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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: 10 September 2014**

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**Appeal Ref: APP/L3245/A/14/2220436**

**53 Brimstree Drive, Shifnal, Shropshire, TF11 9PX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Kath Hemsley against the decision of Shropshire Council.
  - The application Ref 13/04159/OUT, dated 10 October 2013, was refused by notice dated 7 January 2014.
  - The development proposed is erection of 1 dwellinghouse adjoining 53 Brimstree Drive.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The application was submitted in outline with all other matters, except access, reserved. Documents were submitted with the application, including a Design and Access Statement and a plan, which give an indicative indication of the scale, appearance and siting of the proposal. These details have been taken into account in my determination of this appeal.

## Main Issue

3. The main issue is the effect of the development proposed on the character and appearance of the area.

## Reasons

4. No. 53 Brimstree Drive (No. 53) is an end of terrace dwelling situated in a modern housing estate within the market town of Shifnal. No.53 is located within a small cul-de-sac which is situated directly off the main thoroughfare of Brimstree Drive itself. The row of terraced dwellings of which the appeal dwelling forms part faces a similar row of dwellings on the opposite side of the cul-de-sac. This establishes a pleasant symmetry to the pattern of development.
5. No. 53 is situated at the junction of Brimstree Drive and the cul-de-sac. It is therefore in a visually prominent position. The appeal site currently comprises part of the garden area of No. 53. It is laid to lawn and separates the side of the appeal dwelling from its boundary with Brimstree Drive. The site is not enclosed by any boundary treatment. It therefore has the visual appearance of an area of open space which sweeps around the appeal dwelling, following the contour of the highway. This is mirrored by the arrangement of the dwelling

- on the opposite side of the cul-de-sac (No. 77) which has a similar open, grassed garden area at the junction with the highway.
6. This pattern of development, whereby dwellings are set back from the highway behind areas of open space, is mirrored on other parts of the housing estate within which No. 53 is located and is a distinctive feature. Overall this establishes a spacious and open character which enhances the symmetrical pattern of development in the vicinity of the appeal site. Given No. 53's visually prominent corner position, the area of open space which forms part of the appeal site therefore contributes positively to the character and appearance of the area. This is particularly so given the symmetry it creates with the open part of the garden area of No. 77. The contribution that the appeal site makes is not affected by the fact that it is in private ownership.
  7. The appeal proposal would see the creation of an additional dwelling which would be situated on the existing open garden area. Although the application was submitted in outline with all matters, except access, reserved, the submitted Design and Access Statement (DAS) does describe some likely characteristics of the appeal proposal. These include that it would be two storey, immediately adjoin and link with No. 53 and would be of a similar size and proportion to the existing dwelling. The proposed vehicular access would be via the cul-de-sac close to the existing vehicular access for No. 53.
  8. Taking those details into account, the proposed dwelling would therefore extend the existing terrace of dwellings, bringing it closer to the boundary with the highway. It would therefore extend the established building line on one side of the cul-de-sac. The building line of the terraced row on the opposite side of the cul-de-sac is set slightly forwards of the terraced row of which No. 53 forms part. I also understand that the open part of No. 77's garden area is slightly smaller than that of No. 53. However, there is a slight curve in the highway at this point. The existing pattern of development follows the contour of this. The proposed dwelling would therefore disrupt this pattern of development by bringing the building line closer to the highway at this point.
  9. The proposal would also result in the loss of a significant portion of the existing open garden area to the side and front of No. 53. This would be detrimental to the open and spacious character of the area. This is particularly so given the visually prominent position of the appeal site and its symmetrical appearance with the garden area of No. 77. For these reasons, I consider that the proposal would be harmful to the character and appearance of the area.
  10. As the application was submitted in outline, I have considered whether a proposed dwelling of an alternative scale or siting would overcome the harm I have identified. However, the DAS is clear that a dwelling of a similar type, scale and appearance to No. 53 is proposed and that it would adjoin that dwelling. Given the narrowness of the site, approximately 7.5 metres in width, it would therefore be likely to result in the proposed dwelling being situated close to the back edge of the pavement along Brimstree Drive. Whilst a strip of approximately 1.5 metres of open land may be retained as a result of the proposal, this would be significantly less than the existing arrangement. I therefore consider that this would not overcome the harm that I have identified.
  11. It may be possible for the appellant to enclose the appeal site from public view or to build an extension to No. 53 of similar proportions to the appeal proposal.

However, there is little specific information to suggest that the appellant has a settled intention to undertake those alternative proposals. I therefore attach limited weight to these considerations.

12. Accordingly, I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore conflict with policy CS6 of the Council's Core Strategy (Adopted 2011) (CS) which, among other things, states that development will be designed to a high quality, ensuring it enhances the built environment taking into account the local context and character and those features which contribute to local character. It would also conflict with paragraph 64 of the National Planning Policy Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

### **Other Matters**

13. The Council does not dispute that, given the appeal site's location within Shifnal, the general principle of the development proposed is considered to be acceptable. The appellant has also referred to the housing land supply situation in the area and I acknowledge that the proposal would make a modest contribution in this regard. However, I consider that these matters do not outweigh the harm that I have identified above.
14. Policy CS11 of the CS requires all new open market housing development to make appropriate contributions to the provision of local needs affordable housing. In this regard, I note the appellant's reference to a draft s.106 which was intended to be submitted with the appeal documents. However, as I have concluded the proposal would be harmful in relation to the main issue I have identified; this has not been a decisive consideration in my determination of this appeal.
15. Based on the information before me, there would also be no harm to the living conditions of neighbouring occupants as a result of the development proposed. However this is a neutral matter and does not therefore weigh in favour of the proposal.
16. 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**

17. For the reasons given above, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR