



## Appeal Decision

Site visit made on 20 June 2023

**by H Smith BSc (Hons) MSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 June 2023**

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### **Appeal Ref: APP/L3245/W/23/3314590**

### **13 Oswald House, Oswald Road, Oswestry, Shropshire SY11 1RB**

- 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 Mr D Wainwright (St David Oswald Limited) against the decision of Shropshire Council.
  - The application Ref 22/03805/FUL, dated 18 August 2022, was refused by notice dated 8 December 2022.
  - The development proposed is change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are the effect of the proposal on:
  - the living conditions of future occupants, with specific regard to the provision of outdoor amenity space, and whether it has been demonstrated that the proposal would secure the provision of an off-site open space improvements contribution; and
  - highway safety, with regard to parking provision and access for deliveries and refuse collection.

### **Reasons**

3. The appeal site comprises a vacant five-storey (including basement) traditional style property located within the centre of Oswestry. The surrounding area is predominantly mixed use.

#### *Living Conditions*

4. The proposal seeks permission for the conversion of the existing building to create a 14-bedroom house in Multiple Occupation (HMO) with 2 self-contained residential units.
5. The proposal would make provision for an area of outdoor amenity space to the rear of the appeal property. This area would be shared by the proposal's future occupiers. An enclosed garden area would also be provided for flat 1.
6. The proposal's shared outdoor amenity space would be of limited size. Furthermore, due to the positioning of the proposed cycle storage, waste stations and the enclosed garden area for flat 1, this would result in the shared

area being an awkwardly shaped space that would limit its usability. Therefore, its use as a shared space would feel constrained, reducing unacceptably its quality and level of practical use. Similarly, the enclosed garden space for flat 1 would be small.

7. I find that these spaces would not be large enough to provide sufficient space for the needs of future occupier's, such as clothes drying or enjoying garden activities and relaxation with outdoor seating. Consequently, the proposal would not provide adequate living conditions for future occupants, having regard to the amount of outdoor amenity space.
8. The proposal would provide internal laundry facilities, including driers, for its future occupants. Whilst this would be a laudable approach, the proposal would not provide adequate space for outdoor clothes drying.
9. I acknowledge that there are recreational spaces within a reasonable walking distance of the appeal site. However, as the recreational spaces are public spaces they would be shared with non-residents and are therefore not a private space.
10. Based on the number of bedrooms proposed, were the proposal to be granted planning permission, the Council indicate that a financial contribution towards open space improvements would need to be made. The appellant has referred to a Section 106 legal agreement to secure the provision of an off-site open space improvements contribution. Although the appellant has submitted a draft Heads of Terms, I do not have a signed Section 106 legal agreement before me. In the absence of such an agreement I am unable to conclude whether the provision of an off-site open space improvements contribution can be secured.
11. Therefore, the proposal fails to accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (Core Strategy) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). Collectively these policies, amongst other things, seek to ensure development supports the health and well-being of the area's inhabitants. In addition, the proposal would also fail to accord with paragraph 130 of the National Planning Policy Framework (Framework), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.
12. In reaching this conclusion I have had regard to the guidance contained within the Council's Type and Affordability of Housing Supplementary Planning Document (SPD) (2012), which seeks to ensure development provides acceptable living standards for occupants in terms of external private amenity space.
13. The Council's decision notice makes reference to Policy CS11 of the Core Strategy. However, I do not consider this policy to be relevant to this main issue.

#### *Highway Safety*

14. The appeal property is close to bus routes, and I observed that the site is within easy walking and cycling distances of local services and facilities. Indeed, employment opportunities and retail facilities in Oswestry town centre are located within a short walk of the site, including a number of supermarkets.

Therefore, the appeal property is reasonably accessible by public transport, walking and cycling.

15. An area to the side of the appeal property would provide parking for up to 5 cars and a turning area so that vehicles can enter and egress the site in forward gear. I observed that on-street parking and public car parking facilities are available for residents in the nearby area.
16. The Council is concerned that the proposal would add to on-street parking demand that could lead to highway safety issues. However, the Highways Authority has no objection to the proposal, subject to suggested conditions.
17. The appeal property in its previous form was occupied by commercial uses on its ground floor and basement, and by residential use on its upper floors, which could have consisted of families with several adults and teenagers. Therefore, the previous uses could have attracted a high level of car ownership with its associated parking demand. I also note from the Officer's report that there is no history of the previous uses generating any issues or complaints with regard to traffic movement and car parking.
18. The proposal before me is mainly for single bed occupancy. In my view, the level of activity generated by the future occupant's comings and goings for work, education, leisure, and shopping purposes etc would not be dissimilar to that of the previous uses, given its good access to services and facilities and to sustainable modes of transport.
19. As such, the proposal would not be significantly different to that of the previous uses with regard to off road parking demand. Furthermore, a condition could be imposed to control the number of persons residing at the property.
20. It is suggested that the proposal could cause a reduction in availability of on-street parking provisions for nearby commercial uses and residential properties. However, no tangible evidence has been provided to articulate any existing issue or demonstrate any potential harm that could arise if the development were to go ahead. Although only a snapshot in time, during my site visit I did not observe any particular parking issues, and numerous spaces were available.
21. In addition, the proposal would include a cycle stand and secure cycle storage with provision for around 16 bicycles, and the proposal is within easy walking distance to a bus station. This would encourage alternative means of transport other than the private car.
22. Therefore, future occupiers of the appeal building would not be reliant on a private motor vehicle to access services and facilities given the sustainable location of the site and the proposal's provision of cycle storage and good access to nearby bus stops. In addition, future occupants would be aware of the parking constraint at the appeal site prior to choosing to live there.
23. Therefore, in the absence of substantive evidence to the contrary, the proposal would not exacerbate on road parking to the extent that highway safety would be materially harmed.
24. The Council is also concerned that the proposal would provide inadequate access for deliveries and refuse collection. However, there would be unobstructed access and a turning area to the side of the property. It should

therefore be possible for delivery vehicles and refuse collection to access the site safely. Moreover, the appeal site's previous uses would have experienced an existing need for delivery vehicles and refuse collection to access the site. On this basis, I am satisfied that the proposal would provide adequate access for such vehicles.

25. Paragraph 111 of the Framework is clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. I am also mindful that the Highway Authority did not object to the proposal. As such, I find that the proposal would not result in a harmful effect on parking provision and highway safety in the area.
26. For the reasons given, the proposal would not be harmful to highway safety, with specific regard to parking provision and access for deliveries and refuse collection. As such, the proposal for this main issue would comply with Policy CS6 of the Core Strategy. Amongst other things, this policy seeks to ensure development is located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
27. The Council's decision notice makes reference to Policy CS11 of the Core Strategy and Policy MD2 of the SAMDev. However, I do not consider these policies to be relevant to this main issue.

### **Other Matters**

28. In addition to the issues already covered above, other concerns raised included an increase in anti-social behaviour and drug taking in the area, and concerns over the type of people who would occupy the premises. Whilst I accept that these matters are of great importance to local residents, these are concerns which are either non-planning matters or are controlled through other separate legislation and bodies such as Licencing, Environmental Health, and the Police.
29. Concerns regarding drainage issues have also been raised. However, the Council's Drainage Manager raised no objections to the proposal on drainage matters. Based on the evidence before me, I see no reason to disagree.
30. The appeal site is located within Oswestry Conservation Area and is opposite both the Grade II listed Old Railway Station and Goods Shed, and the appeal property itself is a non-designated heritage asset. I am required to have regard to the preservation and setting of these heritage assets. However, given that I am dismissing the appeal, the proposed development would not result in a change to the way in which these heritage assets are experienced. Therefore, I do not need to give this matter further consideration.

### **Planning Balance and Conclusion**

31. The proposal would provide residential units with good access to services and facilities in the area, including public transport. The proposal would also provide jobs during the construction process both directly and indirectly and would contribute to the wider economy of the local area. It would also make effective use of a redundant building and would provide flexible housing options for different groups at different times. However, given the small scale of the proposal, the provision of these residential units would not outweigh the harm identified.

32. The lack of harm I have found in regard to highway safety would be neutral in the balance. Thus overall, the modest benefits are insufficient to outweigh the harm I have found in regard to the living conditions of future occupants. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

*H Smith*

INSPECTOR