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## Appeal Decision

Site visit made on 3 September 2019

**by E Griffin LLB Hons**

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

**Decision date: 17 October 2019**

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**Appeal Ref: APP/D1835/W/19/3229829**

**78-80 Ombersley Road, Worcester WR3 7EU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Studio Smith Architects against the decision of Worcester City Council.
  - The application Ref 19/00013/REM dated 31 January 2019 was refused by notice dated 1 April 2019.
  - The application sought planning permission for conversion of retail premises to 2 No residential dwellings without complying with a condition attached to planning permission Ref P18E0157 dated 31 August 2018.
  - The condition in dispute is No 2 which states that: *"The development hereby approved shall be carried out in complete accordance with the submitted plans, except where otherwise stipulated by conditions attached to this permission"*
  - The reason given for the condition is: *"For the avoidance of doubt and to secure a satisfactory form of development in accordance with policy SWDP21 of the South Worcestershire Development Plan and aims and objectives of the National Planning Policy Framework"*.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. At the time of my site visit, the dwellings permitted by the planning permission granted on the 31 August 2018 had been completed. However, the works to the front of the dwellings have not been carried out in accordance with the approved scheme. There are also differences between what has been built and the appeal proposal. For example, there are railings between the appeal site and No 76 which are not on the submitted plans. I am therefore determining the application on the basis of the submitted plans rather than what has been built.

### Background and Main Issues

3. Planning permission was granted on the 31 August 2018 for the conversion of retail units to dwellings. The two dwellings front onto Ombersley Road. The approved plans provided for two parking spaces at the rear of Nos 78 and 80 Ombersley Road so that each dwelling would have one parking space. Two

similar landscaped garden areas were to be provided at the front of the dwellings either side of an access way to the front door of No 78.

4. The appellant seeks to vary the approved plans to replace the proposed garden area and access way to the front door of No 78 with two further parking spaces for the use of occupiers of No 78. The two car parking spaces at the rear of the dwellings would remain and would be for the use of the occupiers of 80 Ombersley Road. The landscaped garden proposed to the front of No 80 would remain. The variation of the condition would create two parking spaces per dwelling rather than one. Creating parking spaces off site to the front of the dwellings would mean that vehicles would cross the pavement to access the main road.
5. The main issue is therefore whether the appeal proposal would create unacceptable highway and pedestrian safety issues.

### **Reasons**

6. Ombersley Road is a classified road and a main arterial route with a speed limit of 30 mph which leads to the Worcester city centre. The appeal dwellings are on the end of a row of dwellings at the corner of Ombersley Road and Perdiswell Street. From the front, the appeal proposal resembles a single detached dwelling as it has one front door but the entrance door to No 80 is on the side elevation on Perdiswell Street. The area to the front of the dwellings is currently split into two distinct areas with a loose gravel area enclosed with railings to the front of the window of No 80. The rest of the front of the house has been block paved with railings along the boundary of the appeal dwelling and No 76. The two car parking spaces to the rear of the dwellings have been created with one in use at the time of my visit. They are accessed off Perdiswell Street.
7. The proposed car parking spaces would be accessed directly off Ombersley Road across the pavement onto the road via new dropped kerbs. There are existing dropped kerbs and front on-site parking at neighbouring dwellings at Nos 76 and 74 which are terraced dwellings. I did note from my site visit that the double space provided at no 74 appeared wider than the parking area proposed by the appellant. I have limited information as to when the parking areas to Nos 74 and 76 were created and different standards may have applied at the time. The dwellings to the other side of No 74 largely revert to having a frontage enclosed with a modest brick wall other than the end property in the row which is a funeral directors with ample rear space for turning of vehicles.
8. The appellant indicates that the proposed car parking spaces would be marginally greater than the minimum required size of 4.8 metres wide by 4.8 metres. However, vehicles would need to be parked up against the dwellings to avoid overhang on the pavement. At the same time enough space would be needed around the cars to access the front door of No 78 particularly if the dwellings are intended for the less mobile. If cars are not parked right up to the dwellings, there would be overhang onto the pavement which could obstruct the pavement to the detriment of pedestrian users.
9. There is also insufficient space within the appeal site to allow vehicles to turn. This would mean that occupiers would either need to drive into the spaces in forward gear and reverse out into the main road or reverse in and drive out. The appellant has indicated that future occupiers would be advised to reverse

into the spaces. However, such advice is not a viable solution as it is impractical and unenforceable. In any event, reversing in or out of the spaces would result in the same number of manoeuvres and involves the same interaction with the flow of traffic on the main road and pedestrians on the footpath. The manoeuvres are likely to cause obstruction to the free flow of traffic and increase hazards to other drivers, pedestrians and cyclists.

10. The appellant has referred to the appeal proposal taking vehicles away from on road parking and that the proposed on-site parking would be safer. Manoeuvring in or out of onsite parking with half the manoeuvres being in reverse with the added hazard of pedestrians on the pavement, is not likely to be a safer procedure than on road parking.
11. Railings are shown on the submitted plan between No 78 and what was the access way to the front door of no 78. I share the Council's concern that railings may impact upon visibility. The lack of a turning area does mean that vehicles would be exiting and entering the appeal site off or onto a main road which is next to a narrow one way street. All vehicles from Perdiswell Street would be entering onto Ombersley Road to join the main flow of traffic.
12. I do consider that to vary the condition would create unacceptable highway and pedestrian issues. It would therefore be contrary to Policy SWDP4 of the South Worcestershire Development Plan which, amongst other things, states that proposals must demonstrate road safety. It would also be contrary to Policy SWDP21 which, amongst other things, states that vehicular traffic from the development should be able to access the highway safely. It would also be contrary to paragraphs 108 and 109 of the National Planning Policy Framework which advises that there should be safe and suitable access for all road users and that development should be refused if there would be an unacceptable impact on highway safety.

### **Other matters**

13. Amendments to cycle storage provision have been suggested by the appellant. Plan No 17/SAUNDERS/10D removed outdoor cycle storage provision which was considered to be unacceptable by the Council. However, Plan No 17/SAUNDERS/10F shows a bicycle shed to the rear of each dwelling. Although, there is currently one continuous fence between the existing parking spaces and the rear gardens, plans do show a gate to the rear of No 80. However, cycle storage provision that is not accessible is not likely to be used. The provision proposed for No 80 through a rear gate into the existing car parking area would not be accessible if a car was parked in the nearest space to the gate as space is limited.
14. Other examples of dropped kerbs are referred to. Although no dates have been provided to me, the Council indicates that different policies were in force at the time of those decisions and they are not therefore comparable to the appeal proposal.
15. I note that the dwellings have been designed to provide ground floor facilities that would suit occupants with disabilities or wheelchair users although there are no conditions restricting occupation. Although the appellant refers to a widened facility for future occupiers, it is not clear if that refers to having one space rather than two for either or both dwellings. With the modest parking

space proposed at the front, with two cars parked, there is unlikely to be sufficient space to get in and out of vehicles from a wheelchair.

16. The appellant indicates that there is less demand for parking on the road now that the newsagent business that previously occupied the building has closed. However, there are terraced dwellings on both sides of Perdiswell Street and as the street is narrow and one way, parking is restricted to only one side of the street for most of its length. There is also restricted parking along sections of Ombersley Road in close proximity to the appeal site. There is therefore limited evidence before me that there is less demand for on road parking that would alter my findings.
17. The appellant refers to the provision of permeable block paving improving the drainage situation as compared to the previous concrete hardstanding. However, the provision of permeable block paving is not dependent upon the provision of car parking spaces and is already in place.
18. An appeal decision that relates to 93 Droitwich Road <sup>1</sup> is referred to by the appellant in support of the appeal. Each decision will be assessed upon its own merits. Although Droitwich Road is close to Ombersley Road, in other respects the circumstances are different. No 93 was the only dwelling out of twenty dwellings that did not have on-site parking and is located on a different road with a different relationship to nearby roads. The decision does not therefore affect my overall findings.
19. The appellant has referred to Worcestershire County Council Highway Authority guidance of 2 spaces per dwelling. The Council's original Committee report refers to the Interim Parking Standards adopted in 2016 of 2 parking spaces per dwelling but also states that with new accesses onto a classified road, turning areas are required to enable vehicles to exit the site in forward gear. The original proposal was therefore amended. The Council maintains that objection and any standard or requirements have to be considered in the context of the appeal site and the relevant policy and Framework provisions.
20. The appellant considers that as plans were not identified as part of the planning permission and the condition therefore not being enforceable. The Planning Statement submitted by the appellant refers to the planning permission being granted with 1 car parking space per dwelling and the application refers to increasing that provision to two spaces per dwelling. The plans submitted before the original application was determined included an amended plan to address concerns about parking provision. The condition refers to the development being carried out in accordance with the submitted plans and the application included that later submitted plan.

## **Conclusion**

21. For the reasons given, the application to vary the condition is dismissed.

*E Griffin*

INSPECTOR

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<sup>1</sup> APP/D1835/D/16/3143024