

# R (on the application of Day) (Appellant) v Shropshire Council (Respondent)

Case ID: 2021/0031

## Case summary

### Issue

- (1) When a local authority sells land which is subject to a statutory trust for public recreational purposes without complying with the relevant statutory requirements, does that trust continue or end? In either case, what are the legal implications for the authority and the buyer?
- (2) Are the existence of any (former) statutory trust and public recreation rights material considerations that need to be taken into account in granting planning permission?

### Facts

Shrewsbury Town Council sold a parcel of land to CSE Developments (Shropshire) Limited (“CSE”) on 4 October 2017. It is agreed between the parties that, prior to the sale, the land was subject to a statutory trust for the benefit of the residents of the area. In selling the site, Shrewsbury Town Council failed to comply with the statutory requirements contained in section 123(2A) of the Local Government Act 1972, namely the advertisement of the land for two consecutive weeks in a local newspaper and the subsequent consideration of any objections. Following the sale, Shropshire Council granted conditional planning permission to CSE to build 15 dwelling houses on the site on 8 November 2018.

Dr Day brought a judicial review claim challenging the grant of planning permission. The claim was allowed in part by the High Court, but the High Court refused any remedy as it concluded that it was highly likely that the outcome would not have been substantially different if the conduct complained of had not occurred. Dr Day’s appeal to the Court of Appeal was dismissed.

### Judgment appealed

[\[2020\] EWCA Civ 1751](#)

### Parties

#### Appellant(s)

Dr Peter David Day

#### Respondent(s)

Shropshire Council

### Appeal

#### Justices

Lord Lloyd-Jones, Lord Briggs, Lord Kitchin, Lord Burrows, Lord Richards

**Hearing start date**

7 December 2022

**Hearing finish date**

7 December 2022

**Watch hearing**

7 Dec 2022 [Morning session](#) [Afternoon session](#)