
Appeal Decision

Site visit made on 8 September 2015

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 September 2015

Appeal Ref: APP/A2525/W/15/3011217

14 Double Street, Spalding, Lincolnshire PE11 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Soucho Mohamad against the decision of South Holland District Council.
 - The application Ref H16-1019-14, dated 3 December 2014, was refused by notice dated 17 February 2015.
 - The application sought planning permission for change of use of site for car washing and valeting without complying with a condition attached to planning permission Ref H16-0883-13, dated 14 January 2014.
 - The condition in dispute is No 1 which states that: "The development hereby permitted shall be discontinued at or before 12 months from the date of this decision, unless the prior written consent of the Local Planning Authority has been obtained to an extension of the period of validity."
 - The reason given for the condition is: "To enable the Local Planning Authority to review the effectiveness of safeguarding conditions and the impact of the development on the amenities of the locality. This condition is imposed in accordance with Policies SG17 and EC3 of the South Holland Local Plan 2006."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application seeks to extend the time period of a temporary planning permission. The application was submitted to the Council before the expiry of that temporary period. On this basis I shall deal with the appeal under s73 of the Town and Country Planning Act 1990.
3. I saw on my visit that the site remains in use for car washing and valeting.
4. The appellant has confirmed that his correct name is as given on the appeal form and I have used that spelling in the heading above.

Main Issue

5. The main issue in the appeal is the effect of the use of the property on the living conditions of adjacent residents and whether or not a permanent planning permission should be granted.

Reasons

6. Double Street is a predominantly residential street with buildings built up to or close to the highway. There are a number of listed buildings in close proximity to the site. This forms an open yard between two houses. There is a building to the rear of the site which I saw on my visit appears to be open-fronted.
7. The adjacent property at 13a has a blank wall facing the site and a boundary wall extending to the rear. On the other side, the dwelling at N^o 15 has a blank side gable wall and a rear ground floor projection with windows facing towards the site. There is fencing which separates the site from the rear garden of that property and a sign has been erected within the site in front of that fence.
8. The Council's Lead Environmental Protection Officer has expressed concern regarding the potential for nuisance to neighbouring residents. This is borne out by the detailed evidence provided by the owner of N^o 15 which includes records of noise and disturbance issues, photographs and a witness statement which demonstrate that the use causes noise and disturbance and that spray and run-off affect the adjacent garden. Given that this occurs over 7 days per week it is likely to be particularly intrusive at times when residents could reasonably expect peace and quiet and the use of their garden.
9. The previous planning permission restricted the use of powered equipment to the area enclosed by the building but because this is not fully enclosed it is likely to be of limited effectiveness in reducing noise. Noise and disturbance also arises from the external activities.
10. Saved policy SG13 of the South Holland Local Plan (LP) (2006) restricts the granting of planning permission for development which may cause noise and other pollution. Saved policy SG17 of the LP requires that development does not cause material harm to residential amenity with particular regard to noise nuisance. Those saved policies are consistent with the National Planning Policy Framework¹ which seeks to avoid noise from giving rise to significant adverse impacts on health and quality of life. The proposal would not accord with those policies.
11. The Planning Practice Guidance² advises that a temporary permission may be appropriate where a trial run is needed in order to assess the effect of the development on the area. The effect on the amenities of adjacent residents has been demonstrated to be harmful which would indicate that it would not be appropriate to grant a permanent permission.
12. I have taken into account the letters of support for the business and the petition which have been provided and I acknowledge the benefit of the business to the local economy. However this does not overcome my concern regarding the main issue. Some local residents have also expressed their support but although they live close to the site they are unlikely to be directly affected by the activities which take place.
13. I have considered the imposition of a condition allowing for a further limited period of operation but this would not overcome the harm that I have identified. For the reasons given I conclude that the use of the property has an

¹ Paragraph 123

² ID 21a-014-20140306

unacceptably harmful effect on the living conditions of adjacent residents and that a permanent planning permission should not be granted.

Other Matters

14. The Spalding and District Civic Society have objected to the proposal on the grounds of its incompatibility with the Spalding Conservation Area and its effect on the settings of a number of nearby listed buildings. The Council says that the site is within the Conservation Area but the map supplied with the appeal documents indicates that it is outside, but adjoining the Conservation Area.
15. There are two grade II* listed buildings to the south west of the site (Nºs 12 and 13). In addition Nº 13a which adjoins the site is listed at grade II. On the opposite side of the road Nº 65 is listed at grade II and directly faces the site. Nºs 59 and 63 which are also grade II listed are further along the road towards the north east.
16. The main façade of Nº 13a faces away from the site and the wall adjoining the site is blank. Nº 65 is seen in relation to adjacent historic buildings in that frontage rather than in direct association with the appeal site. The other nearby listed buildings are separated from the site by distance and intervening buildings and are not viewed in association with it. For these reasons I consider that the settings of those buildings are not harmed by the use.
17. The site adjoins the Conservation Area and forms part of its setting. However in the context of the general appearance of the site the use does not significantly alter its character. For this reason the setting of the Conservation Area is not harmed.

Conclusions

18. My findings regarding the settings of the identified heritage assets do not alter my conclusions on the main issue.
19. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR