



Appeal Decision

Site visit undertaken on 25 May 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/W2465/W/25/3360453

Broadway Hotel, 263-265 Abbey Lane, Leicester LE4 5QH

- 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 P Singh against the decision of Leicester City Council.
 - The application reference is 20241667.
 - The development is described on the Application Form as 'Retrospective planning permission for covered area at the rear (timber structure + polycarbonate roof) of the property.'
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr P Singh against Leicester City Council. This application is the subject of a separate decision.

Preliminary Matters

3. As noted on the Application Form and from my site visit, the proposal has already been carried out and is therefore made retrospectively. I have made my decision on this basis.

Main Issues

4. The main issues are the effect of the development upon:
 - The character and appearance of the host building, including the surrounding locality; and
 - The effect of the development on the living conditions of the existing and future surrounding occupiers, particularly No.68 Beaumanor Road with regards to noise and odour.

Reasons

Character and Appearance

5. The appeal property consists of a former public house which appears to be Victorian with a number of modifications. The building is two storeys tall, red brick with a Staffordshire blue brick plinth with brick soldier coursing above fenestration with stone cills. The first-floor windows have been modified and contain uPVC windows which are inauthentic to the historic character of this building. The building is now a restaurant which has its main building fronting Abbey Road and also includes two attached terraced buildings to the north of the main building. The two

converted terraced buildings are part of the main restaurant use and have a small beer garden to the rear with the rear boundary being a tall brick wall. To the south of the main building is a tarmacked carpark, whilst to the west of the main building are smaller two storey and single storey rear extensions and a detached historic outbuilding which appears to be contemporary to the main building. The outbuilding is two storeys tall with boarded up windows and fronts Beaumanor Road which runs along the rear boundary of the site. Beaumanor Road contains a number of tightly knit terraced dwellings that have no setback from the pavement. Nos 68-70 Beaumanor Road appear to be a recently constructed pair of semi-detached dwellings that have a very small rear garden with No.70 directly abutting the rear of the beer garden, and No.68 abutting the beer garden to the rear and the historic outbuilding to the side.

6. Between the outbuilding and the later rear extensions to the main building, a timber framed structure with lean-to polycarbonate roof has been constructed which joins the historic outbuilding to the main collection of buildings. The timber framing and polycarbonate roofing also continues around the side of the outbuilding and provides covered access from the side of the outbuilding to the main building. It is this timber framed structure that is the subject of this appeal. According to the plans the area is used for storage. Upon my site visit I saw a number of fridges and benches which appeared to be utilised for storage in association with the restaurant use of the site.
7. In assessing new development, the Leicester City Council Core Strategy (CS) Policy CS03 is a design led policy which has a number of design criteria to adhere to, such as being high quality, well designed, respond positively to the character of the area in terms of materials, height, scale, and massing, amongst others.
8. The Appellant's Statement of Case (SoC) and Final Comments describes the structure as a 'non-permanent, non-foundation structure' that 'is not fully reflective of the host building's materials.' It is quite clear that high quality design and materials is an essential component of character and appearance which is sought to be achieved through the application of CS Policy CM03. Whilst there is no definition of what 'high quality' means, materials are specifically mentioned in the policy and are important consideration as to their authenticity, quality, and longevity, amongst other considerations. Whilst I appreciate that polycarbonate is an increasingly utilised material, as evidenced in the surrounding area it is quite a poor quality and a temporary product that does not stand the test of time and has a very poor appearance within a relatively short timeframe. Evidence of this can be seen on surrounding properties where polycarbonate has been utilised and the poor and makeshift appearance that this has created.
9. Additionally, the extension is poorly constructed, for example the use of temporary flash-banding instead of lead on the join of the roof protruding from the side of the outbuilding; and the lack of proper walling material between Nos 68-70 to the rear where the gap between the roof of the new structure and the boundary wall is a reused canvas which appears to be from advertising signage. To the rear boundary along Beaumanor Road, the infill from the roof to the brick boundary wall has been constructed in a poor-quality ply board, with the roof of the structures not drained adequately via appropriate guttering, together with the poor quality polycarbonate roofing and timber frame. Both structures appear quite temporary, makeshift and could not reasonably be considered 'high quality.'

10. I appreciate that the Appellant views that harm cannot be caused by the development as it is to the rear of the site. However, my reading of CS Policy CS03 does not restrict an assessment of character and appearance to the public realm and that the private realm is somewhat not important. Harm can be caused to character and appearance even if it is not visible within the public realm and therefore a holistic assessment of character and appearance must include both private and public realms. Despite this, both of the extensions are highly visible within the public realm, particularly along Beaumanor Road where the juxtaposition between the historic outbuilding and the poor-quality extensions are very evident. The use of poor-quality materials such as polycarbonate as evidenced on the roof could not be considered high quality and presents a poor quality and makeshift appearance not in keeping with the architectural integrity or authenticity of the host building or the surrounding locality.
11. I accept that the principal of a proposal for an extension may be appropriate in this location, and that the current installation is of an appropriate size and scale that is relatively subservient to the host buildings. I also appreciate the benefits of such an extension, such as economic benefits in terms of providing additional storage space to assist a business in staying viable, and operational efficiency along with facilitating employment in the local area, and the maintaining of the site as a social space for local community to gather. However, these benefits would also be present within a more permanent structure that was considerably of higher quality in materials and workmanship, which would comply with CS Policy CS03. As such, these benefits do not outweigh the clear significant harm caused to the character and appearance of the host building and the surrounding area.
12. As such, taking the above into account, the scheme would not be appropriate and would be detrimental to CS Policy CS03, as described previously.

Living Conditions

13. The appeal documents are limited in terms of explaining the purpose of the enclosed areas, in terms of how they impact the operations of the business, and whether the fridge and storage areas are the same as existing or are in addition to the existing, for example previous fridges relocated so that more seating and capacity could be provided, or whether the newly created area doesn't increase capacity but provides more circulation space, and the ability to access the outbuilding to the main building under cover. Despite this, to me the area subject to this appeal is relatively small, and does not appear to be enabling the business operations to expand to any material extent. The additional space appears to be accessible to staff only; I did not experience a tv or the ability for patrons of the restaurant to gather within this structure as described by interested parties. Whilst there might be issues of noise from anti-social behaviour from persons using the beer garden or loitering in the car parking area as described by interested parties, this does not appear to be specifically associated with the temporary structure; but more related to the functioning and operation of the spaces in the business itself.
14. I accept that the use of this area during late hours for food preparation and so forth could contribute to the noise increases, particularly to the rear of Nos 68 and 70 that are in close proximity to the structure. I also accept that currently there is nothing restricting the structure from being utilised in terms of times and function. However, Paragraph 56 of the National Planning Policy Framework (the Framework) states that 'Local planning authorities should consider whether

otherwise unacceptable development could be made acceptable through the use of conditions.' I feel that appropriately worded conditions limiting hours of operation of the structure and its use as a storage area could mitigate/overcome concerns with regards to issues over noise relating to this particular structure. Whilst I empathise with interested parties with relation to noise from the beer garden and car park, these matters are beyond the realm of this application which concerns the structure itself.

15. In regards to smell, concerns from interested parties derive from smells currently being emitted from the two large commercial extractors, and that the appeal structure is also being utilised for cooking. Whilst I too did experience smells from the extractors in the streets surrounding, these are not part of the application and therefore cannot be considered. The appeal documents do not seek permission for the structure to be utilised for cooking, and therefore I have assessed the application on its merits, which is for a storage area. It is clear that it would be inappropriate for this particular structure to be used for cooking given the lack of extraction and nature of the structure that does not facilitate this type of use. Despite this, it would appear in this case that such uses for cooking could be adequately conditioned so that this would not occur.
16. Consequently, I therefore conclude on this matter that subject to appropriately worded conditions, the scheme does not cause unacceptable impacts to the living conditions of surrounding occupiers, particularly No.68 Beaumanor Rd and is therefore compliant with the saved policies of the City of Leicester Local Plan Policies PS10 and PS11 which seeks that development not cause unacceptable effects to the amenity of neighbouring occupiers.

Other Matters

17. I note responses from interested parties with regards to increased business causing parking problems; fire risk; and compliance with building regulations. As previously discussed, I do not feel that the structure is of a size that would cause material changes to the operation and patronage of the restaurant to an extent that is likely to cause increased parking problems. Compliance with building and fire regulations is not a planning matter, and therefore has not been considered with this application.
18. I note reference in the Appellant's SoC to a number of items of case law to support the appeal that relate to decision making, balancing exercise and using appropriate evidence in reasoning. This case law does not alter the inappropriateness of this appeal when considered against legislation, the development plan or material considerations.

Conclusion

19. Whilst I have agreed with the appellant for the second reason of refusal with regards to living conditions, this is not sufficient to outweigh the harm caused to the character and appearance of the host building and the locality. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be dismissed.

J Somers

INSPECTOR