



Appeal Decision

Site visit made on 20 October 2025

by **P D Sedgwick BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/D1835/W/25/3369637

3 Barbourne Road, Worcester, Worcestershire WR1 1RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Pshdar Khdir against the decision of Worcester City Council.
 - The application Ref is 25/00225/FUL.
 - The development proposed is Change of use of the rear ground floor and first floor (use class E) to 2no. residential flats (use class C3) with boundary wall and modifications to the existing external staircase - retrospective.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity, in the banner heading above I have referred to the description of the proposal given by the appellant on the appeal form, as this gives a clear description of the type of development proposed, which reflects that used by the council in their decision notice.
3. At the time of my site visit, the flats were in use although the modifications to the staircase and wall had not commenced nor had the bedroom on the ground floor been converted to provide the shop indicated on the proposed plans. The development is therefore partly in retrospect, and I have dealt with the appeal on that basis, based on the proposed plans submitted by the appellant on which the council made its decision.

Main Issues

4. The main issues are:
 - whether the proposed development preserves or enhances the character or appearance of the Foregate Street and The Tything Conservation Area (CA) and its effect on the character and appearance of the building which is a non-designated heritage asset (NDHA).
 - the effect of the proposed development upon the living conditions of occupiers of the property, with particular regard to light, outlook, ventilation and private amenity space;
 - the effect of the proposed development upon retail vitality and viability; and
 - the effect of the proposed development upon archaeological remains.

Reasons

Character and appearance

5. The appeal site is a 2 storey building on the corner of Hebb Street and Barbourne Road in the Foregate Street and The Tything Conservation Area, within a secondary shopping frontage. The front of the building retains a ground floor shopfront, consisting of a large glass floor to ceiling window and glass door which detracts from the more traditional shopfronts in the same row of buildings. The front elevation of the ground floor flat includes windows and a front door and sits behind the shopfront.
6. The first floor front elevation has interesting decorative features, including a red brick façade with stone cills and keystones, an ornamental shaped gable and cornices and large multipaned arched window, which contribute to the character and appearance of the building and CA. 2 wings project out at the rear and step down, the first covers the full width of the building and has a hipped roof, the second covers half the width of the building and has a flat roof. The chimney stack and pots are the only features of interest at the rear, which contributes little to the significance of the CA.
7. The building is identified as a key unlisted building in the Foregate Street and The Tything Conservation Area Character Appraisal and Management Proposals (2011) (CACAMP) which also refers to decorative terracotta features on the building. The council's archaeology officer has stated that the building is a non-designated heritage asset of archaeological significance.
8. An external steel staircase in the small yard at the rear of the building leads to the entrance to the first floor flat. Approaching the site from the west along Hebb Street it is seen in the context of the external metal staircase up to the neighbouring first floor flat and a metal and wire fence and gates at an electricity sub-station on Hebb Street opposite the appeal site. In the context of these structures, it does not look out of place or obtrusive.
9. These other metal structures are not visible when crossing Hebb Street to approach the site from the south. From this view, the staircase is visible but would be obscured by the proposed changes to the rear yard side wall which would raise the brickwork level with the staircase handrail. Also, painting the stairs black, as proposed, would be in keeping with railings and other metal work elsewhere in the CA. The staircase does not impact on any features that I have identified as contributing to the significance of the CA and the host property and with the proposed alterations would have a neutral impact. Overall, I consider that the character and appearance of the CA would be preserved.
10. The council's archaeology officer has referred to the building as being a non-designated heritage asset (NDHA). Paragraph 216 of the National Planning Policy Framework (2024) (the Framework) states that the effect on the significance of an NDHA should be considered when determining a proposal. Although the council's only reference to its significance is that it is shown on a 1st edition ordnance survey map of the area, I have noted features that I consider significant along with its identification as a key building in the CACAMP.
11. The appellant should have submitted a heritage impact assessment, including reference to the historic environment record as required by paragraph 207 of the

Framework. Nonetheless, the council validated and determined the application without it. Given that the proposed development is a change of use and that the external changes are to the rear and do not affect any of the features of significance that I have described, the absence of such an assessment is not, in my view, sufficient to withhold planning permission, nor did it prevent the council's conservation officer evaluating the proposal and concluding that it would have a neutral to slightly positive impact upon the CA.

12. Overall, I conclude on this main issue that the proposed development would preserve the character and appearance of the CA and the host building and thus complies with policy SWDP 21 of the South Worcestershire Development Plan (2016) (SWDP) and the Framework which require development to integrate with its surroundings and conserve heritage assets.

Living conditions

13. The main windows serving the ground floor bedsit face a small yard, which is enclosed by the side wall of the rear wing on one side, a wooden fence at the back, and a brick wall with railings on the other side. These boundary features, due to their height and proximity to the windows, create a sense of enclosure harming the outlook from the bedsit. Views from one window are largely obscured by the metal staircase, which is directly in front of it, and from the other by the rear wooden fence and brick wall. The metal railings allow light to enter the property from the side, and provide some relief from the sense of enclosure, but this would be lost by their replacement with a solid brick wall to obscure side views of the metal staircase from the street. The proposed wall would cause overshadowing to the courtyard and windows, which are already overshadowed to some extent by the staircase, and increase the sense of enclosure to an unacceptable degree. The other windows and door referred to by the appellant serve a utility room which is not a habitable room.
14. Windows in the bedrooms and kitchen in the first-floor flat and the obscured glazed panels on the door to the living room appear to provide adequate levels of natural light to all the rooms on this floor. However, there is no window and therefore no outlook from the first floor living room.
15. The appeal site is in an Air Quality Management Area with high levels of Nitrogen Dioxide. Poor ventilation was included within the reasons for refusing the application. Although no assessment of the issue was provided in the council's delegated decisions report, it included the regulatory services officer's comments which raised concerns over a lack of mitigation measures to protect occupiers from air pollution. The appellant's Air Quality Assessment (AQA) recommended mechanical ventilation be installed instead of relying on natural ventilation from opening windows. The plans provide none of the implementation measures recommended by the AQA and I saw no evidence that they had been implemented, during my site visit. The proposed development has therefore failed to demonstrate adequate ventilation to protect occupiers from air pollution.
16. The rear yard provides a small amount of external amenity space, but the ground level is uneven, and the staircase takes up much of the area, limiting its practical use to clothes drying which the appellant has referred to. Nonetheless, I accept that conversions of existing buildings within town centres often lack outdoor amenity space, a fact acknowledged by the council in its assessment of a previous

application for a flat at 17 Barbourne Road, which was referred to by the appellant and is close to the appeal site. Also, I note that there is public open space within reasonable walking distance of the site. Therefore, I do not consider the poor quality of the private amenity space reason enough on its own for withholding planning permission.

17. Overall, I conclude on this main issue that the proposed development would be harmful to the living conditions of occupiers due to poor outlook, light and ventilation and therefore conflicts with Policy SWDP21 of the SWDP, the South Worcestershire Design Guide Supplementary Planning Document (2018) and the Framework which require high quality development that provides a high standard of amenity for existing and future users.

Vitality and viability

18. Policy SWDP 10, part E, of the SWDP does not permit ground floor residential uses in a secondary retail frontage. The appellant has proposed converting the front ground floor bedroom back to retail use, which would cover less than half the ground floor, suggesting that a smaller area would be more suited to startup businesses, and that the existing ground floor unit was unviable and had been vacant for 3 years.
19. However, no evidence has been provided to me that the commercial premises had been offered for sale or rent and that no reasonable offers were received while the unit was vacant, or that there is a demand for smaller premises. The closest premises to the appeal site, at Nos 5, 7 and 9 Barbourne Road, are in use as an architects practice, dog grooming parlour and kebab shop, respectively, and the retail frontage from the appeal site towards the city centre, between Hebb Street and Back Walk, had only 1 vacant unit at the time of my visit, which indicated a relatively healthy demand for premises nearby.
20. I acknowledge that several shops within the same parade of buildings as the appeal property are empty or have been converted to residential uses, including under permitted development rights, examples of which have been provided by the appellant. However, there is no evidence that the units were converted to residential use because of a lack of demand for commercial premises and as such these matters carry limited weight.
21. The appellant has referred to the emerging development plan removing the appeal site from the secondary retail frontage. However, the plan is currently undergoing examination and there is no indication at this stage whether the proposed changes will make it through to the adopted plan and therefore it carries limited weight.
22. Overall, I conclude on this main issue that the proposed development conflicts with Policy SWDP 10 of the SWDP which seeks to promote and protect retail centres and local shops.

Archaeology

23. The appellant has confirmed that the proposal would involve building upon the existing wall and that there would be no ground works and therefore no disturbance to below ground heritage. Therefore, whilst I accept that a Heritage impact Assessment should have been submitted with the application, as noted above, and would normally be expected to include an assessment of the impact of

development on archaeological remains, in this case the proposed changes to the boundary wall would not harm any archaeological remains and in this regard the scheme does not conflict with Policies SWDP 6 and SWDP 24 of the SWDP and paragraph 207 of the Framework which require an appropriate desk-based assessment where development might affect heritage assets with archaeological interest.

Planning Balance

24. The council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Consequently, paragraph 11(d) of the Framework is engaged. It requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. The proposal provides benefits in terms of providing additional units of accommodation in a sustainable location which weigh in its favour. However, the identified harm arising from the unacceptable effect on the living conditions of occupants and to retail vitality and viability would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole. Thus, the proposal would not be sustainable development for which the Framework indicates a presumption in favour.

Other matters

26. I have had regard to the examples provided by the appellant of other flats approved by the council where habitable rooms had poor access to natural light or outlook, including a basement bedroom with a lightwell, a lounge/kitchen/dining room with windows facing into a courtyard and a bedroom with a rooflight. However, these schemes included other habitable rooms with alternative outlook and better access to daylight. They are not therefore comparable to the ground floor bedsit in the appeal scheme which has only one habitable room. In any event, I must consider the appeal scheme on its own merits. The existence of other flats with poor outlook or light does not justify the harm I have identified.

Conclusion

27. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

P D Sedgwick

INSPECTOR