

**Case Name:** *Fraser, R (On the Application Of) v Shropshire Council* [2021] EWHC 31 (Admin)  
(11 January 2021)

**Full case:** [Click Here](#)

**Commentary:** This was an unsuccessful challenge to Shropshire Council's grant of planning permission for extra care residential accommodation at a non-designated heritage asset within a conservation area.

The claimant was not opposed to the principle of redeveloping the Site to provide specialist housing for persons over 55 years of age which was intended to enable them to live independently, but with access to a range of on-site care and support as they grow older or develop greater care needs. The claimant's principal argument was that the permitted scheme failed to provide adequate open space for its intended residents.

The grounds of challenge were that the Council's policy on open space had been misinterpreted and applied inconsistently when compared with previous applications for the site, that the lack of open space in the proposals amounted to discrimination on grounds of age and disability, and that the Council had failed to have due regard to the public sector equality duty.

Dismissing the claim, the court held that the Council had been lawfully entitled to reach the conclusion that planning permission should be granted even if its policy on open space were breached. The court referred to the relevant development plan policy and its explanatory text which made clear that that the policy was to be interpreted with common sense and with an appropriate degree of flexibility.

The court was further satisfied that the Council had not discriminated on grounds of age or disability by approving a scheme with any less open space than would have been required for a development serving younger and/or able-bodied people. The claimant's other grounds of challenge were also dismissed on the basis that they were incorrect or had no substance.

*Case summary prepared by Safiyah Islam*