

Appeal Decision

Site visit made on 10 October 2005

by **M J Brundell OBE BA DipTP FRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
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Date

18 OCT 2005

Appeal Ref: APP/A2525/A/05/1183989

Fengate House, Fengate, Moulton Chapel, Spalding, Lincolnshire, PE12 0XR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr C Stopps against the decision of South Holland District Council.
- The application ref: H13/0528/03, dated 28 April 2003, was refused by notice dated 20 April 2005.
- The development proposed is the use of the site for car repairs.

Decision

1. I dismiss the appeal.

Reasons for the Decision

2. This application is for the permanent use of the appeal site for car repairs following the expiration of a temporary permission for 2 years granted in 2001. After the application was submitted in April 2003, the council sought for almost 2 years to establish an acceptable basis for the continued use of the premises for motor repairs but, following the failure of these efforts, permission was refused. Although they treated the application as one for the continuation of permission without complying with the condition imposing a time limit, the proposed development was described on the application form as simply for the use of the site for car repairs. I have, therefore, treated the application as one for a permanent permission to use the site for car repairs.
3. The council are particularly concerned about the failure to comply with a condition imposed on the original permission requiring that all vehicles associated with the business are parked within the fenced yard area to the rear of the site. The evidence is that cars have been parked on the drive and the rear lawn as well as on adjoining agricultural land.
4. Although some progress appears to have been made, the Council's concerns have not been resolved and this has led not only to the refusal of permission but also the issue of an enforcement notice requiring the cessation of the use. The enforcement notice is not before me and I have confined my attention to the appeal against the refusal of planning permission.
5. Mr Stopps argues that he now makes sure that customers collect their vehicles as soon as they are ready but I do not see how this can be guaranteed as a long term solution, particularly as they are unlikely to be available to do so on every occasion. Although he has now erected a new fence and gates to screen the area used for car repairs, any cars in front of his house are still conspicuous to all those passing along Fengate. At the

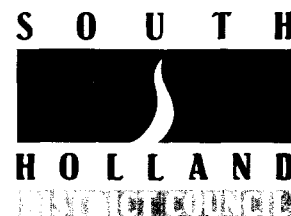
time of my site inspection, 6 cars and a pick-up were parked in front of the house. Although I was informed that all of these vehicles belonged to Mr Stopps and his family, this simply illustrates the difficulty of controlling the use of the property for car repairs. This is further demonstrated by the presence of a Transit van and 2 cars in front of the fenced area within which parking associated with the business should be confined according to the terms of the now expired planning permission. There were also tyres stored in the rear garden of the house, together with 2 other cars neither of which appeared to be in current use.

6. In the light of all the evidence, I have concluded that it would be impossible to exercise effective control over the proposed use. In particular I consider that cars associated in one way or another with the business would almost inevitably be parked in front of the house. These would emphasise the presence of this business use in what is otherwise open countryside. I therefore conclude that the effect of its presence on the appearance of this rural area would be unacceptable.
7. I recognise that complaints about the disturbance caused by the business have been confined to one local resident who is not the closest neighbour but this does not mean that the disturbance has not been real. Even setting aside the delivery and collection of vehicles to be repaired, the smallness of the area within which repairs take place is such that cars and other vehicles must be moved around outside this area. Given the rural character of the area, I accept that these activities have caused significant disturbance in the past and that this disturbance would be likely to continue if this appeal were allowed. Again the history of the site suggests that it would be difficult if not impossible to control effectively such disturbance by planning conditions.
8. While there have been no complaints from the occupiers of the cottage immediately adjoining the site this is now vacant and up for sale. Having examined the site with some care, I believe it is likely that its use for car repairs would be likely to cause noise and disturbance to the potential occupiers of this property.
9. This disturbance, combined with the visual intrusion, means that the retention of the use would be inconsistent with Policy E1 in the adopted local plan which requires that development is in keeping with the general character of the area.
10. I have considered the personal circumstances of Mr Stopps but these are not sufficiently unusual to justify making an exception to normal planning policies. Nor do they justify granting a second temporary permission in accordance with the advice in paragraph 112 of Circular 11/95 dealing with "The Use of Conditions in Planning Permissions", particularly as the use has already continued for more than 2 years longer than originally permitted.

INSPECTOR



2003-2004
Supporting the Rural Economy



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FILE COPY

Town and Country Planning Act 1990 Refusal of Planning Permission

Reference: H13/0528/03

Received: 29-APR-03

Type: S73A CONTINUATION

Name: Mr C Stopps
Fengate House
Fengate
Moulton Chapel
Spalding Lincs PE12 0XR

Agent: Mr C Stopps
Fengate House
Fengate
Moulton Chapel
Spalding Lincs PE12 0XR

Description: Continuation of permission without complying with condition 7 of
H13/0190/01 (time limit)

Location : Fengate House Fengate
Moulton Chapel

South Holland District Council hereby give notice that PERMISSION HAS BEEN REFUSED for the retention of buildings/continuation of use of land for the reason(s) set out below:

- 1 In the opinion of the Local Planning Authority the operation of the car repair business has had a detrimental impact on the amenity of the nearest neighbour by virtue of the fact that Condition 3 of planning permission H13/0190/01 has not been complied with. This has led to an increased level of noise, disturbance and visual intrusion in an area of open countryside where one would normally expect a reasonable standard of amenity.

Note(s):

The determined plans are:

1:1250 site location plan and Applicant's letter, dated 9 March 2003, received 29 April 2003.

Head of Planning & Development
20 APR 2005

H13/0528/03

This decision refers only to that required for the purposes of the Town and Country Planning Acts and not for Building Regulations or any other legislation. See enclosed notes relating to rights of appeal.

Town and Country Planning Act etc
DRAFT REFUSAL

Reference H13/0528/03

Received: 29-APR-03 Type: S73A CONTINUATION

Name: Mr C Stopps
Fengate House
Fengate
Moulton Chapel
Spalding Lincs PE12 0XR

Agent: Mr C Stopps
Fengate House
Fengate
Moulton Chapel
Spalding Lincs PE12 0XR

Description: Continuation of permission without complying with condition 7 of H13/0190/01
(time limit)

Location : Fengate House Fengate
Moulton Chapel

**South Holland District Council hereby give notice
that permission has been refused etc
for the following reasons:**

- 1 In the opinion of the Local Planning Authority the operation of the car repair business has had a detrimental impact on the amenity of the nearest neighbour by virtue of the fact that Condition 3 of planning permission H13/0190/01 has not been complied with. This has led to an increased level of noise, disturbance and visual intrusion in an area of open countryside where one would normally expect a reasonable standard of amenity.

Note(s):

The determined plans are:

1:1250 site location plan and Applicant's letter, dated 9 March 2003, received 29 April 2003.

Director of Customer Services
19 APR 2005

H13/0528/03

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