muxton Lane which was the subject to a previous appeal. I also walked to Muxton Primary school and to the monument on Lilleshall Hill. Following my adjournment on the final day of the Inquiry, I also made an unaccompanied site visit to view the site from Shropshire Golf Course.

6. Whilst the appeal resulted from the Council's failure to determine the application within the prescribed period, the Council has clearly set out within its case the reasons upon which it would have refused the application and the development plan policies it would have applied.
7. Included in those reasons are issues to do with highway safety. However, these were subsequently considered to have been addressed based on amendments to the access arrangements by the appellant and the Council confirmed that it would not be pursuing this matter at the Inquiry. The amendments are detailed on drawing no. T0129-02 Rev. H-1. Accordingly, I have not referred to this matter in the main issues. Moreover, in view of the fact that I am dismissing the appeal for other reasons, any outstanding concerns relating to highway safety need not be considered any further because the development is not being granted planning permission.
8. I wrote to the main parties before the Inquiry to seek their views on the judgement of the Supreme Court of 10 May 2017<sup>1</sup> (the SC judgement). Both parties submitted responses before the Inquiry.
9. After the Inquiry was closed, the Council published the Proposed Main Modifications to the Telford and Wrekin Local Plan Submission Version (June 2016) (emerging Local Plan (eLP)). This was brought to my attention by the appellant. I therefore wrote to the main parties seeking their views on any bearing this updated position might have on the appeal and have reflected the responses received in my decision.
10. I have framed the first main issue differently to that within my opening remarks to more accurately reflect the evidence given at the Inquiry.

### **Application for costs**

11. At the Inquiry an application for costs was made by Seabridge Developments Limited against West Mercia Police. This application is the subject of a separate Decision.

### **Main Issues**

12. In light of all the submissions before me, the main issues are:
  - whether the proposal would accord with the development plan strategy for the location of housing including having regard to (i) its effects on the character and appearance of the area; and (ii) whether it would provide satisfactory access to shops and services
  - whether it would make satisfactory provision for affordable housing

### **Reasons**

#### *Location of housing*

13. The appeal site covers about 6.95 ha of agricultural land that is outside but contiguous with the built up area boundary on the north eastern part of the borough as defined on the Proposals Map contained within the Wrekin Local Plan (2000) (the WLP).

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<sup>1</sup> Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG; Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council [2017] UKSC 37

14. The development plan comprises the saved policies of the WLP and the Telford and Wrekin Core Strategy (2007) (the CS). CS policy CS1 concerns itself with the number of new homes to be delivered over the plan period to 2016. Policy CS7 states that development within rural areas will be focussed in three rural settlements. The Policy says that outside of these, development will be limited and in the open countryside, strictly controlled.
15. The decisions of the Inspectors in a number of recent appeals<sup>2</sup> have found CS policies CS1 and CS7 to be out of date because of being time-expired and that they variously carry limited or no weight. The Council has conceded that the tilted balance in paragraph 14 of the National Planning Policy Framework (the Framework) is engaged.
16. However, that does not mean policies CS1 and CS7 should be automatically discounted as they remain part of the statutory development plan and may be apportioned weight according to their consistency with the Framework. I am also able to give weight where relevant, to emerging policies based on their consistency with the Framework and where there are no unresolved objections within the examination process.
17. Policies CS1 and CS7 do broadly seek to create sustainable communities and provide a sequential approach by focussing new housing in the existing urban areas. Although policy CS7 applies a blanket restriction on development in the countryside which may not accord with the Framework's less restrictive approach, the Framework also seeks to protect the intrinsic character and beauty of the countryside, which is an issue I shall explore in more detail below. In these respects, the policies are in general conformity with the broad sustainable development objectives of the Framework.
18. I acknowledge that the housing figures set out in policy CS1 are derived from the now revoked Regional Spatial Strategy for the West Midlands so they are not based on any objective assessment of housing need (OAN) as required by the Framework. In this context, I note all of the concerns raised about where the eLP will seek to address future housing demand, such as in the form of urban extensions because the current development boundaries may not allow enough land to come forward.
19. However, in my view such matters generally fall outside the ambit of a Section 78 appeal, particularly bearing in mind that the Council can currently demonstrate a five year supply of housing land as required by the Framework. The Development Plan therefore, despite its age, is not constraining the supply of housing or failing to deliver the Government aim of boosting significantly the supply of housing. Therefore, although even more housing could be considered a benefit, it is not one that needs to occur now or would justify overriding the aims of the relevant planning policies.
20. Against all of this background, I consider that policies CS1 and CS7 may be accorded at least moderate weight in the overall planning balance. The appeal site is located immediately next to the settlement boundary but nonetheless falls outside it and is therefore within the open countryside as defined in the WLP. Accordingly, the proposal runs counter to the housing strategy and countryside protection aims of policies CS1 and CS7.

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<sup>2</sup> APP/C3240/W/15/3025042; APP/C3240/W/16/3143217; APP/C3240/W/16/3144445; and APP/C3240/W/16/3149398 (Core Documents 14.1; 15; 16; and 26.1)

21. Paragraph 14 of the Framework says that development proposals that accord with the development plan should be approved without delay; and where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.
22. In light of all the above, the Framework presumption in favour of sustainable development is a significant material consideration in this appeal. I am therefore pointed towards granting permission in the event that I do not find the benefits of the scheme to be significantly and demonstrably outweighed by adverse effects. It is to these matters that I now turn.

### *Character and appearance*

23. At my site visit, I observed that the surrounding landscape is of rolling character with some pronounced higher points such as Lilleshall Hill. There are wooded ridges, pockets of woodland on valley sides and well vegetated hollows, particularly along watercourses. This creates the impression that the landscape is relatively wooded, particularly to the south, as layers of vegetation stretch out along the contours of rising land.
24. The appeal site comprises a number of variously sized and shaped fields separated by mature hedgerows. A small part of the easternmost and largest of these would contain the site access from Wellington Road and the indicative masterplan also shows six dwellings next to it.
25. The majority of the proposed development would be located to the west of a well-vegetated brook. This is a strong feature of the local landscape and provides an element of containment of the site. The vegetation along the brook continues to the south east towards the nearby Shropshire Golf Course. It creates a distinctive boundary between the small to medium-scale fields next to the edge of the settlement and the much larger fields within the more open landscape to the east. From within the site there are views towards the surrounding wooded areas and the more open areas beyond including towards the prominent monument on Lilleshall Hill.
26. Although from within the site the urban edge has some visual influence, vegetation within residential gardens lessens the presence of the buildings and provides a reasonably well-defined edge to the settlement. Furthermore, whilst the vegetation along the brook provides a notional strong boundary, it is located away from the actual urban edge and in my view is a distinctive component of the rural landscape.
27. For the above reasons, I consider the site to be a distinctive part of the open countryside thus leading me to conclude that it shares a greater affinity with the rural landscape than it does with the urban area. Whilst I note the containment provided by the vegetation along the brook course, as I have found it to be a component of that rural area, it does not provide strong justification for a development between it and the urban boundary.
28. The submitted plans show the part retention of hedgerows within the development. Whilst I recognise the indicative nature of the layout, it seems clear to me that it represents the likely form of development given the number

of dwellings that would be built and their associated infrastructure. Accordingly, the existing hedgerows would be fragmented, which in combination with the spread of built development would result in the erosion of a substantial proportion of the distinctive pattern of smaller scale fields around the settlement edge.

29. I acknowledge that a recent development has taken place on two small-scale fields outside the defined urban boundary. However this does not in itself justify the further expansion of development into an area that provides an attractive setting to Muxton.
30. At the Inquiry I heard evidence that the site forms part of a landscape pattern considered to *reorganised piecemeal enclosure*. A comparison was made by the appellant with the nearby land to the south which was considered by the Inspector in the *Muxton Lane* appeal<sup>3</sup> to be *piecemeal enclosure* and thus of local rarity. The appellant sought to argue that the appeal site is therefore of less value than the area forming the Muxton Lane site.
31. Whilst I see the logic of that argument, the appeal site comprises smaller-scale fields in much the same way as the land to the south in comparison to the much more open landscape to the east. Taking the appeal site and the Muxton Lane site together, on the ground there is no clear difference between their respective characters and they function together to create a different, more intimate landscape than the area to the east of the brook.
32. Although a forensic analysis can therefore be made between the characteristics of various areas of land, in reality I am not persuaded that there is any significant material difference in character within the overall smaller-scale landscape to the east of Muxton. I therefore share the Council's view that it maintains a sense of time depth and some semblance of a historic field pattern and consider that it makes a valuable contribution to the setting to of this part of the urban area.
33. In assessing the residual landscape effects of the proposal, I have taken account of Landscape Sensitivity Study (LSS) commissioned by the Council, the final report of which is dated February 2014. The LSS assessed a number of land parcels including the south western part of the site (ref TWMu4 – 64) and the larger area to the east of the brook course (ref TWMu3 – 74). It assessed the former as being of medium sensitivity although the value of the small-scale field pattern was recognised. In the case of the latter, an assessment of high/medium sensitivity was based on its ecological value, openness and its role as part of the green buffer between Telford and Lilleshall.
34. Whilst these conclusions are noted, the LSS was undertaken to assess the capacity of the landscape to accommodate housing development as part of the Council's Strategic Housing Land Availability Assessment. A substantial proportion of the site has not been included in the LSS and as such, I consider it provides inconclusive evidence of the sensitivity of the appeal site as a whole. In any case, this does not alter my findings set out above.
35. I have also noted the deletion of the Lilleshall Village Strategic Landscape from the eLP following the Inspector's Main Modifications. Whilst the area between Muxton and Lilleshall will not therefore have such policy protection going

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<sup>3</sup> APP/C3240/W/16/3149398

forward, this does not diminish my findings that the proposal would cause harm to the landscape character of the area because of its effects on the smaller scale field pattern next to the settlement edge.

36. I pause here to consider the effects of the proposal on the appreciation of views from Lilleshall Hill. There are no other significant views from public vantage points and none were put forward at the Inquiry. At my site visit, I was able to look towards the site from a vantage point near to the monument on Lilleshall Hill. Whilst this is a prominent hilltop feature in many views from within and around Muxton, when looking towards the settlement the lower lying parts of the site are substantially screened by the existing vegetation along the brook. In addition, the part of the site that would contain the access and a small number of dwellings is situated on the other side of land that rises away from the settlement edge. The indicative plans include a substantial belt of new planting to the east of the proposed access. I am satisfied that the development would not be obtrusive in views from Lilleshall Hill and that it would not appear as an unacceptable visual encroachment into the countryside.
37. I have considered this matter in the context of the Inspector's conclusions in relation to the Muxton Lane site. That site is crossed by PRoWs, one of which leads towards Lilleshall Hill. Thus, it is clear that the Muxton Lane proposal would have had a direct effect on the experience of those using the PRoWs and would have been more visually obtrusive from public vantage points than the proposed development subject to this appeal. In this regard, I do not therefore consider that any direct comparisons can be drawn between the visual effects of the appeal scheme and the Muxton Lane site.
38. I turn now to the effects of the proposed access on the character and appearance of Wellington Road. Whilst I accept it functions as a distributor road and that it is marked and lit near to the settlement edge, there remains a distinct sense of a sudden change in character from the built-up confines of the settlement to the rural area.
39. The hedgerows along both sides of Wellington Road are substantial and contribute significantly to the sense that the area is distinctly rural immediately beyond the built-up area. Around 80m of hedgerow on the southern side of the road would be removed in order to facilitate the site access. A substantial proportion of hedgerow sits on top of a relatively high and steep bank. Therefore, the regrading that would be necessary to construct the access in combination with the introduction of additional white lining, other road markings and urbanising structures would create a heavily engineered and thus alien appearance to this part of Wellington Road. The proposed access would therefore appear as an urban intrusion into the rural area.
40. In forming this view, I have taken into account that the hedgerows are comprised of few species and thus, they are unlikely to be classed as 'important' for the purposes of the Hedgerow Regulations 1997. However, that belies their contribution to the area's character and appearance and thus, their significant landscape value.
41. The harm I have described above would be added to by the effects of the proposed dwellings next to the access although I accept that they could be omitted from the development as part of a reserved matters application. However, this does not alter my overall findings of unacceptable harm to the character and appearance of Wellington Road.

42. To conclude on this main issue, although the site is not open to significant public views and I agree with the appellant that the landscape does not meet the high hurdle of a 'valued landscape' for the purposes of Framework paragraph 109, the proposal would nonetheless result in serious harm to character and appearance of the area.
43. Overall, I consider the effects of these environmental harms to be significant and demonstrable, thus bringing the proposal into conflict with WLP policy UD2 that requires development to accord with a number of design principles and with the broad design objectives of CS policy CS 15. These policies are in general alignment with the Framework requirement for good design and I afford them significant weight. The proposal would also conflict with the similar objectives of eLP policy BE1. After the Inquiry closed, the Schedule Main Modifications to the eLP was published and I took submissions from the main parties on this. Given that no changes are proposed to the wording of policy BE1, taking into account the advanced stage of the eLP and having regard to paragraph 216 of the Framework, I also give this policy significant weight.

### *Access to shops and services*

44. CS policy CS9 requires development to promote sustainable forms of transport through providing improved accessibility by public transport, cycling and walking and minimising travel distances.
45. The distances from the site are agreed by the main parties. There are bus stops on Wellington Road within reasonable walking distance of all parts of the site. These would provide occupants with the option of regular public transport to higher order services in Telford centre, Stafford and Newport. As such, I am satisfied that the major centres would be accessible by a practical alternative to the car.
46. Moreover, access to the bus stops would be enhanced further by the creation of an access from the development to Wellington Road via the existing field track. Although currently the practicality of this link is affected by the lack of a footpath on the southern side of Wellington Road, at the Inquiry the appellant provided a letter<sup>4</sup> from a neighbouring property owner confirming a willingness to allow the construction of a footpath on part of his land. I am therefore satisfied that this matter could be addressed by means of a negatively worded planning condition prohibiting development taking place until this specified action had been taken i.e. a *Grampian condition*.
47. Having said that, some of the other significant day-to-day services and facilities would be a substantial walking distance away. From the site access, Muxton Primary School would be almost 2km away and the walking route would be a very convoluted one. This would also be the case even with the secured use of the neighbour's land to create a satisfactory field track access. In my view, this would be likely to discourage walking in favour of the car, particularly during inclement weather.
48. In reality, I am not convinced that the occupants of the proposed development would opt to use public transport to access the shops and restaurants in the vicinity of the clocktower which are likely to be attractive to them and to which they would be likely to make relatively regular visits.

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<sup>4</sup> Inquiry Document AP2

49. Although in certain respects the proposal would perform better than the Muxton Lane site in terms of access to shops and services, the ways in which it would not are significant. Added to this is the fact that the proposed number of dwellings would be almost twice that proposed for the Muxton Lane site. Thus, it could reasonably be concluded that the number of trips generated would be significantly higher from the appeal site.
50. It was nevertheless put to me that a Grampian condition could be used to secure access from the development along either Nelson Way or Merrington Road or both. Planning Practice Guidance says that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. I explored the possibility of this and the Council provided no prima facie case that there are 'no prospects' but neither has the appellant provided any substantive evidence to indicate otherwise. Given that I must make a judgement on all of the evidence – or indeed lack of it, I cannot reasonably conclude that the Nelson Way/Merrington Road accesses would be achievable in accordance with a Grampian condition.
51. Without either of these accesses, the degree of permeability between the proposed development and the existing urban area would be unacceptable and to my mind would lead to a level of car use at odds with policy CS9. I do not find this policy to be out of step with the Framework and therefore give it significant weight. I also give significant weight to the sustainable transport objectives contained within eLP policy C4, given that there is no evidence to indicate the existence of any unresolved objections to this policy within the Main Modifications process.

### *Affordable housing*

52. CS policy CS7 requires 40% affordable housing in the rural area. However, this requirement has been superseded by the evidence base to the eLP and policy HO 5 seeks to apply a 35% figure in rural locations and 25% in within urban areas. The parties are in dispute over whether the development should attract the 35% rural or 25% urban affordable housing requirement although there is general agreement that the eLP figures are the ones that should be used.
53. It is clear that the Council's internal consultee accepted the provision of 25% affordable housing at application stage and it is this requirement the appellant seeks to apply. However, the Council made clear in its substantive evidence to me at the Inquiry that it seeks to apply the higher figure.
54. I have already acknowledged that on a policy definition, the site lies outside the urban area boundary and is thus within the rural area. I nonetheless note the appellant's arguments that the site is located immediately next to the boundary and the provision of affordable housing would therefore have a clear, direct relationship with urban Telford. However, for the reasons that follow, I am not convinced that the urban affordable housing requirement of 25% is the one that should be applied in this case.
55. The eLP distinguishes between only urban and rural areas. It does not apply different criterion to sites adjoining the urban edge. Whilst the eLP is not currently part of an adopted development plan, there is nothing before me to indicate that the Examining Inspector has concerns in respect of the emerging

affordable housing policies. Moreover, these policies align with the third bullet point of Framework paragraph 50. I therefore give them substantial weight.

56. The appellant drew my attention to the Priorslee Sustainable Urban Extension, which was approved with a 20% requirement. However, it is clear from the evidence<sup>5</sup> that there were particular circumstances that led the Council to accept this level of provision, not least the additional off-site affordable housing contribution of c.£2m. In addition, the developer put forward a convincing case that the scheme would be unviable with the full level of on-site provision. I do not have any such viability evidence before me in this appeal.
57. For the above reasons, I consider it appropriate to apply the 35% requirement and the proposal would therefore run counter to eLP policy HO 5.

### **Planning Obligations**

58. The appellant has submitted executed planning obligations by way of two separate Unilateral Undertakings (UUs). In addition to making provision for affordable housing, the first of these provides for contributions towards off-site recreation, primary and secondary education, traffic calming, highways and a Travel Plan. A second UU makes provision for a contribution towards policing equipment and premises.
59. However, these contributions would have only mitigated the effects of the development and thus, they are neutral factors that could not be weighed in favour of the development in the planning balance. As I am dismissing the appeal for other substantive reasons, I do not consider these obligations further. I have already considered the matter of affordable housing and found the level of provision set out in the UU would not accord with eLP policy HO 5.

### **Other Matters**

#### *Best and Most Versatile (BMV) agricultural land*

60. The proposal would result in the loss of agricultural land of grades 2 and 3b. Grade 2 falls within the BMV category and paragraph 112 of the Framework says that local planning authorities should take into account the economic and other benefits of such land. Much of the land around Telford is good grade agricultural land and the Council has accepted some loss with in relation to the H1 and H2 sites along with an area of land around Newport. Although the Council does not consider the loss of BMV land to be determinative in this appeal, it considers it to be a further indicator of the proposal's general unsuitability. However, whilst I agree with the Council, the loss of BMV agricultural land would be modest and localised.

### **Planning Balance and conclusion**

61. For the proposal to be acceptable for the purposes of Framework paragraph 14, it must accord with the principles of sustainable development set out therein. There would be some benefits from the economic uplift associated with the construction of the development and the residual support for local businesses following its occupation and this attracts considerable weight.
62. In terms of a social role, whilst I accept that the existence of a 5 Year HLS does not place a ceiling on development, I have not found that relevant

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<sup>5</sup> Core Document 17.1

development plan policies for the supply of housing are currently failing to achieve the objectives of Framework paragraph 47 which seeks to boost significantly the supply of housing. I have had regard to the findings of the Inspector in the *Kestrel Close* appeal<sup>6</sup> who in calculating the HLS figure considered that even though it is on the cusp of the 5 year threshold, it is very much a worst case position. Thus, the existence of a 5 year HLS greatly limits the weight that I give to the proposal's social benefit in terms of increasing the supply of housing. Moreover, the proposal would fall short of providing the appropriate level of affordable housing. Thus, there is no benefit from this aspect of the scheme that might otherwise weigh in its favour.

63. In terms of harm lying with the environmental side, the limited links to the adjoining urban area and the reliance in some respects on private motorised transport points to an overall unsustainable access to shops and services thereby weighing heavily against the scheme. Also weighing heavily against the scheme is the significant and demonstrable environmental harm to the area's character and appearance.
64. In terms of BMV agricultural land, I am satisfied that the economic benefits of the development are sufficient to outweigh any harm. Therefore on balance, the proposal would not run counter to the Framework in respect of BMV agricultural land.
65. Taking all of the above into account, whilst the proposal would have some economic benefits, the weight this attracts would in my view be significantly and demonstrably outweighed by the adverse impacts, when assessed against the Framework taken as a whole. As such, the Framework does not indicate a decision other than in accordance with the Development Plan.
66. For the above reasons and having had regard to all other matters raised, including those by interested parties, the appeal does not succeed.

*Hayden Baugh-Jones*

Inspector

## APPEARANCES

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<sup>6</sup> APP/C3240/W/16/3144445

## M54 - Lilleshall Parish Council

Appeal Decision APP/C3240/W/16/3162166

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### FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover, of Counsel

Kings Chambers  
Instructed by Mrs Eileen Griffin,  
Solicitor, Telford and Wrekin Council

She called:

Ms Katherine Stephens  
BSc(Hons), MA Town  
Planning, PGDip Urban  
Design, MRTPI

Team Leader, Development  
Management, Telford and Wrekin  
Council

Mr Douglas Harman  
MLPM, CMLI

Douglas Harman Landscape  
Planning

### FOR THE APPELLANT:

Mr David Manley, of Queens Counsel

Kings Chambers  
Instructed by Grant Anderson

He called:

Mr Clive Self  
DipLA, CMLI, MA (Urban  
Des)

CSA Environmental

Mr Allan Mendelsohn  
MSc(Hons), MIHT, MCIT

ADL Transportation

Mr Andrew Williams  
DipTP, MRTPI

Advance Land and Planning

### INTERESTED PERSONS:

Miss Jenny Urey

Local resident

Mr Phillip Loughlin

Representing Muxton residents

Mr Stephen Devereux

Local resident

Mr Kevin Brace

Representing Campaign Against the  
Overdevelopment of Muxton

Mr Dick Raynsford

Donnington and Muxton Parish  
Council

Mr Ken Oldfield

Local resident

Mrs Maureen Leavey

Local resident

## M54 - Lilleshall Parish Council

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Mrs Jean Taylor	Local resident
Mrs Judith Nelson	Local resident
Brian Taylor	Local resident
Miss Nina Pindham	No5 Chambers Instructed by Ms Caroline Gutteridge, Solicitor, Warwickshire County Council Representing West Mercia Police
Mr Andrew Morgan	Place Partnership Representing West Mercia Police

## DOCUMENTS SUBMITTED AT THE INQUIRY

### Documents submitted by the appellant

- AP1 Appellant's opening notes
- AP2 Letter from Mr DelManso in relation to land purchase
- AP3 Landscape Advice from Mr Harman to Telford and Wrekin Council in relation to the H1 site including plans annotated by appellant
- AP4 Letter from David Wilson Homes in relation to Land off Fieldhouse Drive
- AP6 Proposed Right Turn Access Arrangements Drawing No T0129-02 rev H-1
- AP6 Signed, dated Planning Obligation (7 June 2017)
- AP7 Appellant's closing submissions
- AP8 Signed, dated Planning Obligation (12 July 2017)

### Documents submitted by the local planning authority

- LPA1 Opening on Behalf of Telford and Wrekin Council
- LPA2 Plan showing appeal site and suggested walking routes for site visit
- LPA3 Community Infrastructure Levy Regulations 2010 Compliance Statement
- LPA4 Email from Telford and Wrekin Council in relation to cost breakdown of highways works
- LPA5 Closing on Behalf of Telford and Wrekin Council

### Documents submitted by interested parties

- IP1 Appeal Statement from Miss Urey
- IP2 Letter from Mr and Mrs Taylor, residents of 20 Nelson Way
- IP3 News item in relation to residents' views on homes plan
- IP4 Appeal Statement from Mr Loughlin
- IP5 Appeal Statement from Mr Devereux
- IP6 Appeal Statement from Mr Brian Taylor
- IP7a Web page information relating to Lilleshall Neighbourhood Plan consultation
- IP7b Web page information relating to Donnington and Muxton Neighbourhood Plan consultation

### Other documents (submitted jointly by the main parties)

- ID1 Agreed list of planning conditions
- ID2 Additional Grampian planning condition relating to accesses via Nelson Way and Merrington Road



Lilleshall Neighbourhood Plan

Supporting technical paper

## Lilleshall Village Strategic Landscape

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### Background

- 1.1 The Lilleshall Village Strategic Landscape is one of three landscape areas in the borough of Telford & Wrekin which were identified and assessed in 2015 by the Telford & Wrekin Strategic Landscape Study.<sup>1</sup>
- 2.1 The study provides an analysis of three Strategic Landscapes, through understanding and description of landscape character, and the associated landscape and visual sensitivities. It also provides principles regarding development and change to ensure that the special qualities of each Strategic Landscape are not compromised.
- 3.1 The aim of the study was to Identify and assess the Strategic Landscapes and their sensitivity to development and change.

The objectives of the study were:

- To identify and evaluate the significant landscape characteristics, special qualities and key sensitivities of each Strategic Landscape.
- To identify the extent of each Strategic Landscape.
- To identify the broad parameters and nature of change which are compatible with the appropriate protection and conservation of the each Strategic Landscape.

The study was produced in line with the Best Practice guidance which was current at the time of writing.

### Identifying landscape areas

- 4.1 The Lilleshall Village Strategic Landscape is one of three landscape areas in the borough of Telford & Wrekin which were identified and assessed in 2015<sup>2</sup>.
  - Weald Moors
  - Lilleshall Village
  - Wrekin Forest

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<sup>1</sup> Telford & Wrekin Strategic Landscape Study December 2015 Fiona Fyfe Associates

<sup>2</sup> Telford & Wrekin Strategic Landscape Study December 2015 Fiona Fyfe Associates

## M54 - Lilleshall Parish Council

5.1 The Strategic Landscape Study was produced to identify the character and quality (and extent) of three *identifiable* landscape areas within the borough of Telford and Wrekin using recognised methodology.

6.1 The borough of Telford & Wrekin can be broadly split into the following landscape areas :

Urban :

- Telford
- Newport

Rural

- Wrekin
- Weald Moors
- River valleys
- Lilleshall

Rural/urban

- Severn Gorge

The character of both urban areas within Telford & Wrekin have been assessed (unpublished) and the character of the rural/urban landscape has been extensively assessed ( see footnote) .

The Wrekin area and its surrounding associated undulating landscape is defined, characterised, influenced and dominated by the Wrekin and Ercall hills.

The Weald Moors area is defined characterised , influenced by its substantially level drainage/wetland landscape

The river valleys area and its surrounding associated gently undulating landscape is defined, characterised and influenced by several small rivers and streams and isolated hamlets and villages

The Lilleshall area and its surrounding associated landscape is defined, characterised, influenced and dominated by Lilleshall Hill and its associated elevated village.

7.1 Three of the four possible rural landscape areas were prioritised for assessment as part of the Strategic Landscape Study using the following criteria :

1. They contained a regionally or sub regionally significant landmark
2. They contained existing landscape designations

3. They were not entirely identified by other existing designations<sup>3</sup>
4. They were previously identified as a designated landscape
5. They were subject to potential development pressure ( which could threaten their integrity, quality and character)

**Summary of assessment**

Landscape Area	Criteria				
	1	2	3	4	5
Wrekin	●	●	●		●
Weald Moors		●		●	
River valleys					
Lilleshall	●				●

Note : The study was commissioned to assist in helping to understand the type of development that would be appropriate in the area and would not be detrimental to its character.

**The Lilleshall Gap**

- 8.1 The Lilleshall Strategic Landscape area is located in the rural landscape between Telford and Newport. This landscape has been referred to as the Lilleshall Gap<sup>4</sup> in recognition that the area provides a rural separation between the two urban areas and therefore acts as an informal ‘green belt’, preventing the two urban areas from coalescing.
  
- 9.1 Notwithstanding the benefits or otherwise of a ‘Lilleshall Gap’, the Lilleshall Strategic Landscape Area ( for the purpose of the Strategic Landscape Study) is a landscape whose character and quality and extent has been analysed and identified for its own sake using recognised landscape character analysis ie. It has been assessed according to its character, not for its function to separate two urban areas. It is however acknowledged that the identification of the area as a strategic landscape could be used to support a case for a ‘Lilleshall Gap’.

This technical note has been produced by

Michael Vout BA, Dip LA, Dip UD, MAUD, MRTPI CMLI.

Mr Vout is a Member of the Royal Town Planning Institute, Chartered Member of the Landscape Institute and previous Manager of the Telford & Wrekin Policy Planning Team.

<sup>3</sup> T Pa this und

<sup>4</sup> Example : Muxton Lane Appeal : TELFORD & WREKIN COUNCIL REFERENCE TWC/2014/0612 PLANNING INSPECTORATE REFERENCE: APP/C3240/W/15/3010085

