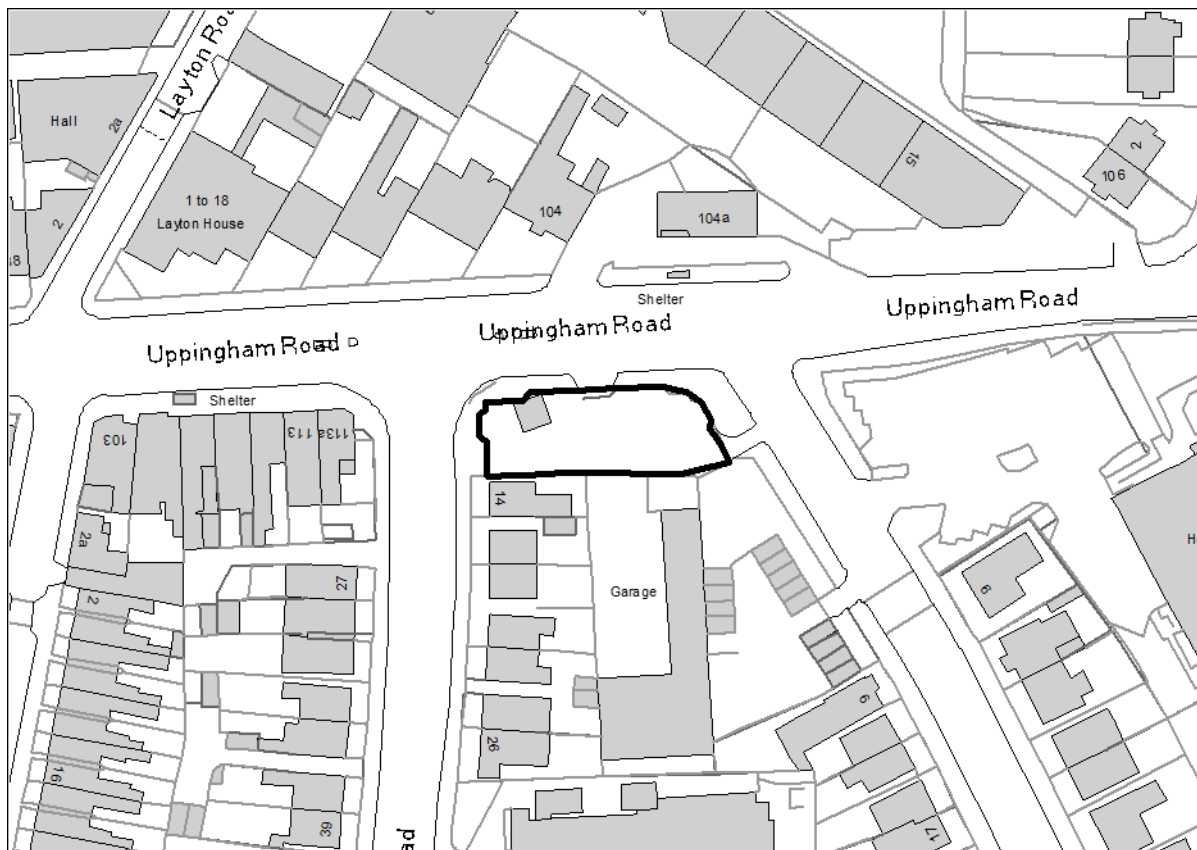


<b>20202182</b>	<b>115 Uppingham Road</b>	
Proposal:	Construction of single storey building to accommodate car wash, valet service and window tinting business (Sui Generis) (Amended plans received 6/5/2021)	
Applicant:	Mr N Okeke	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	23 April 2021	
ACB	TEAM: PE	WARD: North Evington



## Summary

- Reported to committee as previous application recently considered by the committee at the request of Cllr Fonseca who asks that the employment opportunities be considered.
- No objections received
- Issues are the benefits of supporting the current business, design, residential amenity, the highway, drainage, and impact on listed building.
- Application was due to be determined at the previous committee but was deferred due to receipt of amended plans.
- Recommended for refusal

## The Site

The site was previously used as a bus garage but has been in use as a car wash since 2015. It is located at the junction of Uppingham Road, St Barnabas Road and Kitchener Road.

The site is located within a mainly residential area with houses to the south. To the north of the site is a shop with houses to the east and west of this. To the west of the site is a doctor's surgery. To the east of the site is the Uppingham Road (West) Local Shopping Centre.

There is a Grade II listed church to the south of the site.

The site is located within flood zone 2.

## Background

The bus garage building was destroyed by fire in 2007 and was subsequently demolished.

In September 2010 planning permission 20101308 was granted for demolition of fire damaged buildings: Installation of 2.4-metre-high fence and gates. This was implemented.

In July 2015 planning permission 20150744 was granted on a limited period basis for one year for use of the site as hand car wash, one temporary building and hardstanding. This was implemented.

In September 2016 planning permission 20161183 was granted on a limited period basis for one year for the continuation of the use of the site as a hand car wash, the installation of a tyre fitting facility and the installation of three temporary buildings. The car wash use has continued but the tyre fitting facility has not commenced and there are only two temporary buildings.

In August 2019 planning application 20190751 for retrospective consent for the use of the site as a car wash and a temporary building was refused for the following reasons.

- 1. The proposal, by reason of the level of noise generated by the vehicle washing process, would be detrimental to the residential amenity of the occupiers of 14 St Barnabas Road contrary to saved policy PS10 of the City of Leicester Local Plan.*
- 2. The proposal, by reason of the use of temporary buildings, represents poor design for a permanent use and is contrary to policy CS3 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.*
- 3. The proposal, by reason of the appearance of the site, has a detrimental impact on the setting of the Grade II listed building of St Barnabas Church, St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 192 of the National Planning Policy Framework.*

In February 2020 a further application 20191799 for retrospective permission was refused for the following reasons.

- 1. The proposal, by reason of the level of noise generated by the vehicle washing process, would be detrimental to the residential amenity of the occupiers of 14 St Barnabas Road contrary to saved policy PS10 of the City of Leicester Local Plan.*
- 2. The proposal, by reason of the use of temporary buildings and the proposed 2.4m laminated due to use of materials and their location, represents poor design for a permanent use and is contrary to policy CS3 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.*
- 3. The proposal, by reason of the appearance of the site, has a detrimental impact on the setting of the Grade II listed building of St Barnabas Church, St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 193 of the National Planning Policy Framework.*

An appeal against that refusal was dismissed by the Planning Inspectorate on 3<sup>rd</sup> July 2020 with the Inspector considering that the harm caused to the setting of the listed building, the effect of the design and appearance of the site on the character and appearance of the area and the harm to residential amenity was not outweighed by the benefits of the services provided or job creation. The Inspectors decision is relevant to the recommendation.

Application 20201275 for the same proposal as dismissed at appeal was reported to your committee in October 2020 where the application was declined to be determined as the proposal was very similar to which had been dismissed at appeal .

## The Proposal

The application as submitted is for the construction of a single storey building to accommodate a car wash, valet service and window tinting service. The submitted plans proposed a building that would be 6 metres high, 34 metres wide and 7.8 metres deep. It would be finished in timber cladding with a dual pitched roof. The access would be from Kitchener Road with the exit on to St Barnabas Road. The elevation facing Uppingham Road would be blank with vehicles entering the building from the rear.

Amended plans have been received which reduce the building to 15 metres wide and 11.7m deep with a height of 5.7m. The design of the building has also been changed so that it has two pitched roofs. The entrance to the building would now be closer to the site entrance from Kitchener Road and the building would now accommodate four vehicles. Two pedestrian doors have been added to the elevation facing Uppingham Road. The lower part of the building would be constructed in brick and the upper part would be timber cladding.

## Policy Considerations

Development plan policies relevant to this application are listed at the end of this report.

Paragraph 2 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions.

Paragraph 11 contains a presumption in favour of sustainable development. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 109 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 120 states that planning decisions need to reflect changes in the demand for land and should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

Paragraph 124 states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 sets out criteria for assessing planning applications and requires decision makers to ensure that development proposals:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 130 states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

### Development Plan policies

Development plan policies relevant to this application are listed at the end of this report.

Most relevant Core strategy policies are CS2, CS3, CS18 and Local plan policy is PS10.

## Consultations

Service Director, Environmental Health – originally raised concerns that the positioning of the openings close to the neighbouring property would result in an increase in the likelihood of a noise complaint as noisy activity within the building would reflect from the walls and escape through doors. The opening and closing of the shutters would also result in noise complaints. Further the access route is narrow and would result in an increase in noise complaints as a result of frequent shunting of vehicles in and out of the building. These concerns would be difficult to overcome through conditions.

On receipt of the amended plans the concerns have been withdrawn and they recommend an hours of use condition.

Local Highway Authority – No objections.

Local Lead Flood Authority – Requested further information in relation to SuDS, confirmation of consent to discharge trade effluent and measures to prevent surface water entering the highway.

Conservation Advisory Panel – No comments.

## Representations

No objections have been received.

Nine comments in support of the application have been received. These appear to be users of the facility and none of the addresses are in close proximity to the site.

Cllr Fonseca has asked for consideration to be given to the proposal protecting the jobs of 5 members of staff.

Claudia Webbe MP has written in support of the application.

## Consideration

### Principle of development

The site is located within an area which is predominantly residential in nature.

In this case it is acknowledged that the site is part of a former garage of which the remaining part is in use as a vehicle repair garage, however there are residential properties immediately to the south of the site on St Barnabas Road.

Hand car washes by their nature are not suitable permanent uses when they are the primary use, however they are sometimes acceptable permanent uses when they are a secondary use to a garage forecourt. In this case there is no connection between the vehicle repair garage and the hand car wash, and I therefore do not consider that the use could be considered to be a secondary use.

Hand car washes can sometimes be an acceptable temporary use in low grade employment sites where any impact on residential amenity can be kept to a minimum. Where temporary consents are granted these should also be kept to a short period to allow the owners to come forward with a redevelopment plan for the site.

The proposal now seeks permanent consent for the construction of a building to house the car wash use and a window tinting service. I consider that these uses would be more appropriately located within an industrial area and do not represent an appropriate form of permanent development for the site. Further the proposal fails to add to the overall quality of the area and fails to provide an appropriate amount of development for the site contrary to paragraph 127 of the National Planning Policy Framework 2019.

### Design

Policy CS03 of the Leicester Core Strategy states that good quality design is central to the creation of attractive, successful and sustainable places. The policy further states that development must respond positively to the surroundings, be appropriate to the local setting and context and take into account Leicester's history and heritage.

The amended proposed building would be finished in brickwork and timber cladding and have a predominantly blank frontage facing Uppingham Road. The surrounding properties are predominantly finished in brick or render with the shops on the opposite corner of St Barnabas Road and Uppingham Road having active frontages and the houses on the opposite side of Uppingham Road having windows and doors facing the road. The applicant states that the timber cladding would match the context of the area, however this is not typical in the immediate area.

I consider that the proposed building fails to take into account the setting and context of the area and would represent poor design that fails to take account of the development opportunity available on the site. I therefore consider that the proposal is contrary to policy CS03 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.

### Heritage Assets

Policy CS18 of the Leicester Core Strategy states that the Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.

To the south of the site is the Grade II listed former St Barnabas Church. The building 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 building spans a substantial proportion of the distance between St Barnabas Road and Kitchener Road. The buildings 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. The building's significance derives from being a historic landmark building. The former church remains a dominant feature in the area.

The proposed building would be 6 metres in height and finished in timber cladding, as well as representing poor design in itself, as discussed above, I consider that whilst it would offer an opportunity to tidy the site and rationalise the advertising within the site it fails to reduce the level of harm caused to the setting of the listed building. I therefore consider that it would represent less than significant harm to the setting of the listed building and be contrary to policy CS18 of the Leicester Core Strategy and paragraph 193 of the National Planning Policy Framework 2019.

In the appeal against refusal of planning application 20191799 the inspector gave significant weight to the impact on the heritage asset saying that *the site is a prominent element within the Listed Building's foreground and has a significant visual relationship with the Listed Building.*

I consider that this still applies and that the proposed use and building provides an inappropriate setting for the listed building.

### Residential amenity

The applicant has submitted a further letter of support from the occupier of 14 St Barnabas Road which is directly to the south of the site. This was submitted with the application and I have had no correspondence from the occupiers of this property to be able to verify its contents.

The original proposal would result in the openings to the building facing this property and I consider that it is likely to result in a detrimental impact on the residential amenity of the occupiers of this property as the noise generated by the car washing would be likely to reverberate around the proposed building and exit through the many openings to the elevation facing this property. Whilst this could be controlled by requiring the roller shutter doors to remain closed while work was occurring, the noise generated from opening and closing these doors would be significant enough to generate noise complaints in itself.

The amended proposal shows that the entrance would face Kitchener Road with the exit facing St Barnabas Road. Roller shutter doors would be located at the entrance with double doors on the exit. The building would be 0.9m from the boundary with 14 St Barnabas Road. Whilst the proposal to contain some of the within a reduced building would reduce the impact on the occupiers of this property I still consider that there would be a detrimental impact due to noise.

In the July 2020 appeal decision the Planning Inspector found that *"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 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."*



I therefore do not consider that the revised proposal overcomes the concerns relating to residential amenity. I consider that the proposal is contrary to saved policy PS10 of the City of Leicester Local Plan and paragraph 127(f) of the National Planning Policy Framework 2019 which requires development to afford a high standard of amenity for existing and future occupiers.

### Highways and Parking

The site is located on a busy junction on a main arterial route into and out of the City Centre. There have been a number of traffic accidents at this junction over the last five years however these were as a result of the layout of the junction and were not as a direct result of the application site. The previous use of the site as a bus garage would have generated a significant amount of traffic and this would be comparable to the amount of traffic generated by the proposal.

The amended proposal could result in vehicles queuing on Kitchener Road to enter the site however I consider that this would be unlikely to generate severe harm to highway safety. I therefore do not consider that a refusal on the grounds of impact on the highway could be justified.

### Drainage

The site is located within Flood Zone 2 where there is a moderate risk of flooding and also within a critical drainage area. If the application was acceptable in other regards, I would have requested further information in the form of sustainable drainage methods and information regarding consent to discharge trade effluent. However, given the impacts addressed above this information has not been requested. I therefore consider that the impact on flood risk in the area would not justify refusal for this reason.

## Conclusion

In conclusion whilst the proposal now includes a building and removes the tyre fitting element, I consider that the proposal fails to overcome the reasons for refusal of the previous applications and would represent poor design and be detrimental to residential amenity.

I recommend REFUSAL for the following reasons:

### REASONS FOR REFUSAL

1. The proposal, by reason of the predominantly blank frontage to Uppingham Road and the use of timber materials, represents poor design that is contrary to policy CS03 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.
2. The proposal, by reason of the level of noise generated by the vehicle washing process, and the location and operation of the roller shutter doors, would be detrimental to the residential amenity of the occupiers of 14 St Barnabas Road contrary to saved policy PS10 of the City of Leicester Local Plan and paragraph 127

(f) of the National Planning Policy Framework 2019 which requires development to afford a high standard of amenity for existing and future occupiers.

3. The proposal, by reason of the height of the proposed building and the materials used, has a detrimental impact on the setting of the Grade II listed building of St Barnabas Church, St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 193 and 200 of the National Planning Policy Framework.

#### NOTES FOR APPLICANT

1. The City Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application no pre-application advice was sought before the application was submitted and no negotiations have taken place during the course of the application. The City Council has determined this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. As the proposal is clearly unacceptable, it was considered that further discussions would be unnecessary and costly for all parties.

#### **Policies relating to this recommendation**

2006_BE20	Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2014_CS02	Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
2014_CS03	The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
2014_CS18	The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.