
Appeal Decision

Site visit made on 6 December 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 3rd January 2017

Appeal Ref: APP/G0908/W/16/3154519

Land adjacent to Overcroft Farm, Greysouthern, Cumbria, CA13 0UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Hunter against the decision of Allerdale Borough Council.
 - The application Ref: 2/2015/0684, dated 6 November 2015, was refused by notice dated 3 February 2016.
 - The development proposed is residential development of 3 detached dwellings and access road.
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Decision

1. The appeal is dismissed.

Procedural matters

2. On the planning application form the address of the site is given as 'Overcroft Farm, Greysouthern Village, Greysouthern, Cumbria' whilst on the decision notice issued by the Council, it is given as 'Land adjacent to Overcroft Farm, Greysouthern, Cumbria'. I note that the appellant has also used this on the appeal form. The latter is a more accurate description of the site location and I have therefore used that for the purposes of the appeal.
3. The proposed development has been applied for in outline with all matters other than access reserved for subsequent consideration. The application included an indicative site layout drawing showing three dwellings accessed from a private drive leading to the main road. I have had regard to this but, as layout was reserved for future consideration, have treated it as illustrative only. I have determined the appeal on this basis

Main Issue

4. The main issue in this appeal is whether the proposed development would provide satisfactory living conditions for the future occupiers, with particular regard to odour from the neighbouring farm.

Reasons

5. The only matter in dispute between the main parties is whether the proposed development would be subject to odours from Overcroft Farm to the extent that it would not provide suitable living conditions for the future occupants.
 6. Policy S32 of The Allerdale Local Plan (Part 1) - Strategic and Development Management Policies 2014 (the Local Plan), seeks to ensure that new housing
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- is located where it will not result in poor living conditions for the occupiers as a result of air pollution, noise, smell, dust, vibration, light or other pollution. The National Planning Policy Framework (the Framework) also requires that new development should seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.
7. Whilst the proposal is submitted in outline, and seeks to establish the principle of residential development on the appeal site, whether the proposal would provide satisfactory living conditions for the future occupiers is fundamental to whether or not the principal is acceptable.
 8. The appeal site is part of a larger field which adjoins the village of Greysouthern to one side and Overcroft Farm to the other. There are farm buildings sited immediately adjacent to the boundary with this larger field. The indicative drawing shows that, at the closest point, the new residential curtilages would be approximately 28.3 metres from these buildings. The Council estimate that the proposed new dwellings would be between 29 and 38 metres from the nearest farm buildings.
 9. Local Plan Policy S32 does not set out separation distances that would be required between farm buildings and residential properties to provide mitigation against odour, although the Council use a benchmark figure of 36 metres. Distance alone is not a measure of whether there would be an effect on a development. The essential question is whether any odours would be detectable on the appeal site, and whether that would have an adverse effect.
 10. The proposal was supported by a basic odour assessment which is predicated on the closest buildings not having openings facing the appeal site and being primarily open on the opposite side; the closest buildings not being used for housing livestock and other buildings on the farm being used as winter sheds from mid-October to mid-April; the small scale of the farming operations; and the prevailing wind carrying odours away from the appeal site. The odour assessment is not, however, based on any technical standard of odour assessment.
 11. When I visited the site I saw that a large number of cattle were being housed in a number of buildings within the farm steading, including those buildings closest to the appeal site. I also saw that, whilst there are no openings in the walls of the buildings facing toward the appeal site, there is an air gap at eaves level on the rear wall. There was no wind at the time of my visit and at the boundary of the appeal site a strong odour from the housed animals was very noticeable. This would result in the dwellings on the appeal site not being a pleasant place to live.
 12. Whilst I note the appellant's points that the appeal site is in a countryside location and consequently future occupiers should expect some odours, Local Plan Policy S32 and the Framework are very clear that new development should provide a good standard of living conditions for occupiers, which are not adversely impacted on by sources of pollution including odours. I also note that animals would only be housed in the buildings from mid-October to mid-April, however, I do not find the appellant's point that occupiers of the dwellings would be less likely to open windows or use the garden areas a persuasive one. Even during the winter months there is a need to ventilate rooms and whilst garden areas may be used less intensively from late autumn

to early spring, it is not possible to assume that during a six month period they will not still be frequently used.

13. Whilst westerly winds would carry odours away from the appeal site, no evidence has been submitted in relation to the wind pattern in the locality. Without information in respect of wind strengths and directions, it is not possible to conclude that this is a strongly mitigating factor.
14. The appellant suggests that, as there are no other matters in dispute, a detailed odour assessment could be the subject of a condition and it is suggested that at the detailed design stage odour mitigation measures could be incorporated. From the evidence before me, and from what I saw on my site visit, the initial odour assessment is inconclusive. The appellant does not have any control over the source of the odour and no indication is given of how odours could be mitigated. Within this context a condition as suggested by the appellant could nullify the benefit of any permission granted in the event that a detailed odour assessment finds that the site is not suitable for housing and the effects cannot be mitigated.
15. When taken in the light of the requirements of Local Plan Policy S32 and the Framework, odour is a fundamental issue that is required to be addressed before planning permission is granted and therefore it is not possible to address this through a planning condition.
16. My attention has also been drawn to decisions in respect of Easton Hall Farm and Lane Foot Farm. I do not have full details of these cases and so cannot be certain circumstances are comparable. However, it is clear from the reports submitted by the Council that, in the former case, the proposal was supported by a comprehensive odour assessment which identified the extent of any impact and suggested mitigation measures. The latter case involved the conversion of an existing building where there were existing dwellings closer to the agricultural buildings. On this basis I do not consider that these cases are directly analogous to the appeal before me and, in any event, I have determined the appeal on its own merits.
17. I therefore find that on the basis of the evidence before me and from what I saw on my site visit, the proposed development would not provide satisfactory living conditions for the future occupiers, with particular regard to odour from the neighbouring farm. It would not comply with the relevant requirements of Policy S32 of the Local Plan which seeks to ensure that new housing is located where it will provide satisfactory living conditions for the occupiers. It would also be inconsistent with the requirements of the Framework which seeks a good standard of amenity for all occupiers.

Conclusion

18. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR