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# Appeal Decision

Site visit made on 26 August 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 9 October 2014**

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**Appeal Ref: APP/L3245/A/14/2218825**

**Overdale, Middleton Road, Oswestry, Shropshire, SY11 2PS**

- 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 Severnside Housing Association against the decision of Shropshire Council.
  - The application Ref 13/01142/FUL, dated 22 March 2013, was refused by notice dated 13 December 2013.
  - The development proposed is demolition of an existing derelict dwelling and redevelopment of the site to provide 12 x two bed flats in a three-storey block with ancillary car parking.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - The effect of the development proposed on the character and appearance of the area;
  - Whether the proposal would make adequate provision for local needs affordable housing.

## Reasons

### *Character and appearance*

3. The appeal site is situated with the town of Oswestry within an established residential area. Overdale, the dwelling on the site, is a large, detached character property which has become derelict. The dwelling is situated within a large plot covered with trees and mature vegetation which has become overgrown. The appeal site is situated at the junction of Middleton Road with Beech Grove. The proposed building would therefore have two elevations facing towards the highway. However, the proposal has been orientated to face towards Middleton Road. I also understand that the design of the proposal is intended to incorporate features found within properties along Middleton Road. I have therefore assessed the appeal proposal in relation to its effect on the character and appearance of Middleton Road close to the appeal site.
4. The majority of properties along Middleton Road close to the appeal site are large, two storey detached and semi-detached dwellings. Although I note that

the property immediately next to Overdale is a dormer bungalow, this is an individual property. Most of the dwellings are set back from the road behind landscaped front gardens and driveways (equivalent to a distance of approximately the length of a car). Dwellings are constructed in a mix of brick and render. Whilst there is some diversity in individual appearance, the majority of properties are of a similar large scale and form. These similarities assist in establishing a pleasant harmony in the streetscene of imposing dwellings set within spacious plots. This defines the character of the area close to the appeal site.

5. The appeal proposal would see the demolition of the existing dwelling on the appeal site. The proposed replacement building would be two and a half storeys high, with rooms in the roof space. It would contain twelve, two bedroom apartments. A vehicular access off Beech Grove and a car park would also be provided as part of the proposal. A small grassed area would be provided at the front of the building proposed. The existing stone boundary wall which runs along the boundary with Middleton Road would be retained but lowered in height to approximately 1 metre. A substantial part of the mature vegetation on the appeal site would also be retained as part of the appeal proposal.
6. The proposed building would be taller than most of the two storey properties along Middleton Road and the individual bungalow next to the appeal site. However, the eaves of the roof of the proposed building would be set at the bottom of the second floor windows. It would therefore be lower in height than a typical full three storey building. The photomontages submitted with the application show the proposed building from various public viewpoints in the highway and give a visual indication of how it would integrate into the existing streetscene. Whilst I appreciate the concerns raised by local residents and Councillors regarding the proposed height of the building, the photomontages do show that the proposal would not be seen as significantly higher than the majority of existing dwellings in the area.
7. The front elevation of the proposed building facing towards Middleton Road would run along almost the entire plot length. This would result in a front elevation wider than other dwellings close to the site. However, the single entrance point under a section of glazing and timber in the central part of the proposed front elevation would introduce some visual interest in the front elevation. I consider that this feature would successfully ensure that the proposed building would be read as two separate buildings, reflecting the semi-detached design of dwellings close to the appeal site.
8. The proposed design of the building would also incorporate several features which reflect the appearance of dwellings close to the appeal site. For example, projecting gables and bay windows. The materials proposed in the construction of the building, including red brick and render, would also reflect those used in the area. The proposal does also incorporate dormer windows and timber cladding. Whilst I acknowledge these may not be existing features in the area, I consider that this in itself would not be significantly harmful.
9. Drawing matters together, whilst acknowledging that the appeal proposal would be wider and taller than existing dwellings this would not be to a significant degree. Additionally, the majority of dwellings in the area are of an imposing scale and the proposed building would be seen in this context and the

landscaping retained as part of the proposal would assist in integrating it successfully into the streetscene.

10. Accordingly, I conclude that the development proposed would not be harmful to the character and appearance of the area. It would therefore not conflict with policy CS6 of the Council's Core Strategy (CS) which states, among other things that, to create sustainable places, development will be designed to a high quality, ensuring that all development is appropriate in scale and design taking into account the local context and character. The proposal would also be consistent with paragraph 60 of the National Planning Policy Framework (the 'Framework') which states, among other things, that planning decisions should not attempt to impose architectural styles or particular tastes.

#### *Affordable housing provision*

11. Policy CS11 of the CS requires all new open market housing development to make appropriate contributions to the provision of local needs affordable housing. The proposal would comprise 12 apartments, 10 of which would be for sale on the open market. A Unilateral Undertaking was submitted with the appeal which aims to ensure that two apartments would be provided as affordable housing units. I understand that this would amount to an over provision of affordable housing on the site, taking into account policy requirements.
12. Based on the information before me, I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such, they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
13. However, I do have concerns about the document itself and whether the Council could rely on it to secure the contribution. Specifically, no evidence of proof of title has been provided and not all of the land is registered. I cannot therefore be certain that the Undertaking would deliver the affordable housing units required under the terms of policy CS11.
14. Accordingly, I must conclude that the proposal would not make adequate provision for local needs affordable housing. The proposal would therefore conflict with policy CS11 in this regard. Whilst not a decisive factor in relation to this issue, I also note that there is also a spelling error on the front sheet of the Undertaking relating to the address of the appeal site which would need to be corrected.

#### **Other Matters**

15. Given the sustainable location of the site and the fact that the proposal would see the re-use of a derelict site, the Council does not dispute that the general principle of the development proposed is acceptable. I have therefore had regard to the National Planning Policy Framework's presumption in favour of sustainable development (paragraph 49) and this weighs in favour of the development proposed.
16. The appeal site is bordered by mature hedging and trees. These would be retained as part of the proposal, and in the case of the southern boundary of the site, supplemented with additional planting. I consider that the boundary treatments proposed would therefore ensure effective screening of the proposal

such that the privacy of neighbouring occupants would not be affected. Additionally, a suitable separation distance between the closest neighbouring property (approximately 9 metres) and properties on the opposite side of the highway (approximately 24 meters) could be achieved. Therefore, based on the information before me, I am satisfied that the proposal would not be harmful to the living conditions of neighbouring occupants with regard to privacy and light.

17. Additionally, based on the information before me, suitable drainage, tree protection, vehicular access and bat mitigation could be achieved, subject to conditions. Although I note the concerns expressed by third parties as to the levels of parking provision proposed, I understand that there is no local set minimum standard for parking provision. Taking account of the appeal site's sustainable location, close to the town centre, I am satisfied that acceptable levels of on-site parking provision are proposed. However a lack of harm in these respects does not weigh in favour of the proposal and this is therefore a neutral consideration.
18. Since the Council's determination of the original application, the Council have submitted information with the appeal which indicates that they now have a five year supply of housing land in place. Although the appellant does not specifically dispute this information, it is their position that the updated housing land supply situation is not directly relevant to this appeal. Whilst I have had regard to the relevant information submitted, given that the general principle of the development is considered to be acceptable, this has not been a decisive consideration in my determination of this appeal.
19. I appreciate that the council officer recommended the original application for approval. However, Councils are not bound to accept the recommendations of their officers.

### **Conclusion**

20. I have found that the appeal proposal would not be harmful to the character or appearance of the area. However, I have also found that I cannot be certain that the submitted Undertaking would deliver the affordable housing contribution required by policy CS11. In light of the importance placed on increasing the supply of local affordable housing in local policy, I consider that this matter outweighs my conclusion on the first main issue.
21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR