

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Enforcement Sub-Committee 21 July 2010
AUTHOR/S: Executive Director (Operational Services) / Corporate Manager
(Planning and New 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 of the current situation regarding the alleged unlawful development that is occurring at the Q8 garage on the A10 in the Parish of Foxton. The occupier of the site is alleged to be unlawfully selling vehicles from the forecourt of the currently unused petrol filling station (PFS) without the specific consent of the Local Planning Authority.
2. Members may remember considering this matter in January 2010. The sub committee concluded that a deadline is given to Mr Beresford, the owner of the site, to submit an application. However, the resolution was not based on any material harm arising from the proposal and that any enforcement notice will need to refer to the harm caused by the development. Any appeal against such an enforcement notice will centre on the type and degree of harm caused by the proposal.

Recommendations and Reasons

3. That the Planning Enforcement Sub-Committee agree to take no further action at this time but continue to monitor the level of activity on site.

Background

4. A breach of planning control in relation to the material change of use has occurred within the last 10 years.
5. 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 use 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.
6. 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.

7. Additionally the PCN's informed officers of the level that Mr Beresford operates. He claims that an average of 2 cars are sold per week and approximately 20 customers visit the car sales area per 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.
8. 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

9. 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.
10. *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.*
11. 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.
12. 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 car sales and the existing uses on site would comprise an appropriate mix of uses in this instance.
13. 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 Cambridge.

14. 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.
15. The car sales use does not adversely impact on neighbour amenity from a public health viewpoint.

Options

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

Implications

17. 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)
Risk Management	
Equal Opportunities	
Climate Change	

Consultations

18. The following have been consulted:
 - Corporate Manager (Planning and Sustainable Communities)
 - Enforcement
 - Local Highway Authority
 - Environmental Health
 - DC 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 it should take. The failure of the owner to acknowledge his responsibility is deeply regrettable and if it were simply to 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 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

19. Being a listening council, providing first class services accessible to all, providing a voice for rural life and making South Cambridgeshire a place in which residents can feel proud to live: Report generated following concerns of the local Parish Council and residents, ensuring that local views are taken seriously and acted upon.
20. Ensuring that South Cambridgeshire continues to be a safe and healthy place for all: Continued monitoring of local planning issues and instigating actions accordingly.
21. Assisting provision for local jobs for all: Considering wider impact of actions and local economies.

Conclusions / Summary

22. The owner of the site has been given time, since the last meeting in January 2010, to present an application for the unlawful sale of vehicles from the premises. However, despite officer's best efforts no applications have been received to date at the time of writing this report (13th July 2010). There have been no major changes since the last meeting. Some vehicles are now regularly being parked adjacent the workshop towards the rear of the site rather than on the forecourt at the front of the site.
23. The use of the site for car sales is still currently running at a low level. The petrol filling station is still not in use. 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.

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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