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# Appeal Decision

Site visit made on 15 February 2022

**by M Madge DIPTP MA MRTPI**

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

**Decision date: 5 April 2022**

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**Appeal Ref: APP/W2465/W/21/3280398**

**Hand Car Wash, 115 Uppingham Road, Leicester, LE5 4BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr N Okeke against Leicester City Council.
  - The application reference 20202182, is dated 3 November 2020.
  - The development proposed is the erection of purpose built structures to accommodate (Class E) office, w/c, car wash, valet service, window tinting business.
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## Decision

1. The appeal is allowed and planning permission for the erection of purpose built structures to accommodate (Class E) office, w/c, car wash, valet service, window tinting business is granted, subject to the conditions set out in the attached Schedule.

## Preliminary Matters

2. This is an appeal against the Council's failure to issue a decision within the requisite time period (s78(2)(a) of the 1990 Act). Having regard to s78(5) it shall be assumed that the local planning authority decided to refuse the application.
3. This appeal is travelling with reference APP/W2465/C/21/3286026, which is an appeal against the Council's issuing of an enforcement notice for the alleged material change of use of land to a hand car wash service and window tinting service. That appeal is the subject of a separate decision.

## Main Issues

4. The main issues are:
  - Whether the proposal would preserve the setting of St Barnabas Church Grade II listed building (LB); and
  - Whether the proposal would be acceptable in character and appearance terms.

## Reasons

5. Hand car wash facilities often occupy redundant or unoccupied sites as a temporary use while permanent redevelopment solutions are found. Other than the current proposal, to erect a permanent building to accommodate the hand car wash, valeting and window tinting business ('the business'), I have not been made aware of any other permanent development proposals for the site.

### *Setting of the listed building*

6. The previous Inspector<sup>1</sup> concluded that the LB's significance derives from being a historic landmark building, signposting the Victorian architectural grandeur and heritage of the area. The LB's setting includes Uppingham Road, Kitchener Road and St Barnabas Road, from which its roofscape, including the turret and spire, and its fenestration and chequered stone brickwork pattern, are noticeable rising above and between the various buildings in the neighbourhood. This setting contributes to the LB's significance by providing a foreground with short and middle-distance views of the LB. There have been no significant changes since the previous Inspector's decision, and I concur with their findings in respect of the LB, the extent of its setting and its significance.
7. While planning permission has previously been granted for the use of the site as a hand car wash service, with associated temporary buildings, that permission was the subject of conditions requiring the use to cease in order to allow the opportunity for a more permanent use of the site to come forward. Unlike previous development proposals, the current proposal provides for a permanent building to accommodate the business.
8. Development between the site and the LB is of at least 2-storeys in height and the high fencing around the site's periphery has the benefit of planning permission. The proposed building would have a single storey and DWG No. A1-004 dated November 2020 shows the building's height as being 4.774m to the highest part of its roof, which is substantially lower than the 6m identified in the Council's submissions. The proposed development would change the appearance of the foreground, from which the short and middle-distance views of the LB are available. However, such change would occur as a result of any permanent redevelopment of the site. In this case, that change would take the form of a modest permanent building, incorporating hipped roofs and materials comparable to existing development within the immediate locality.
9. The building would be sited roughly in line with the commercial garage to the rear of the site, and it would be offset from the adjacent dwellings fronting St Barnabas Road. The proposed building would therefore be seen against a backdrop of existing commercial and residential buildings, and existing short and middle-distance views of the LB would be retained.
10. Taking the above together, the proposal would have a neutral impact on the setting of the LB, and therefore a neutral effect upon the LB's significance. In the absence of harm to the significance of the LB, there is no need to consider any public benefits of the proposal.
11. The proposal would preserve the setting of St Barnabas Church Grade II listed building, in compliance with policy CS18 of the Leicester City Core Strategy (July 2014), which seeks to ensure that development protects the setting of designated heritage assets, amongst other things. Furthermore, in my consideration of the proposal's effect, I have discharged the statutory duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### *Character and appearance*

12. There is no dispute that the site is prominently located at the junction of Kitchener Road, Uppingham Road and St Barnabas Road. While the site may be

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<sup>1</sup> APP/W2465/W/20/3246125

located within an area identified as being primarily put to residential purposes, there are a variety of community, retail, commercial and industrial uses adjacent and near the site. Furthermore, the site was previously occupied by a commercial garage. The principal of using the site for commercial purposes is therefore in keeping with the established pattern of development in the locality.

13. Planning permission has previously been granted for the high fencing that delineates the site boundaries, and which obscures activities within the site to a limited degree. The building would be set behind the fence, adjacent to approximately half of the Uppingham Road frontage. Due to the location of the access and egress points, the building would be side on to Uppingham Road. The side elevation is however shown as having 2 pedestrian access doors. An outside customer seating area would also occupy the remaining Uppingham Road frontage, to the west of the building. The Uppingham Road frontage would not therefore be devoid of activity.
14. The 4 marketing boards, shown on the proposed north elevation, would break up a large expanse of otherwise unrelieved brickwork. Each board would be located just above ground level and would rise to a height approximately level with the top of the access doors and they would have a width of similar dimension to their height. The amount of marketing space proposed is large in comparison to the business activities that would be undertaken, particularly as a fifth marketing board of the same size is shown on the western elevation.
15. While the convenience store on the northern side of Uppingham Road has similar marketing boards, those are significantly smaller and marketing material does not cover the whole area of each board. While drawing number A1-004 shows the location and size of each marketing board, it does not provide details of their construction materials, means of fixation or details of the marketing material to be displayed. To ensure that these are not detrimental to the character and appearance of the area, a suitably worded condition can require their submission for approval, prior to their installation.
16. The proposal would cause no significant harm to character and appearance, in compliance with policy CS3 of the Leicester City Core Strategy (July 2014), which seeks to deliver high-quality, well-designed developments that positively contribute to the character and appearance of the built environment, amongst other things.

## **Conditions**

17. Considering advice found in the PPG, I will impose a commencement condition to ensure the development begins in a timely manner. To avoid any doubt, and in the interests of safeguarding living conditions of neighbouring residents, I shall impose conditions requiring the development to be carried out in accordance with the approved plan, the provision of parking and servicing areas, controlling the hours of business operation, the machinery to be used and the operations to be carried out.
18. In the interests of proper planning, I shall impose conditions requiring the provision and maintenance of a sustainable drainage system, including details of petrol/oil interceptor, and what to do if previously unidentified contamination is found during construction works. The footway crossing onto Uppingham Road would be made redundant due to the location and orientation of the proposed

building, requiring its removal and making good of the footway would enhance the appearance of the development and street scene.

19. To ensure that the marketing boards do not detract from the character and appearance of the area, a condition shall be imposed requiring their means of construction, materials, means of fixation and marketing material details to be displayed to be submitted and approved, prior to their installation.

### **Conclusion**

20. For the reasons given above I conclude that the appeal should be allowed.

*M Madge*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

1. The development shall be begun within three years from the date of this permission.
2. Development shall be carried out in accordance with the following approved plans: Plans and Elevations, A1-004 dated Nov 2020 and submitted with appeal APP/W2465/C/21/3286026.
3. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved by the local planning authority. No part of development shall be occupied/the use shall not commence until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime.
4. Prior to the building being brought into use, and notwithstanding the details shown on Drawing Number A1-004, details of the size, construction materials, means of installation and marketing material to be displayed shall be submitted to and approved in writing by the local planning authority and the approved details shall be implemented in their entirety.
5. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved in writing by local planning authority. The remediation strategy shall be implemented as approved prior to the development being brought into use.
6. Provision shall be made for surface water drainage from the car park and servicing area to pass through a petrol/oil interceptor, details of which shall be submitted to and approved in writing by the City Council as Local Planning Authority prior to installation.
7. The proposed use shall not commence until all parking and service areas have been surfaced and marked out in accordance with details shown on the approved plans and they shall be retained for parking/servicing and not used for any other purpose thereafter.
8. The proposed use shall not commence until the vehicular access on to Uppingham Road is closed and the redundant footway crossing has been reinstated in accordance with the Council's standards contained in the "Leicester Street Design Guide".

9. The premises shall only be used between the hours of 0900 - 1900 Mondays to Saturdays, and between the hours of 1000 - 1800 on Sundays or officially recognised public holidays.
10. No machinery shall be installed or operated, nor shall any processes be undertaken which are detrimental to the amenity of the area by reason of noise, vibration, smell, fumes.