



Appeal Decision

Site visit made on 10 November 2020

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal Ref: APP/W2465/C/20/3256063

Land at the vacant site formerly occupied by the Premier Screw and Repetition Works (wider site), located on the north side of Woodgate

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Muhsin Abdul Karim against an enforcement notice issued by Leicester City Council.
 - The enforcement notice was issued on 30 June 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use to use as a hand car wash at the Site.
 - The requirements of the notice are stated as follows:
 - You must cease the use of the Site as a hand car wash.
 - You must remove all buildings and equipment from the Site in connection with the use as a hand car wash.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by deleting all wording at section 2 (The Land Affected) and replacing it with '*3-7 Woodgate, Leicester LE3 5GH, as shown red on the attached plan ("the Site")*'. Subject to this correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the material change of use of the land at 3-7 Woodgate Leicester LE3 5GH, as shown on the plan attached to the notice, to use as a hand car wash, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period, being the period of 3 years from the date of this decision, and the use hereby permitted shall be discontinued thereafter.
 - 2) The use shall not be carried on outside the hours of 0800-1800 daily.

Preliminary matters

2. The address in the enforcement notice does not include the city or the postcode. This is a straightforward matter which can be corrected without causing injustice. The address is given as '3-7 Woodgate, Leicester LE3 5GH' in both the appeal form and the questionnaire submitted by the Council and I will substitute this for the address in the notice.

3. In September 2020, subsequent to the enforcement notice being issued, *The Town and Country Planning (Use Classes) Order 1987* was amended by 3 separate amendment orders. One effect of these is that industrial uses which previously fell within Class B1 now fall within the new Class E. This is relevant to the application of Policy CS10 of the Leicester City Core Strategy and Policy E03 of the City of Leicester Local Plan, which make reference to Class B1 uses. The policies also refer to classes B2 and B8, but these are unchanged.

Main Issues

4. The main issues are:
- The effect of the development on the character and appearance of the area;
 - Whether the use of the site as a car wash compromises policies which seek to retain certain land, including the appeal site, for specified employment uses; and
 - Whether the drainage of the site is satisfactory in order to prevent water pollution.

Reasons

Character and appearance

5. The appeal site is part of a larger area of land which was previously occupied by a factory. The factory has been demolished, but the wall along the site frontage is partly retained. The height of the wall has been crudely increased with wooden boarding for much of its length. The area is mixed in character, with shops, houses and commercial uses. The Council advises that the remainder of the factory site is used for car sales, a lorry park and storage containers.
6. The Council is concerned about the visual effect of the temporary buildings and equipment associated with the car wash use. However, these items are seen in the context of the adjacent commercial uses, including the car sales use, for which temporary planning permission was granted in October 2019. Within that setting, the car wash use, complete with the items associated with it, does not appear out of place.
7. Moreover, the frontage to the busy A50 Woodgate is dominated by the former factory walls and large concrete planters in front of it. While the car wash site can be seen from the road through the site entrance, its containment within the walled area greatly limits its effect on the street scene. Given the overtly commercial nature of the wider site, and the degraded appearance of the front boundary wall, the signage associated with the car wash use does not harm the street scene.
8. For these reasons I conclude that the car wash does not harm the character or appearance of the area, and find no conflict with the aims for design and visual quality within Core Strategy Policy CS03 and Policy PS10 of the Local Plan.

Policy relating to employment land

9. The Council advises that the site is within a Primarily Employment Area and is within a General Economic Development Area identified in the Employment Land Study (2017). Core Strategy Policy CS10 states that general employment land will be retained for B1(c), B2 and B8 uses. Local Plan Policy E03 generally

permits only B1, B2 and B8 uses within Primarily Employment Areas. The Council considers that the hand car wash use does not fall within any use class and so is not permitted by the policies.

10. However, Use Classes B2 and E(g)(iii) (which has replaced B1(c)) relate to use for industrial processes. The definition of 'industrial process' in *The Town and Country Planning (Use Classes) Order 1987* (as amended) includes the cleaning or washing of any article. The precise categorisation of a use can be highly fact-sensitive and only uses which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit are included in Class E(g). However, there is no such limitation in respect of Class B2, which is one of the uses permitted on this site. Although the Council draws a comparison with petrol stations, I am not persuaded that the hand car wash use in this case falls outside of any use class on that basis. Accordingly, I find that the use is permitted by the policies.
11. Moreover, I cannot see that the objectives of the policies would be compromised. While the Council regards the wider site as an important employment site, of a size which could accommodate a modern employment development, I have no evidence to show that its comprehensive redevelopment is imminent. Even if it were, there is no reason to suppose that this temporary car wash use would delay or prevent such development. Indeed, temporary permissions have been granted for other uses, such as car sales, elsewhere on the wider employment site.
12. For these reasons I conclude that the use of the site as a car wash does not compromise policies which seek to retain land for employment uses and find no conflict with Policy E03 of the City of Leicester Local Plan or with Policy CS10 of the Leicester City Core Strategy.

Drainage and pollution

13. The evidence before me from both sides regarding drainage and pollution is very limited. The Council says that it cannot prove that pollution has occurred, and its concerns relate largely to a lack of information relating to detailed drainage provisions. The appellant says that dedicated drainage has been provided.
14. The Council advises that the site is within a Critical Drainage Area and is at risk of flooding from both pluvial and fluvial sources. However, I have no reason to suppose that the car wash use contributes materially to flooding generally and the appellant advises that there is a connection to the foul sewer via an oil and grit separator. I have no evidence to show that these provisions are unsatisfactory. Although there is no drainage channel at the site entrance, the car washing appears to take place well within the site and I have no evidence to show that water from the car wash area runs into the road.
15. The Council states that there is no consent in place from Severn Trent Water to discharge trade effluent into the drainage system. However, that is a separate regulatory matter and is not sufficient reason to withhold planning permission. The Council also refers to concerns relating to a lack of sustainable drainage provision and the storage of cleaning chemicals, but these concerns are not explained further.

16. Overall, I have no clear evidence to show that the car wash use causes harm in respect of drainage or water pollution and find no conflict with Local Plan Policy PS11, which seeks to ensure protection from pollution, or with the similar aims of the National Planning Policy Framework.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.
18. I have attached a condition limiting the planning permission to a 3 year period, reflecting the upper limit of the range the appellant suggests and the longer-term aspirations relating to the wider site. I cannot see any good planning reason for the shorter period the Council suggests. I have restricted the hours of operation to protect the living conditions of residents in the locality. I do not regard the conditions suggested by the Council relating to drainage to be necessary, based on the evidence before me.

Peter Willows

INSPECTOR