



Appeal Decision

Site visit made on 17 January 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2023

Appeal Ref: APP/W2465/W/22/3305131

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 F Muhammad against Leicester City Council.
 - The application Ref 20221198, is dated 7 June 2022.
 - The development proposed is to allow the temporary use of the site for two years as a car wash, valet service and window tinting business.
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Decision

1. The appeal is dismissed, and planning permission refused.

Preliminary Matters

2. The description of development used in the heading above is taken from the planning application form. However, I have omitted the text which referred to a previous planning permission because those sentences did not describe development so were not necessary.
3. Plans have been submitted which illustrate existing and proposed built development at the appeal site. The application forms and appellant's statement indicate that no built development is proposed. Both the plan number and proposed development illustrated match a recently allowed planning appeal which included built development. This appeal is determined on the basis of the existing plans only. The proposed development shown on the submitted plans are taken to be illustrative.

Background

4. Two previous planning permissions were granted in July 2015 (20150744) and September 2016 (20161183), on a limited period basis for one year, for use of the site as a hand car wash and associated elements.
5. A planning application (20191799) for *retrospective use of the appeal site for a car wash and window tinting service (sui generis); installation of portable buildings and 2.4m laminated boards*, was dismissed at appeal (APP/W2465/W/20/3246125) on grounds of its failure to preserve the setting of a listed building, harm to the character and appearance of the area, and its effect on living conditions by way of noise.
6. An Enforcement Notice was subsequently served and upheld at appeal (APP/W2465/C21/3286026) which required that the use of the site as a car wash and for vehicle window tinting be ceased and that all equipment

structures and erections temporary buildings storage containers canopies and machinery be removed from the site.

7. At the same time planning permission (20202182) was granted following an allowed appeal decision (APP/W2465/W/21/3280398) which granted a permanent building to accommodate the car wash, valet and window tinting use.
8. This appeal seeks temporary planning permission to continue the existing car wash, valet and window tinting use for 2 years while the permanent building approved in the previous appeal is constructed.

Main Issues

9. The Main issues are:
 - a) whether the proposal would preserve the setting of the Church of St Barnabas Grade II listed building (LB)
 - b) the effect of the development on the character and appearance of the area, and
 - 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

10. The previous Inspectors¹ both 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 visible, rising above and between the various surroundings. 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 these previous Inspector decisions, and I concur with their findings in respect of the LB, the extent of its setting and its significance.
11. The appeal site is located between the junctions of St Barnabas Road and Kitchener Road with Uppingham Road within the setting of the LB. The appeal site comprises a hand car wash, valeting and window tinting. Elements on site include two storage containers painted yellow and blue, a sizable canopy, toilet and car washing paraphernalia including a number of large water butts which may be stored away overnight but are in use during the day. There is a tall fence around the appeal site, which is highly perforated, but which has several advertisements on it.
12. The appeal site is located within a mainly residential area, with nearby shops, takeaways, car sales and a health centre. The appeal site has a cluttered appearance due to the number of disparate structures and car wash/valet and window tinting paraphernalia which were spread across the site at the time of my visit, and which were visible through the fence. The appeal site is

¹ APP/W2465/W/20/3246125 & APP/W2465/W/21/3280398

prominent because of this appearance and its location on a prominent corner. The appeal site visually jars with the historical, architectural solidity and grandeur of the LB's exterior. The effect of this on the setting of the LB can be seen from around the junction of Uppington Road and Kitchener Road; from Uppingham Road; and from within the appeal site.

13. The use has a harmful impact on the setting of the LB, and detracts from the significance of the LB. However, the effect of the use is localised and therefore leads to less than substantial harm to the significance of the designated heritage asset. In these circumstances it is necessary to weigh the harm that would arise to heritage assets against the public benefits of the proposal.
14. With regard to the benefits, the use provides employment and services for motorists. However, the public benefits in these respects are limited given the number of people who work at the site, alternative options for motorists to clean their cars and in the context of an extant permission which could provide the same benefits. Consequently, the benefits do not outweigh the less than substantial harm to the significance of this designated heritage asset, giving great weight to its conservation.
15. The continued use of the appeal site for car washing, valeting and window tinting, utilising existing structures and outdoor space would neither preserve nor enhance the setting of a listed building. I therefore conclude that the development is contrary to Policy CS18 of the Leicester City Council Core Strategy adopted July 2014 and contrary to paragraph 197 of the National Planning Policy Framework. These policies amongst other things seek to enhance the character and setting of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

Character and appearance

16. As described above, the area is predominantly residential. Three sides of the appeal site front a highway on a prominent corner. The structures are not made from materials or use colours which match buildings nearby. The combination of structures and car wash/valet/window tinting paraphernalia described above, is also unusual in the street scene, does not integrate with existing development and presents an untidy appearance. As a consequence, there is significant ongoing harm to the character and appearance of the area.
17. I find that the appearance of the appeal site does not integrate with its surroundings and results in significant harm to the character and appearance of the area. As such, the development is contrary to Policy CS3 of the Leicester City Council Core Strategy adopted July 2014 and contrary to paragraphs 126 and 134 of the National Planning Policy Framework. These policies, amongst other things, seek that development is of high quality, beautiful and sustainable, responding positively to the surroundings and be appropriate to the local setting and context.

Living conditions

18. The side boundary of Number 14 St Barnabas Road adjoins the appeal site and is a residential property. The rear garden of this house is separated by a wooden fence and brick wall.

19. During my site visit I heard considerable noise from the use, including the movement of vehicles, stop/starting of engines, opening and closing of doors, use of equipment in particular for car cleaning and discussions between staff and customers all of which contributed to noise and disturbance.
20. The appellant has provided no noise survey or details of noise mitigation to protect the living conditions of occupiers of the adjacent house which neither the fence nor wall can sufficiently mitigate. I find that the continued use of the car wash has a significant detrimental impact on the living conditions of neighbouring occupiers by way of noise and disturbance.
21. The ongoing use of the site in its current form results in significant harm to the living conditions of occupiers of No 14 St Barnabas Road, with particular regard to noise. As such it would not accord with saved Policy PS10 of the Leicester City Council, City of Leicester Local Plan 1996-2016 adopted January 2006 and contrary to paragraph 130(f) of the National Planning Policy Framework 2021. These policies, amongst other things, seek that noise is taken into account and that development creates places with a high standard of amenity for existing and future users.

Other Matters

22. The Council has raised concern that the application is not legal because the declaration on the application form is not signed by the appellant and there is no agent on the forms. And because the notification of the application was served at the appeal site address and not at the home of the appeal site owner. These issues would have to be resolved if the appeal was allowed and further consultation would be required, however as I am dismissing the appeal there is no need to resolve these outstanding issues.
23. The appellant has sought a temporary permission to continue the existing unauthorised use until the development approved in their previous appeal is completed. The development previously approved occupies much of the appeal site. There are no details before me which demonstrate that works to implement the approved development can be started and that the existing use could continue concurrently. As the permission can be implemented without further delay, I give little weight to this issue in light of the harm I have found above.

Conclusion

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

S Crossen

INSPECTOR