
Appeal Decision

Site visit made on 9 June 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2020

Appeal Ref: APP/W2465/W/20/3246125

115 Uppingham Road, LE5 4BP

- 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 Mr N Okeke against the decision of Leicester City Council.
 - The application Ref: 20191799, dated 16 September 2019, was refused by notice dated 3 February 2020.
 - The development proposed is retrospective application for use of site as a car wash and window tinting service (Sui Generis); installation of three portable buildings and 2.4m high laminated boards.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the appeal form and decision notice as it is more precise than that shown on the application form.
3. Two previous planning permissions have been granted in July 2015 and September 2016¹, on a limited period basis for one year, for use of the site as a hand car wash and associated elements. A hand car wash appeared to be operating on the site at the time of my visit.
4. The appellant's Planning Statement refers to removing containers, and proposed timber outbuildings. However, the proposal is illustrated on the submitted Plans & Elevations drawing as including storage containers, and does not show timber outbuildings either in plan or elevation form. In the absence of clear illustration to the contrary, for the purposes of determining the appeal, I assess the proposal as that shown on the Plans & Elevations drawing.

Main Issues

5. The main issues are:
 - a) whether the proposal would preserve the setting of the Church of St Barnabas Grade II listed building (LB)
 - b) whether the proposal would be acceptable in character and appearance terms, and

¹ Planning Application Refs: 20150744 and 20161183.

- c) the effect of the proposal on the living conditions of occupiers of No 14 St Barnabas Road, with particular regard to noise.

Reasons

Setting of the listed building

6. The appeal site comprises a hand car wash site. Elements on site include two storage containers painted red and blue, a sizable canopy, toilet and staff and customer seating. The site is located within a mainly residential area, with shops to the west, a shop and car sales business to the north, health centre to the east and auto-centre to the south-east.
7. The site is located between the junctions of St Barnabas Road and Kitchener Road with Uppingham Road. During my site visit I saw, albeit at a snapshot in time, that this stretch of Uppingham Road is apparently busy, with a steady flow of vehicle traffic, and pedestrians travelling to facilities in the area including the health centre and shops. Traffic lights at the junction with St Barnabas Road result in vehicles queuing in front of and on the approach to the site. The above combination of factors contribute to the prominence of the site.
8. The LB is a late nineteenth century church of brick construction, with stone dressings and bands, and a slate roof. Its facade includes an octagonal turret topped by a spire. The depth of the LB spans a substantial proportion of the distance between St Barnabas Road and Kitchener Road. The LB's roofscape, including the turret and spire, and its fenestration and chequered stone and brickwork pattern, are noticeable, rising above and between various buildings in the neighbourhood. Taking the above together, the LB's significance derives from being a historic landmark building, which signposts the Victorian architectural grandeur and heritage of the area.
9. The above combination of elements is noticeable from various viewpoints within the setting of the LB, including Uppingham Road, Kitchener Road and St Barnabas Road. The setting of the LB contributes to the latter's significance through providing a foreground with short and middle distance views of the building.
10. The setting of the LB includes the appeal site, given that the roof, turret, spire and some of the brickwork, stonework and windows on the LB's northern elevation are noticeable within the following combination of vistas which include the appeal site: looking in a south-easterly direction from around the junction of Uppingham Road and Kitchener Road; looking south across the site from Uppingham Road; and looking south from within the appeal site.
11. I recognise that the LB's setting, and the appeal site's contribution to it, has changed over time, the latter having apparently previously been a bus garage. Nevertheless, for the reasons described above, the site is a prominent element within the LB's foreground, and has a significant visual relationship with the LB.
12. The proposal would include the following changes: installation of blue laminated boards on the inner side of the weldmesh style perimeter fencing which runs around much of three sides of the site; resurfacing the surface, which is currently part concrete and part gravel, with tarmac; relocation of one of the storage containers, from the front to the back of the site, to form a mass of two adjacent storage containers; addition of a 'kiosk shop' and customer

seating within the office storage container relocation, and increase in capacity of water butts; and introduction of a vehicle window tinting bay.

13. The above changes would provide some screening and tidying of the facility. However, the proposal would also result in a substantial blank boarded perimeter, approximately 2.4m high, around much of three sides of the site at this prominent location. Moreover, the storage containers and operations on site would be visible from the public domain through the site entrance and access. The combined effect would be a temporary and utilitarian appearance, which would distract from and visually jar with the historical, architectural solidity and grandeur of the LB's exterior. The above effect on the setting of the LB would be noticeable, to various degrees, from the following viewpoints: from around the junction of Uppingham Road and Kitchener Road; from Uppingham Road; and from within the appeal site.
14. I recognise that houses on the eastern side of St Barnabas Road visually separate the appeal site and LB, viewed from much of that street. I also note that the auto centre located to the south-east of the appeal site is not especially picturesque. However, the above factors do not diminish the negative effects identified above.
15. Taking the above together, the proposal would have a negative impact on the setting of the LB, and so make a negative contribution to the significance of the LB. However, the effect of the proposal would be localised and therefore would lead to less than substantial harm to the significance of the designated heritage asset. In such circumstances it is necessary to weigh the harm that would arise to heritage assets against the public benefits of the proposal.
16. With regard to the above, the proposal would provide employment, and services for motorists, with socio-economic benefit during and after construction work. However, the public benefits in these respects are limited by the scale of the development proposed. Consequently, the benefits do not outweigh the great weight given to the preservation of the setting of the LB, and the less than substantial harm to its significance which I have identified.
17. To conclude on this main issue, the proposal would fail to preserve the setting of the LB. It would therefore conflict with Policy CS18 of the Leicester City Core Strategy (2014) (CS), which seeks to ensure that development enhances the historic environment, including the setting of designated heritage assets. Furthermore, the proposal would not accord with the approach of the Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.
18. Furthermore, in my consideration of the proposal's effect, I have, in accordance with the statutory duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, by attaching considerable importance and weight to that desirability.

Character and appearance

19. National Planning Practice Guidance states that it will rarely be justifiable to grant a second temporary permission, and further permissions should normally

be granted permanently, or refused, if there is clear justification for doing so. Whilst a secondary temporary planning permission was granted at the site, there is no presumption that what was deemed acceptable previously and temporarily would be so beyond that period.

20. Notwithstanding the proposed changes to the site, given the temporary and utilitarian appearance of the proposal, as described earlier in this decision, and the somewhat monotonous and overdominant appearance of the proposed blank 2.4m high perimeter boarding, the development would not be of sufficient architectural quality at this prominent urban node to enhance the character and appearance of this substantially residential area. As such, the proposal would conflict with Policy CS3 of CS, which seeks to ensure that development is of contributes positively to an area's character and appearance in terms of high quality architecture.

Living conditions

21. The dwelling at No 14 St Barnabas Road is adjacent to the southern boundary of the site. The following combination of factors is likely to generate substantial noise close to openable windows and the rear garden of No 14: operation of equipment including jet washers on the site; vehicle movements on, off and within the site, including car doors closing and the starting of engines; and general discussions between staff and customers.
22. The site is located near apparently busy road junctions in an urban location within the setting of the LB which is used as a banqueting centre, and adjacent to an auto-centre, with associated cumulative background noise. The Council's Environmental Health team has not objected to the proposal. I also note the appellant's submission of a letter of apparent support for the proposal from the residents of No 14. Nevertheless, given the combination of noise-generating factors described above, the site's proximity to No 14, and in the absence of a substantive noise assessment to demonstrate acceptable effects, I have no certainty that, in respect of noise, the proposal would avoid harm to future residents' enjoyment of their property, including the rear garden.
23. Therefore, the proposal would not demonstrably safeguard living conditions of occupiers of No 14 St Barnabas Road, with regard to noise. As such it would not accord with saved Policy PS10 of the City of Leicester Local Plan (2006), which seeks to safeguard the living conditions of residents.

Other Matters

24. The proposal would provide services for motorists, and employment, with socio-economic benefit during and after construction. The scale of development would limit the public benefit. I note the 'after car wash, preliminary proposed' Plans & Elevations drawing, which, in the absence of substantive accompanying detail, carries limited weight. I also note the supportive petition, submitted by the appellant. However, the above does not outweigh the totality of harm identified.

Conclusion

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

William Cooper INSPECTOR