



Appeal Decision

Site visit made on 4 March 2014

by Susan Holland MA DipTP MRTPI DipPollCon

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

Decision date: 26 March 2014

Appeal Ref: APP/L3245/A/13/2209289

Former Oswalds Stores, Oswald Place, Oswestry SY11 2TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by United Trust Bank against the decision of Shropshire Council.
 - The application Ref 12/03718/FUL, dated 31 August 2012, was refused by notice dated 15 October 2013.
 - The development proposed is the demolition of existing buildings and erection of 5 dwellings with associated landscape works.
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Procedural Matters

1. Planning Practice Guidance was issued by the Department for Communities and Local Government (DCLG) on 6 March 2014. However, the Planning Guidance has no bearing on this decision.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues are the effects of the proposal (a) upon highway safety and convenience; and (b) upon the living conditions of future residents with reference to the availability of amenity space.

Reasons

Issue (a): Highway Safety

4. From its junction with Upper Brook Street, Oswald Place executes a marked bend before straightening out into Oswald's Well Lane. The appeal site has an extended frontage to the south side of Oswald Place, including part of the straight stretch and the inner edge of the bend, close to the junction. The proposed dwellings would occupy a continuous terraced frontage, up to the back edge of the footway: Units 4 & 5 following the curve, and Units 1-3 the straight frontage.
5. The proposed integral garages to Units 1-3 would open directly onto the footway, starting with garage Unit 3 at a point immediately after the end of the curve. The garage doors would be set virtually flush with the front elevation of the terrace. Drivers emerging from the garage doors onto the Oswald Place footway would have very restricted sight of the footway and carriageway that they were about to enter, and would be unable to see pedestrians approaching

along the footway, or drivers approaching from the direction of Upper Brook Street, until the vehicle had already crossed the footway and intruded into the carriageway. Pedestrians would be forced to take sudden evasive action.

6. In the absence of an adequate radius curve, it is likely that movements in and out of the garages would entail some manoeuvring within the carriageway. Entry to the garages on a western approach from Upper Brook Street would necessitate a preliminary swing across into the opposite carriageway. These and other manoeuvres would be likely to impede or confuse following drivers entering Oswald Place round the bend from Upper Brook Street. In addition, there would be potential for conflict between vehicles moving in or out of the proposed garages, and vehicles entering or leaving the MOT garage on the opposite side of Oswald Place.
7. The potential for collision between emerging vehicles and pedestrians, or between emerging vehicles and other vehicles moving in either direction along Oswald Place, would be considerable, and unacceptable. In conclusion, the appeal proposal would be likely to result in material harm to highway safety and convenience, and would not be *safe or accessible to all* in the terms of statutory development plan Policy CS6 of the Shropshire Core Strategy.

Issue (b): Living Conditions of Future Occupiers – Amenity Space

8. The appeal site is shallow, its depth tightly constrained by high walls of stone and brick which bound rear gardens and yards to properties fronting Upper Brook Street. The submitted plans show Units 1 & 2, of 3-storey height, to have small courtyard areas at the rear: but these would be heavily overhung and shaded by the upper storeys, leaving only short residual areas which, though open, would represent narrow passageways barely wider than a doorway. The open passageway to the rear of Unit 3 would be longer, but no wider. All passageways would be heavily shaded by garden walls to adjoining properties to the south. Proposed Unit 4 is not shown as having any access to the rear, and appears to have no amenity space at all. Unit 5 would have the largest potential courtyard area, with double doors opening onto it from the living room, and a side access from the street. However, the courtyard to Unit 5 would be heavily shaded by the brick wall which surrounds the yard attached to No.13 Upper Brook Street. The access to bin storage would be awkward: separate from the 'amenity' passageways, tortuous and long.
9. Whilst public parkland, including a children's play area, is located within easy walking distance of the site, this would not meet the most immediate needs for domestic amenity space. The very limited space to be provided would incorporate no features – such as a potentially sunny outlook, or attractive views, or balcony space – which might compensate for restricted size. In conclusion, the appeal proposal would result in material harm to the living conditions of future residents with respect to lack of useable amenity space, and would not meet the requirements of adopted Shropshire Core Strategy Policy CS6 that the scheme should *contribute to the health and wellbeing of communities*.

Other Matters

Living Conditions of Existing Occupiers - Outlook

10. The proposal would replace buildings which previously occupied the appeal site. Though these have now been demolished, the submitted OS map extract at

1:1250 scale indicates that these buildings covered a similar area: though there is no indication of their height. The dwellings now proposed would vary in height between 3 storeys (Units 1 & 2) and 2 storeys, the roof height descending from west to east so that the tallest new building would stand immediately adjacent to existing 3-storey dwellings at Kingswell House on Oswald Place. The appeal site lies to the north and north-east of the dwellings which front Upper Brook Street. Development on Oswald Mews, to the west, is of only 2 storeys and is far enough away not to restrict the passage of sunlight. The garden depth of properties in Upper Brook Street increases westwards. In these circumstances, the proposal would not, on balance, materially or unreasonably restrict the outlook or availability of daylight and sunlight to the rear of neighbouring houses on Upper Brook Street.

The previous appeal

11. A previous appeal against the refusal of a planning application for the erection of six 3-storey dwellings was dismissed in January 2012 under ref. 2163733 for reasons which included the overbearing effect of the proposal upon the neighbouring properties in Upper Brook Street, and the possibility of overlooking. The current proposal would reduce the height of new development to 2 storeys in the area closest to the Upper Brook Street properties. In combination with the relative angle between the 2 rows of dwellings, this would be sufficient to avoid the issues of overlooking and loss of outlook raised by the previous scheme.

The Conservation Area

12. The proposed scheme is attractively designed, and would accord with the arrangement, variety and roofscape of the surrounding buildings. It would therefore meet the requirement that new development should preserve or enhance the character or appearance of the Conservation Area (in this case, the Oswestry Town Conservation Area).

Overall Conclusion

13. The overall conclusion, on the basis of the main issues and material considerations, is that the appeal should be dismissed.

S Holland

INSPECTOR