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## Appeal Decision

Site visit made on 3 January 2017

**by D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 26 January 2017**

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**Appeal Ref: APP/H2835/W/16/3158796**

**18C Oxford Street, Wellingborough, Northamptonshire NN8 4HY.**

- 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 Endrit Lushaj against the decision of Borough Council of Wellingborough.
  - The application Ref WP/16/00188/FUL, dated 5 April 2016, was refused by notice dated 13 July 2016.
  - The development proposed is a car wash and valeting facility including conversion of existing building to secure stores, office, customer waiting room and staff rest area.
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### Decision

1. The appeal is allowed and planning permission is granted for a car wash and valeting facility including conversion of existing building to secure stores, office, customer waiting room and staff rest area at 18C Oxford Street, Wellingborough, Northamptonshire NN8 4HY in accordance with the terms of the application, Ref WP/16/00188/FUL, dated 5 April 2016, subject to the conditions set out in the schedule to this decision.

### Application for costs

2. An application for costs was made by Mr Endrit Lushaj against the Borough Council of Wellingborough. This application is the subject of a separate decision.

### Preliminary Matters

3. I have taken the description of development from the Council's Decision Notice as this is more succinct than the version provided on the Application Form.
  4. The site and surrounding area are within the Wellingborough Town Conservation Area (WTCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
  5. Following determination of the application the Council adopted the "*North Northamptonshire Joint Core Strategy 2011-2031*" (the JCS) on the 14 July 2016. This replaces the "*North Northamptonshire Core Spatial Strategy 2008*" and the "*Borough of Wellingborough Local Plan*" both of which are cited in the Council's reasons for refusal. The Council have not argued that the adoption of the JCS materially changes its overall stance in relation to the proposal. I have
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therefore considered the appeal on the basis of the JCS and there is no prejudice to the interests of any party in doing so.

## **Main Issue**

6. The main issues are, firstly, the effect of the development on the character and appearance of the WTCA and, secondly, the living conditions of neighbouring occupiers with particular regards to noise and odours.

## **Reasons**

### *Character and appearance*

7. The appeal site occupies a prominent position at the corner of Oxford Street and Sharman Road, a short distance west of Wellingborough town centre. The site comprises a vacant two-storey, brick and render commercial building and associated parking forecourt area fronting onto Sharman Road. The building and parking area have a neglected appearance. Together with the site's prominent location and lack of enclosure, it has a high level of visual exposure in the Oxford Street street-scene and presently detracts from the character and appearance of the WTCA.
8. The Council has not explicitly confirmed the existing/lawful use of the site. The planning history which is set out in the Committee Report shows that planning permission was granted in 2002 for a change of use from office and stores to an education facility with ancillary uses for a period of 5 years<sup>1</sup>. According to the Application Form the last known use of the site was as offices. However the appellant's Grounds of Appeal states that the building has also previously been used as an education facility. In the absence of clarity on this matter, I have proceeded on the basis that the lawful use of the building is as offices. This is pertinent because if I were to dismiss the appeal the office use could be reinstated.
9. As part of the proposed scheme the building would be refurbished to provide a staff break-out facilities and a customer waiting area. Landscaping, a staggered brick wall and wrought iron gates would all be introduced to help improve the appearance of the site. The current scheme was developed with input from Council Officers at the pre-application following the refusal of a previous application. In my view, when taken collectively, these works would significantly improve the visual appearance of the site.
10. I have considered the Council's argument that the development would lead to a '*far more intensive vehicular use of the land*'. However, I fail to see how this would be so when the forecourt area could be used for car parking in connection with a B1 office use. Even at busy times the car wash would only lead to a relatively modest portion of the site being occupied by vehicles. In any event, the proposed boundary treatments would severely curtail views into the site and so irrespective of the level of vehicular activity there would still be a significant visual benefit to the locality.
11. In support of its decision, The Council also refers to the height of the walls, depth of landscaping beds and the potential for litter to accumulate therein. However, no substantive evidence has been adduced to support these concerns. I did not observe a particular problem with litter when I visited the

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<sup>1</sup> LPA ref: WP/2001/0730

area and it strikes me that a vacant site is much more likely to attract litter and flytipping than one that is enclosed and in continual use.

12. Based on the foregoing and the Council's failure to put forward cogent reasons to support its reason for refusal, I conclude on the first main issue that the development would enhance the character and appearance of the WTCA. It would thus accord with Policies WTC 12 of the "*Wellingborough Town Centre Area Action Plan 2009*" and Policy 2 of the JCS. Collectively these seek to ensure proposals preserve or enhance the character and appearance of conservation areas. It follows that there would be no conflict with the statutory duty under the Act in relation to conservation areas.

### *Living conditions*

13. The appeal site is located at a busy road junction in a mixed residential/commercial area on the periphery of the town centre. As I observed when I visited the area, road noise and activities associated with nearby commercial uses generate a constant level of background noise. On that basis it cannot reasonably be said that neighbouring occupiers currently enjoy a high degree of peace or tranquillity.
14. It is also germane that the building has been used for a range of commercial uses in the past most of which would have generated a certain amount of noise in their own right. With this in mind, I am sceptical that a car wash would give rise to a significant net increase in noise, smells and other pollution. No evidence technical or otherwise, has been adduced by the Council to explain what activities would generate unacceptable levels of noise and odours nor which local residents would be unacceptably affected. I also note that there was no objection to the scheme from the statutory consultee. Opening hours could be controlled by a suitable planning condition something which would potentially have wider benefits to local residents given that such controls are unlikely to have operated in connection with the historical uses of the site.
15. Taking all these factors into account, I find the Council arguments in relation to the second main issue to be unconvincing. I therefore conclude on the second main issue that there would be no adverse effect on the living conditions of neighbouring occupiers with particular regards to noise, odours and pollution. The development would thereby accord with Policy 8 (e) i and ii of the JCS which seeks to safeguard the amenities of neighbouring properties.

### **Other Matters**

16. I have had regard to concerns expressed by local residents about the impact of traffic generated by the development. However, such concerns did not form part of the Council's reasons for refusal. There was also no objection from the Highway Authority and given the likely lawful use of the site, which could be reinstated, I see no reason to take a contrary view.
17. The issue of future maintenance over the landscaping areas has been raised by the Council. However, such concerns have little relevance to the refusal reasoning and in any event, land ownership matters such as this would fall to be resolved between the appellant and the Highway Authority at the relevant time.

18. I have also noted the proximity of listed buildings to the site. However the Council do not allege any harm to their setting as a consequence of the development. I have not therefore pursued this matter further.
19. Whether an alternative scheme for the site would be more appropriate is not a matter that I can consider under this s78 appeal.

### **Conditions**

20. The Council Committee Report contains 8 planning conditions. I have considered these against the advice in the "*Planning Practice Guidance*" (PPG). In some instances I have amended the conditions in the interests of brevity and to avoid repetition.
21. I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans, as these provide certainty. Materials and landscaping conditions are necessary to ensure the satisfactory appearance of the development. A restriction on opening hours is necessary to protect the amenity of local residents. A condition relating to surface water run-off is necessary to ensure the site is drained in a satisfactory manner in accordance with Development Plan objectives.
22. Given the location of the site, its lawful planning use, the nature of the development hereby permitted and the restrictions on opening hours I have already conditioned, I am not persuaded on the evidence before me that the suggested condition relating to an acoustic report is necessary or reasonable. It does not therefore meet the requisite tests in the PPG and I have omitted it accordingly.

### **Conclusion**

23. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

*D. M. Young*

Inspector

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: EL/We/P1/1 Rev B and EL/We/P1/2 Rev A.
- 3) No development shall take place unless and until detailed specifications for the boundary treatment have been submitted to and approved in writing by the local planning authority. The specifications shall include:
  - brick samples
  - railing details
  - any paintwork colour and specifications

The car wash and valeting facility hereby permitted shall not commence until the boundary treatment has been fully implemented in accordance with the approved details.

- 4) The site shall be landscaped and planted with trees and shrubs in accordance with a comprehensive scheme which shall be submitted to and approved by the local planning authority before the development is commenced. The scheme shall be implemented concurrently with the development and shall be completed not later than the first planting season following the substantial completion of the development. Any trees and shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted or other species as may be agreed.
- 5) The car wash and valeting facility hereby permitted shall only be operational during the following times:  
0900 to 1800 hours (Monday to Saturday)  
1000 to 1600 hours (Sundays and public holidays)
- 6) Prior to the commencement of development a surface water drainage strategy shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details