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# Appeal Decision

Site visit made on 18 November 2014

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

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

**Decision date: 17 December 2014**

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**Appeal Ref: APP/L3245/A/14/2225282**

**Land off Green Lane, Off Upper Road, Shrewsbury, Shropshire, SY3 9JH**

- 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 R.G. Hinds against the decision of Shropshire Council.
  - The application Ref 14/01328/FUL, dated 25 March 2014, was refused by notice dated 12 August 2014.
  - The development proposed is erection of a pair of semi-detached dwellings following demolition of existing building and workshop.
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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;
  - The effect of the development proposed on the living conditions of neighbouring occupants, with particular regard to privacy; and
  - Whether the living conditions of future occupants would be acceptable, with particular regard to the provision of outdoor amenity space and outlook.

## Reasons

### *Character and appearance*

3. The appeal site comprises an industrial building which is somewhat dilapidated in appearance. It is situated on Green Lane which is a short, narrow road accessed directly off Green lane. There is a small collection of commercial uses and a scout hut on Green Lane and a pair of small red brick, semi-detached dwellings directly opposite the appeal site. Buildings close to the appeal site therefore have a diverse appearance, with no one style predominating.
4. Along Upper Road the majority of dwellings on the same side as the access to Green Lane are large detached dwellings set back from the highway behind front gardens within spacious plots. This spacious pattern of development, with ample space about dwellings defines the character of the area along this side of Upper Road.

5. There is some diversity within the streetscene here also, with bungalows being situated close to the junction with Roman Road and also the rear of dwellings on Hereford Road immediately abutting the boundary with the highway. However, these are on the opposite side to the road where the access to Green Lane is situated. The appeal site is close to the junction of Green Lane with Upper Road and is visible from public viewpoints along Upper Road. The width of Green Lane is narrow and the side elevations of the neighbouring dwellings on Upper Road are in close proximity to the boundary with the lane. For these reasons, the appeal site is seen within the close context of the dwellings on Upper Road on the same side as the access to Green Lane. I have therefore assessed the proposal accordingly.
6. My attention has been drawn to the planning history of the appeal site. Of relevance to this appeal proposal, this includes an application for one dwelling and one bungalow which was refused by the Council in 2009. Additionally, an application for one dwelling on the site of the existing R.G. Hinds office was granted planning permission by the Council in January 2014.
7. The appeal site measures approximately 18.5 metres wide and is a maximum of approximately 9 metres deep, narrowing to 1 metre at the southern end. Amended plans were submitted during the Council's determination of the original application. As a result, the proposal was repositioned to the north of the site.
8. This appeal proposal would see the construction of two dwellings. The dwellings together would result in a building approximately 10 metres wide, with a depth of approximately 5.5 metres. The distance between the building proposed and the rear (east) boundary would be approximately 2 metres. The distance between the side (north) boundary and the side elevation of the building would be approximately 1 metre. The distance between the front elevation of the proposed building and the boundary with the back edge of the highway would be approximately 1.5 metres.
9. Taking the above into account, there would be little space about the proposed dwellings. The proposed dwellings would also be situated close to the highway boundary. I therefore consider that the proposal would have a cramped appearance that would be at odds with the spacious character which defines the pattern of development along Upper Road close to the appeal site. As previously stated, the site can be seen from public viewpoints along Upper Road. As such, the proposed dwellings would be a visually prominent feature in the streetscene that would detract from the character and appearance of the area. Whilst I acknowledge that the appearance of the existing building on the appeal site may be unattractive, this consideration does not outweigh the harm which I have identified.
10. I note that the design of the proposal has been revised in order to overcome concerns expressed by Council officers during their determination of the original application. Specifically, the roof has been lowered in order to reduce the scale and height of the dwellings proposed and some windows have also been omitted from the front and side elevations. As a result of these features, I am in agreement with the Council that the dwellings proposed would have an unusual appearance that would not reflect the design context of the local area. This adds to the concerns which I have identified above.

11. The appellant has raised specific concerns as to the use of the word 'contrived' by the Council to describe the development. However, the use of this particular phrase has not been a decisive consideration in my determination of this appeal.
12. Accordingly, I conclude that the proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy CS6 of the Council's Core Strategy (Adopted March 2011) which, among other things, seeks to ensure that all development is appropriate in scale and density taking into account the local context and character. The proposal would also conflict with paragraph 64 of the National Planning Policy Framework (the '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.

*Living conditions: neighbouring occupants*

13. The Council have expressed specific concerns as to the proposed 'bulls eye' in the elevation of the dwelling and its effect on the living conditions of neighbouring occupants with regard to privacy. The occupants of No. 36 Upper Road are specifically referred to.
14. Whilst the proposed 'bulls eye' feature would face towards the rear elevation of No. 36 and its rear garden area, the plans submitted with the application show that the 'bulls eye' would be constructed in contrasting brick. No glass is proposed and as such it is not intended to be a window and there would be no additional opportunities for overlooking to occur as a result. If there was any doubt as to whether the 'bulls eye' would be constructed in brick and not glass, a condition could be attached to ensure this would be the case, were the appeal to succeed.
15. The proposal has been designed so that some windows have been omitted, non-opening or fitted with obscure glass. Additionally, sufficient separation distances would be provided between the dwellings proposed and neighbouring properties. I consider that these features would reduce the likelihood of any loss of privacy for neighbouring occupants as a result of the development proposed.
16. Accordingly, I conclude that the development proposed would not be harmful to the living conditions of neighbouring occupants, with particular regard to privacy. In this regard, the proposal would not conflict with policy CS6 of the Council's Core Strategy which, among other things, seeks to ensure that all development safeguards residential amenity.

*Living conditions: future occupants*

17. In terms of the outdoor amenity space that would be provided for future occupants, an area approximately two metres wide would be provided at the rear of the dwellings. An area to the south of one of the dwellings and rear of the parking spaces proposed would also be provided. A two metre high boundary fence would be erected around the site boundary.
18. The submitted plans therefore show that there would be little outdoor space about the dwellings. Accordingly, both proposed dwellings would be provided with small, narrow outdoor amenity areas. The proximity of the proposed boundary fence would also increase the sense of enclosure. I accept that

future occupants may not always want the upkeep of a large garden area for a variety of reasons. A separate bin storage area and parking spaces would also be provided. Nevertheless, it is likely that future occupants would still desire a private outdoor area to sit out in, garden, hang washing out or erect a shed for additional storage purposes. The appeal proposal would not provide an acceptable level of outdoor amenity space in this regard.

19. Additionally, the dwellings have been designed in order to overcome privacy concerns with regard to neighbouring occupants. As a result of this, the plans show that the first floor windows in the front elevations would be non-opening and fitted with obscure glazing. These windows serve bedroom 1 in both units. Future occupants would therefore be unable to look out of or open their main bedroom windows. As a result of this, I consider that occupants would have an unacceptable outlook and the rooms would be dark and gloomy as a result. Whilst the proposed rooflights would allow additional light into the bedrooms, this does not overcome my concerns.
20. The Council have raised concerns as to the proposed parking layout. However, if the appeal were to succeed, a condition could be attached to ensure that suitable boundary treatments were put in place to screen the parking spaces from the windows in the side elevation of unit 2 and its garden area. This would ensure that future occupants would have an acceptable level of privacy. In terms of the bathroom windows proposed, whilst they would be obscurely glazed this is not an uncommon situation. Indeed obscure glazing may be seen as desirable by future occupants as this would be likely to increase their privacy whilst using these areas to shower or get dressed.
21. Additionally, based on the information before me, I am satisfied that the proposal would provide an acceptable amount of internal living space for future occupants.
22. Accordingly, I conclude that the proposal would not provide acceptable living conditions for future occupants would be acceptable, with particular regard to the provision of outdoor amenity space and outlook. The proposal would therefore conflict in this regard with policy CS6 of the Council's Core Strategy and the Council's Supplementary Planning Document 'Type and Affordability of Housing' (paragraphs 2.16 and 2.17) which together seek to ensure that all development safeguards residential amenity; and that development must not provide minimal outside amenity space and should normally provide a satisfactory level of private open space for activities including the external drying of washing or storage of tools and garden equipment. The proposal would also conflict with one of the core planning principles of the Framework which states that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings (paragraph 17).

### **Other Matters**

23. The appellant has referred to the housing land supply situation in the area. I must therefore have regard to paragraphs 47, 48 and 49 of the Framework in my decision. The proposal would result in an additional two dwellings which does weigh in favour of the appeal scheme. However, given the scale of the appeal scheme any contribution to housing land supply would be limited.
24. Some construction jobs would be created during the construction phase of the proposal, were the appeal to succeed. However these jobs would be of a

relatively short duration. Additionally, a CIL payment would be provided, were the appeal to succeed. Whilst these do amount to economic benefits, given the scale of the proposal, the weight attached to these benefits is also limited. Although the appellant has referred to a financial contribution towards affordable housing, there is no mechanism before me (in the form of a completed s. 106 agreement or Unilateral Undertaking) to secure this.

25. Changing the use of the site to residential use may well benefit the living conditions of existing residents in terms of reducing the potential for traffic. Although the appellant has stated that the business currently operating on the site does not result in any problems through noise, deliveries or disturbance. The appellant has also stated that if the business were sold to another user, problems could be encountered by existing residents. Clearly, there is an existing business on the site and the appellant would be entitled to sell that business. However there is little specific information before to suggest that the appellant has a settled intention to do so nor are there any details of an alternative business which may occupy the site. I therefore attach limited weight to this consideration.
26. I acknowledge that the site is brownfield and this does weigh in favour of the development proposed. Additionally, being located within Shrewsbury it is within a sustainable location where a range of services and facilities are accessible via modes of sustainable transport. As such, the Council does not dispute that the principle of the development would be acceptable. These factors do amount to environmental benefits which weigh in favour of the proposal.
27. Drawing matters together, whilst I have had regard to the Framework's presumption in favour of sustainable development in my determination of this appeal, the Framework does not adopt a narrow definition of sustainability. I have found that the proposal would be harmful to the character and appearance of the area and also the living conditions of future occupants, with regard to outdoor amenity space and outlook.
28. On the other hand, I have found a lack of harm in relation to the living conditions of neighbouring occupants. I have also identified a number of limited sustainably benefits associated with the proposal. In this case, these considerations do not outweigh the harm that I have found would occur as a result of the development proposed.

### **Conclusion**

29. For the reason given above, I conclude the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR