



Appeal Decision

Site Visit made on 25 March 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2021

Appeal Ref: APP/G2713/W/20/3265522

North Road Garage, Shipton To Chapmans Lane, Shipton By Beningbrough, YO30 1AL

- 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 Will & Freddie's Ltd. against the decision of Hambleton District Council.
- The application Ref 20/00794/MRC, dated 20 April 2020, was refused by notice dated 7 July 2020.
- The application sought planning permission for Demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates as amended by plan received by Hambleton District Council on 21 August 2013 without complying with conditions attached to planning permission Ref 13/01238/FUL, dated 31 October 2013.
- The conditions in dispute are Nos 4 and 5 which state that: 4) Within 2 months of the date of this decision the vehicle parking, manoeuvring and turning areas shall be constructed in accordance with the submitted Drawing no. 13-SHIP-PSP Rev A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times, and 5) The permission hereby granted shall not be undertaken other than in complete accordance with the location plan and drawings numbered 13-SHIP-PFP, 13-SHIP-PE1, 13-SHIP-PE2 and 13-SHIP-PSP Rev A received by Hambleton District Council on 14, 27 and 28 June, 21 August and 8 October 2013 unless otherwise approved in writing by the Local Planning Authority.
- The reasons given for the conditions are: 4) To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with LDF Policies CP2 and DP4, and 5) In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Third party evidence including a Land Registry Title Plan shows part of the land subject to the planning application, and this appeal, to be outside the ownership of the appellant. In such instances Section 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant (a) by

serving the notice on every such person whose name and address is known to the applicant; and (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.

3. In the appeal, I am not presented with any evidence that the above requirements have been complied with. The appellant's application form certifies that, on the day 21 days before the date of the application, that they are the owner of the land subject to the application.
4. The Council acknowledge that within the red line boundary of the planning application, if part of the land is owned by the adjoining party then the appropriate notification should have been undertaken along with the appropriate certificate signed as part of the application. The Council outline that as part of this application, Certificate A was signed to state that the appellant owns all the land as identified within the red line boundary of the site.
5. In response to the third-party evidence, the appellant submitted, what is assumed, their own Land Registry Title Plan. The plan shows that the disputed land is not within their ownership and to compound matters further it does not include land directly to the south of the kiosk building on site, which is central to the variation of the site layout that is subject to the appeal.

Conclusion

6. For the above reasons, and as the evidence indicates that the necessary notice(s) has/have not been served on the landowner(s) to which the application relates, in accordance with Section 65 of the Town and Country Planning Act 1990, I am unable to determine the appeal. The correct land ownership notification procedure has not been followed and therefore the appeal should be dismissed.

A M Nilsson

INSPECTOR