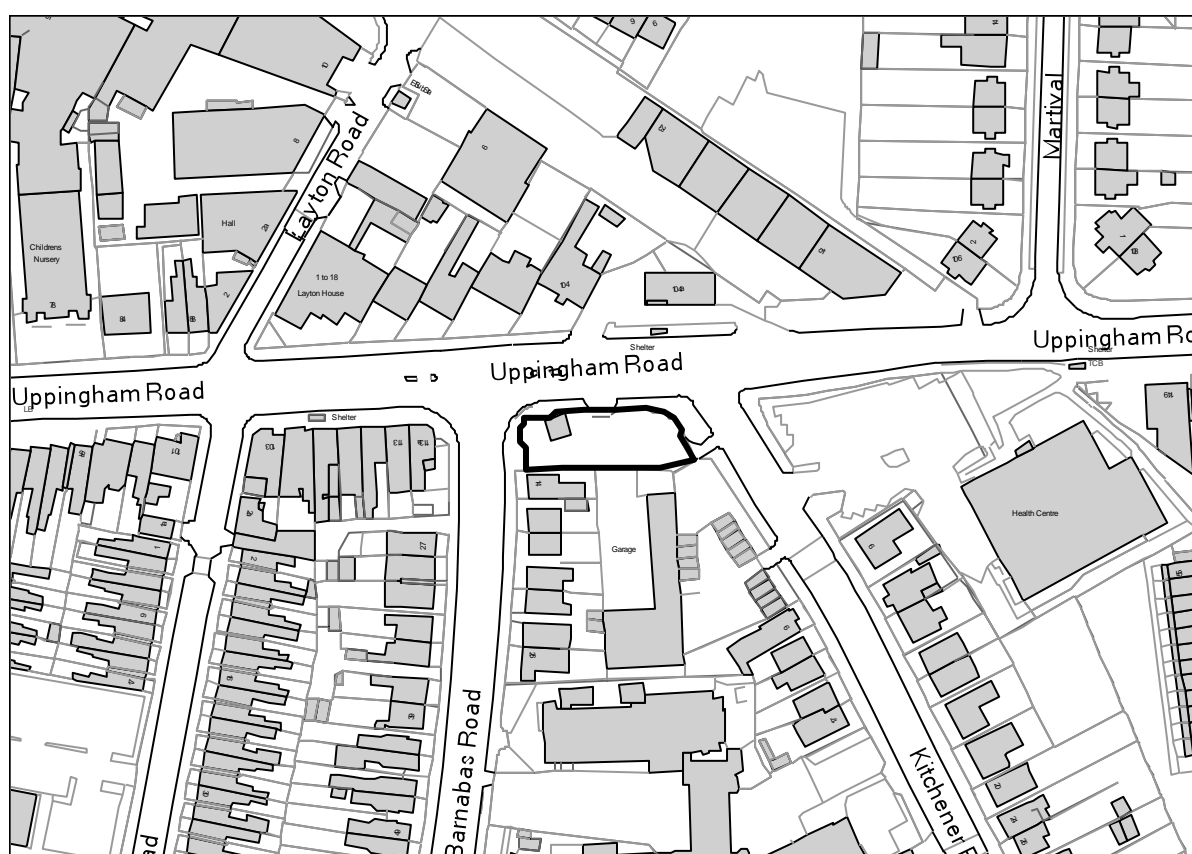


COMMITTEE REPORT

20202182	115 Uppingham Road	
Proposal:	Construction of single storey building to accommodate car wash, valet service and window tinting business (Sui Generis) (Amended plans received 26/5/2021)	
Applicant:	Mr N Okeke	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	16 July 2021	
ACB	TEAM: PE	WARD: North Evington



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Summary

- Reported to committee as previous application was 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, 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 in a prominent location 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, 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 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 planning application 20191799 for retrospective permission for the use of the site as a hand car wash 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 the refusal of 20191799 was dismissed by the Planning Inspectorate on 3rd 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 Inspector's 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 that 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 original submitted plans proposed a building that would be 6 metres high, 34.3 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 had been received which reduced the building to 14.9m 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.

Further amended plans were submitted prior to the previous committee meeting. These alter the roof of the proposed building so that it would have a hipped roof. Four boards would also be attached to the front elevation of the building facing Uppingham Road which would be used to advertise the services on offer at the site. The timber cladding has been removed from the proposal and the building would be finished in brickwork. The dimensions of the building have not been altered since the last amendment.

The proposal would provide employment for 5 persons which is the same number as the current use.

Policy Considerations

National Planning Policy Framework 2019 (NPPF)

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.

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 – had 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.

11 comments in support of the application have been received. These appear to be users of the facility. One of the comments is from the occupier of a neighbouring property.

The applicant has submitted a letter from the occupier of the neighbouring property at 14 St Barnabas Road which states that they have not had any issues with the car wash since it opened

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 occupies a prominent corner plot on the A47 Uppingham Road located within an area which is predominantly residential in nature.

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 considered 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 should be viewed as an ancillary 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 window tinting service. I consider that these uses would be more appropriately located within an employment than a primarily residential area and would not represent an appropriate form of permanent development for the site.

Design

The proposal fails to take the available opportunity to improve the character and quality of the area and the way it functions, contrary to paragraph 130 of the NPPF. It fails to provide an appropriately designed amount of development for the site contrary to paragraph 127 of the National Planning Policy Framework 2019.

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, and as the development is not designed in accordance with this policy it again fails to meet the requirements of Paragraph 130 of the NPPF (2019).

The amended proposed building would be finished in brickwork. There are also four boards that would be installed to the front of the building to advertise the services on offer that would require a separate advertisement consent. This results in no active frontage onto the main Uppingham Road which is contrary to good design practice. 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. I welcome the removal of the timber cladding from the proposal however I consider that a solid building with no active frontage to Uppingham Road would not make a positive contribution to its surroundings.

The applicant states that they have based the design for the front of the building on that of 104a Uppingham Road. This building was granted planning permission in 1996 when design principles were not as strong as they are now. The building at 104a Uppingham Road does not have a positive impact on the appearance of the area and would have required significant amendments had it been proposed now and should not be used as the design cue for this development.

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 paragraphs 124, 127 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. Taking the above together, the buildings significance derives from being a historic landmark building, which signposts the Victorian architectural grandeur and heritage of the area. Whilst the former church is no longer in use it remains a dominant feature in the area.

The proposed building would be 6 metres in height 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 further consider that the proposed advertising boards to the front of the building would cause further harm 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. He considered that *the site is a prominent element within the LB's foreground, and has a significant visual relationship with the LB*. I do not consider that the proposed use within a poorly designed building has significantly altered the situation.

Residential amenity (neighbouring properties)

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."

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.

The original proposal would have resulted in the openings to the building facing this property and would have resulted in a detrimental impact on the residential amenity of the occupiers of this property as the noise generated by the car washing would have been likely to reverberate around the proposed building and exit through the many openings to the elevation facing this property. Whilst this harm could have been controlled by requiring the roller shutter doors to remain closed while work was occurring the noise generated from opening and closing these doors would still have been 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. As the proposal is now for the uses to be contained within a building I consider that this would have the effect of protecting local residents from the noise associated with the car wash and I therefore consider that previous reason for refusal has been overcome.

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. Where the application deemed 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.

Other matters

I note that the proposal would result in the retention of 5 jobs which would otherwise be lost. Whilst I understand the need to protect jobs, I consider that the inappropriate design and harm to the listed building explained above are not outweighed by the need to protect jobs in this case.

Conclusion

In conclusion whilst the proposal now includes a building and removes the tyre fitting element, I consider that the proposal represents a poorly designed building that fails to take account of the development opportunity available on the site and causes harm to the setting of the listed building contrary to policies in the NPPF and CS03 and CS18 of the Leicester Core Strategy.

I therefore recommend that the application be REFUSED for the following reasons:

REASONS FOR REFUSAL

1. The proposal, by reason of use, outside seating area and its design and lack of an active frontage to Uppingham Road together with the display of advertisement boards would on a prominent site fail to take account of the setting and context of the area, and 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 its siting, design and the height of the proposed building together with the display of the proposed advertising boards, would have a significant detrimental impact on the setting of the Grade II listed building of St Barnabas Church, 28 St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 193 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.