

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Enforcement Sub-Committee 26 January 2010
AUTHOR/S: Executive Director (Operational Services) / Corporate Manager
(Planning and Sustainable Communities)

Q8 GARAGE, FOXTON AND ENFORCEMENT AGAINST THE SALE OF CARS FROM THE SITE WITHOUT SPECIFIC PLANNING CONSENT

Purpose

1. This item is to inform Members about the current situation regarding the unlawful development that is occurring at the Q8 garage on the A10 in the Parish of Foxton. The occupier of the site is unlawfully selling vehicles from the forecourt of the currently unused petrol filling station (PFS) without the specific consent of the Local Planning Authority.

Background

2. A breach of planning control in relation to the material change of use has occurred within the last 10 years.
3. The site is an unused petrol filling station (PFS), its location is on an 'A' road, close to the village of Foxton. It is not in an uncommon location for a PFS and located close to Foxton railway station and a Car Wash. As a PFS it would pick up passing trade. The current unlawful uses raises questions of sustainability in accordance with the requirements of DP/1 and TR/1 of the Development Control Policies 2007. Additionally it is necessary to assess the transport issues including highway safety, impact on neighbour amenity (DP/2), impact on the countryside (DP/7) and retail in the countryside (ST/5). The applicant has been given the opportunity over a very long period of time to submit a planning application to regularise the use, however, to date nothing has been forthcoming.
4. Two Planning Contravention Notices (PCN) have been sent to the owner, Mr Beresford and on both occasions he has responded within the correct timeframe. He has confirmed that outside car sales have been in operation since January 2004 and that he is aware that this does not have specific planning consent. In addition to this it was stated that the PFS would be up and running again by April 2008 and again within three months of the PCN dated 8th June 2009. The filling station still remains closed at present.
5. Additionally the PCNs informed officers of the level that Mr Beresford operates. He claims that an average of two cars are sold each week and approximately 20 customers visit the car sales area every week. He is the only member of staff who sells the vehicles. Site visits made by officers have seen the display of 0-10 cars on the forecourt at any one time.
6. Preliminary drawings for pre-application advice were submitted with regard to a new building on site for the sale of cars. Officers did not support the scheme informally.

Considerations

7. PPS4 'Planning for Sustainable Economic Growth' states that in rural areas local authorities should identify local service centres (which might be a country town, a single large village or a group of villages) and locate most new development in or on the edge of existing settlements where employment, housing (including affordable housing), services and other facilities can be provided close together. Additionally they should support the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside (particularly those adjacent or closely related to towns or villages) for economic development. The current unlawful use would comply with parts of PPS4 with regard to its proximity to the village boundaries of Foxton.
8. ST/9 – 'Retail Hierarchy' puts 'Group villages' like Foxton at the bottom of the hierarchy. It states they should be able to serve the local catchment area only and cater for very localised shopping needs. Policy SF/5 Retailing in the Countryside says planning permission for the sale of goods in the countryside will not be granted except for *'exceptionally, the sale of convenience goods, ancillary to other uses, where proposals, either individually or cumulatively, do not have a significant adverse impact on the viability of surrounding village shops, or the vitality or rural centres or other rural villages.'*
9. In short, the retail policies do not exactly support a development such as this. Sustainability is the key issue. However, there are other considerations. The development plan is the starting point for the consideration of any planning matter where there are relevant policies. Other matters can cause a decision to be taken that is not fully at one with the plan.
10. With regard to Policy DP/1 'Sustainable Development' it states that development will only be permitted where it is demonstrated that it is consistent with the principles of sustainable development, as appropriate to its location, scale, and form. Criteria d of this policy requirement states that development should include a mixed-use development of compatible uses as appropriate to the scale and location of the development. The current level of cars sales and the existing uses on site would comprise an appropriate mix of uses in this instance.
11. The unlawful use is being carried out on a very small scale on an existing site that would normally attract passing trade. This type of use is not unfamiliar in this location and further south on the A10 a car sale use is permitted, again outside of the village framework. No further structures have been erected to cover the vehicles and the appearance of the site remains predominately the same; thus the impact on the wider countryside is limited. It will inevitably attract visitors from outside the District boundaries and it is highly likely private travel will be used to make the journey, however, it is also located next to Foxton railway, which has direct links to London and Cambridge.
12. The input from the Local Highway Authority informs it would not have any objections to the use of the site for both a PFS and for car sales. It does stress that the latter use may require delivery vehicles and these should be able to manoeuvre on site and not impinge on the public highway.
13. The car sales use does not adversely impact on neighbour amenity from a public health viewpoint.

Options

14. (a) Issue an Enforcement Notice to stop the sale of cars
 (b) Under enforce to control the level of car sales
 (c) Take no further action at this time but continue to monitor the level of activity on site.

Implications

15. Financial	Preparation of legal documents, Council defending appeal
Legal	Drafting documents in accordance with the Town and Country Planning Act, consideration of expediency or not issuing a notice and being challenged by a third party
Staffing	SCDC frontline staff consisting of planning enforcement officers and Development Control staff for both options (monitoring of site), Appeals Officer and associated staff
Risk Management	-
Equal Opportunities	-

Consultations

16. Corporate Manager (Planning and Sustainable Communities)
 Enforcement
 Local Highways Authority
 Environmental Health
 Development Control Team West Team Leader
 Local Member (Cllr Roberts)
 Foxton Parish Council

“The opinion of both the [Parish Council] and myself remains that the owner of the site must comply with planning procedures and that this issue must now be rectified by the District Council by way of making the planning committee aware of the situation and asking it to decide what action if any should be taken.. The failure of the owner to acknowledge his responsibility is deeply regrettable and if it were to simply be left as it is at present would be neither fair to others or could set a precedent for others to feel they need not comply with the planning system Can I therefore ask that you present these views to the officers next meeting as a formal request from myself and Foxton Parish Council”

[Cllr Deborah Roberts 13th October 2009]

Effect on Strategic Aims

17.	Commitment to being a listening council, providing first class services accessible to all. Report generated following concerns of the local Parish Council and residents
	Commitment to ensuring that South Cambridgeshire continues to be a safe and healthy place for all. Continued monitoring of local planning issues and instigating actions accordingly
	Commitment to making South Cambridgeshire a place in which residents can feel proud to live. Ensuring that local views are taken seriously and acted upon
	Commitment to assisting provision for local jobs for all.

Considering wider impact of actions and local economies
Commitment to providing a voice for rural life.
Listening to Parish Council representatives

Conclusions / Summary

18. The use of the site for car sales is currently running at a low level. The petrol filling station is not in use, though there have been suggestions that this will open in the future. There have been no objections made by the Local Highway Authority with regard to highway safety and no concerns raised from Environmental Health from a public health viewpoint. The site, although outside of the village framework, is not at odds with its immediate surroundings and cars located on the forecourt are not at odds with the existing uses on site (petrol filling station/car workshop). The unlawful sale of cars from this site does not generate a level of harm that would necessitate immediate enforcement action.

Recommendations

19. Take no further action at this time but continue to monitor the level of activity on site. Additionally continue to negotiate with the owner to ensure that an application is submitted in the future.

Background Papers: the following background papers were used in the preparation of this report:

PPS4 Planning For Sustainable Economic Growth 2009
Local Development Framework Core Strategy 2007
Local Development Framework Development Control Policies 2007

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