



APPEAL BY:
Mr Besnik Dedei

AGAINST WELWYN HATFIELD COUNCIL'S REFUSAL
TO GRANT PLANNING PERMISSION FOR:
The change of use of land to car washing / valeting (sui generis) including the
erection of a canopy

AT
The Ramada Hotel, St Albans Road West, Hatfield, AL10 9RH

Welwyn Hatfield Council's Reference: S6/2013/2530/FP

WRITTEN REPRESENTATIONS: COMBINED GROUNDS OF APPEAL

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1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Mr Besnik Dedei, in support of the appeal lodged against the refusal of planning application S6/2013/2530/FP.

1.2 The application was submitted on 28th November 2013 and sought planning permission for the use of part of the existing hotel car park for a hand car wash service, including the siting of a canopy. The application was refused under delegated authority on 23rd January 2014.

1.3 The planning application was refused for the following reason:

- 1) *The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the proposed development would not have a detrimental impact on the character and appearance of the application site or the surrounding area. Given the scale, height, design and siting of the proposed canopy, the development would appear as a prominent and incongruous addition within the streetscene. In addition the proposal would result in material harm to the setting and visual amenity Grade II listed building. The proposed development would therefore not be compatible with the maintenance and enhancement of the character of the area and it would not preserve the setting of the area or make a positive contribution to the character and local distinctiveness of this locality. As such the proposed development would be in conflict with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.*

1.4 This grounds of appeal will address the central concerns raised within the Council's reason for refusal, notably:

- Whether the proposed use would be of detriment to the character and appearance of the site and the area.
- Whether the proposed canopy would be of detriment to the street scene
- Whether the use and canopy would be of harm to the setting and visual amenity of the Grade II listed building.

1.5 To set some context, this statement will first provide a description of both the appeal property and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the Council's concerns.

2.0 THE SITE & THE PROPOSED DEVELOPMENT

2.1 The appeal site is located within the developed area of Hatfield, to the south-west of the Comet Roundabout, with Comet Way running to the east of the site and with St Albans Road West running to the north. Access to the existing hotel is provided off of both roads.

2.2 The site is not located within the Green Belt, within a conservation area or within an area designated as being of any special character. However, the existing building, a 1930'S art deco style building, is Grade II listed.

2.3 The appeal application proposed to use 5 existing car parking spaces to the north of the site, within the part of the car park accessed off St Albans Road West, to provide a hand car wash

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service. The car wash would operate from 08.30am until 18.30pm Monday to Sunday and would employ two full time staff. Three of the parking bays would be provided with shelter by way of a canvass canopy supported by posts.

- 2.4 The proposed car wash would predominantly serve the customers of the hotel, however the car wash service would not cater solely for existing hotel customers. A number of similar arrangements already exist at other hotels and other commercial sites in the area. The car park would essentially operate as ancillary to the hotel using the services and the utilities of the hotel, for example for water and electricity and offering a service to the users of the main facility. The car wash would provide an additional service for customers which is complementary to the other facilities on offer at the hotel and which are generally readily available at modern hotel complexes. However, as touched upon above, the car wash would not be exclusive to use by hotel guests.

3.0 RELEVANT PLANNING POLICY

- 3.1 The reason for refusal refers to Policies D1 & D2 of the Welwyn Hatfield District Plan 2005 and to the National Planning Policy Framework.

- 3.2 The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to national and local planning policy.

National Planning Policy Framework (NPPF)

- 3.3 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

- 3.4 Paragraph 14 of the NPPF sets out that a presumption in favour of sustainable development is at the heart of the National Planning Policy Framework with paragraph 187 stating that local planning authorities should approach decision making in a positive way and should look for solutions rather than problems. The NPPF also advises that decision takers at every level should seek to approve applications for sustainable development where possible.

- 3.5 For decision making this means:

- *Approving development proposals that accord with the development plan without delay;*
- *Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - *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; or*
 - *specific policies in this Framework indicate development should be restricted.**

Core Planning Principles

- 3.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth bullet points state that planning should:

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- *Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.*
- *Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*
- *Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*

Conserving and enhancing the historic environment

- 3.7 Chapter 12 of the NPPF refers specifically to "Conserving and enhancing the historic environment" and sets out that planning permission should be refused only if a proposed development would lead to **substantial harm** to the significance of a designated heritage asset (including a Listed Building and Conservation Areas).
- 3.8 The NPPF does not define "substantial harm" but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely clear that the application proposal will not result in substantial harm to the listed building or its setting within the Conservation Area.

Decision-taking

- 3.9 Paragraph 196 reiterates that the planning system is "plan led" stating that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 196 clarifies that the NPPF is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Implementation

- 3.10 Annex 1 of the NPPF sets out guidance on the implementation on the NPPF and reinforces the importance of up to date plans. Paragraph 214 states that decision takers may continue to give full weight to relevant policies adopted **since 2004, in accordance with the Planning and Compulsory Purchase Act 2004**, for 12 months from the date of the publication of the NPPF, even if there is a limited degree of conflict with the NPPF. **(Important note: The District Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004. Therefore only limited weight can be given to the Local Plan).**
- 3.11 Paragraph 215 clarifies that in other cases and following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

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The Welwyn Hatfield District Plan 2005

Policy D1 – Quality of Design

- 3.12 Policy D1 refers to quality of design and states that the Council will require the standard of design in all new development to be of a high quality. The policy also states that the design of new development should incorporate the design principles and policies in the plan and the guidance contained in the Supplementary Design Guidance.

Policy D2 – Character and Context

- 3.13 Policy D2 refers to character and context and states that the Council will require all new development to respect and relate to the character and context of the area in which it is proposed. Development proposals are required to maintain, and where possible, to enhance or improve the character of the existing area.

4.0 THE APPELLANTS CASE

Introduction

- 4.1 The Appellant's case will focus on the central concerns of the reason for refusal, notably whether the proposed use would be of detriment to the character and appearance of the site and the area, whether the proposed canopy would be of detriment to the street scene and whether the use and canopy would be of harm to the setting and visual amenity of the Grade II listed building. This case will demonstrate that the proposed works would be of no harm to the area, to the street scene or to the historic significance of the building, or at the very least, of no substantial harm such that a reason for refusal should be sustained.

The impact of the use on the area

- 4.2 It is clear from the Case Officer's report that the Council's concerns relate predominantly to the canopy rather than the actual use. Indeed the Case Officer's report sets out that no local or national planning policies seek to resist the proposed car wash use and further establish that the use is not unacceptable in principle. The Appellant wishes to point out a) that the site is located within the developed area of Hatfield on an existing commercial site and b) that the National Planning Policy Framework places emphasis on supporting economic growth.

- 4.3 Having regard, to the location of the site in a commercial area on a very busy road network (an 8 lane carriageway) adjoining a roundabout, it cannot be reasonably considered that the use in itself would have any greater impact on the character and appearance of the area than the existing situation. The area is dominated by the highway and the commercial buildings on both sides of it. Setting aside the canopy and any signage, the car wash use would barely be noticeable. A car wash use such as this is not a use that is to be unexpected within hotel sites such as this and in itself would have no impact on the character of the area.

The proposed canopy

- 4.4 It is accepted that the canopy would be visible from St Albans Road West, however the canopy would be a small scale structure and it is reiterated that the area is dominated by an 8 lane carriageway and very large commercial buildings. According to the Case Officer's report the Council's concern appears to be that the canopy would be highly prominent within the locality. As set out above, it is noted that the canopy would be visible however it would not dominate the street scene and would not appear out of keeping with the

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commercial nature of the street scene / area. The Appellant understands why the Council may have concerns in this regard but considers that the Council have failed to take into account the site context. The street scene is abutting an 8 lane carriageway and could not have a more stark, urban appearance. The canopy would be visible along a small stretch of the carriageway but it is not of an excessive size and would not be of any harm to the street scene.

Impact on the setting of the listed building

- 4.5 The concern regarding the setting of the listed building is the Council's most valid concern, however the Appellant would still maintain that the Council's concerns in this regard are based on the subjective opinion of the Case Officer and that these concerns are somewhat exaggerated and overly cautious. The professional opinion of the Case Officer is of course respected however it is noted that no objections have been raised by any statutory consultees or by the Council's Historic Buildings Officer. The assessment is clearly subjective in nature and the Appellant contends that neither the use nor the canopy would be of detriment to the setting of the listed building.
- 4.6 The Appellant firstly points out that the car wash use would be located adjacent to the extended part of the building, which is not particularly sympathetic or in keeping with the original building. It is clear that the building was listed due its unusual design and its Art Deco style with the extension not being referred to within the listing. The proposed car wash use and associated works have very little impact on the setting of the original part of the listed building and would not harm its historic or architectural interest. People's experience of the building would be maintained and it is strongly asserted that the significance and appreciation of the setting of the listed building, within the zone of influence of the proposal, would not be compromised by the proposed use. The use would not result in any substantial harm, or even less than substantial harm to the setting of the listed building. It is clear that the NPPF expects heritage assets to be conserved in a manner appropriate to their significance, which means that any proposed works must be considered in the context of the significance of the building. The Appellant contends that the building is significant for the architectural quality of the original building and not the extension, which is of no particular special architectural merit, against which the car wash use would be located.
- 4.7 Moreover, it is not unacceptable in principle to carry out works within the site of a listed building. Small proposals such as this would not adversely affect the historic fabric, setting or interest of listed building and would therefore have a neutral impact. Having regard to the siting of the car wash and canopy it is considered to be a gross exaggeration to suggest that the proposed works would not preserve the setting of the listed building when they would have such a negligible impact upon it. There would be no harm to the special architectural or historic interest of the building or to its setting and as such the overall impact of the proposed works must therefore be considered to be neutral.

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5.0 CONCLUSION

- 5.1 The proposed use and canopy works would be of no harm to character and appearance of the site, the street scene or the setting of the listed building. The Council's objection is based on a subjective Officer opinion, which is overly cautious and exaggerated. The Appellant understands why the Council may have concerns, however the Council have adopted an overly cautious approach failing to fully take into account the limited actual impact that the use and the canopy would have on the building and the locality in general. The proposed works would not be contrary to any specific requirements within the policies of the Local Plan and the National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development.
- 5.2 The proposed works would not be contrary to national or local planning policy and for the above reasons it is politely requested that this appeal is allowed.

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