

PLANNING APPEAL DECISION

Lead Officer: Tony Pomfret – Development Control Manager

To inform Members of a recent appeal decision in respect of a site at Merryhill Barn, Rothersyke, Egremont, Cumbria

Recommendation: That the decision be noted in the context of the Council's Local Plan Policies and also in relation to performance monitoring.

Resource Implications: Nil

1.0 SUPPORTING INFORMATION

1.1 Full planning permission to convert a detached redundant outbuilding situated within the curtilage of this residential barn conversion to use as a boarding cattery at Rothersyke, near Egremont was refused on 27 April 2011 for the following reason:-

"The conversion of this redundant byre to provide a commercial cattery business in this semi rural location and within close proximity of neighbouring residences represents an inappropriate form of development, the scale and nature of which could give rise to significant adverse affect on neighbouring residential amenity in terms of noise, smell and general disturbance arising from the coming and going of visitors. Furthermore, restricted visibility at the junction with the B5345 is likely to have a detrimental affect on highway safety, contrary to Policies DEV 6 and HSG 25 of the adopted Copeland Local Plan 2001-2016."

1.2 A subsequent appeal against the decision has been ALLOWED.

1.3 The Inspector considers the proposal to be in keeping with its location next to an operational farm in a semi-rural area and given the separation distance between the building and the neighbouring dwellings considers it unlikely to be harmful to the living conditions of the occupiers. Likewise, the Inspector is of the opinion that there would be no harmful change to highway safety beyond the existing situation and through the use of a condition the number of comings and goings by customers could be restricted.

Contact Officer: Heather Morrison – Senior Planning Officer

Background Papers: A copy of the Inspector's decision letter is appended.



Appeal Decision

Site visit made on 22 December 2011

by **Richard McCoy BSc, MSc, DipTP, MRTPI, IHBC**

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

Decision date: 18 January 2012

Appeal Ref: APP/Z0923/A/11/2162261

Merryhill Barn, Rothersyke, Egremont, Cumbria CA22 2US

- 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 Mrs Andrea Wells against the decision of Copeland Borough Council.
 - The application Ref 4/11/2090/0F1, dated 15 January 2011, was refused by notice dated 27 April 2011.
 - The development proposed is the change of use of a redundant cattle byre into a cattery.
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Procedural matter

1. Notwithstanding the Council's comments in its email dated 31 October 2011, I note the appellant confirms in the Grounds of Appeal that the application was reviewed during the consideration of the application by the Council to reduce the number of pens from 25 to 20. I have dealt with the appeal on this basis.

Decision

2. I allow the appeal and grant planning permission for the change of use of a redundant cattle byre into a cattery at Merryhill Barn, Rothersyke, Egremont, Cumbria CA22 2US, in accordance with the terms of the application Ref 4/11/2090/0F1, dated 15 January 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan, Existing and Proposed Floor Plan, Proposed Elevations.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces to effect the change of use hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) Notwithstanding the details shown on the approved plan the maximum number of pens at the cattery hereby approved shall be 20.
 - 5) The cattery shall not be open for customers outside the following hours: 08:00 – 10:00 and 16:00 – 18:00 Mondays – Saturdays and not at all on Sundays and Bank Holidays.

Main Issues

3. The main issues are the effect of the proposal on a) the living conditions of the occupiers of nearby dwellings in respect of noise, smell and general disturbance and b) highway safety.

Reasons

4. The appeal site contains a detached building. It is situated within a former farmstead which has been converted to residential use. The dwellings are situated across a yard from the proposal which stands in close proximity to a large, modern farm building. The cattery would include pens, external runs, a prep room and a store.
5. In my judgement, the proposal would be in keeping with its location next to an operational farm in a semi-rural area. The separation distance between it and the dwellings is such that any noise, smells and general disturbance associated with the cattery would be unlikely to harmfully change the living conditions of the occupiers. The appellant states that the cats would be kept inside the insulated building at night minimising noise and waste will be placed in a sealed container. In any event, any nuisance arising from smell and noise could be dealt with under separate legislation.
6. The appellant states that business operating times for customers will be restricted to short periods during the working day, as set out in the Grounds of Appeal, and this could be secured by a condition attached to any grant of planning permission. This would restrict the numbers of comings and goings by customers and should avoid the Council's concern of up to 25 cars visiting the site during peak times. Accordingly, the proposal would not conflict with saved Policies DEV6 and HSG25 of the adopted Copeland Local Plan, 2001-2016.
7. The cattery would use the existing access leading to the dwellings. The Highway Authority has not raised any concerns regarding the proposed number of car parking spaces to be provided but is concerned that a condition, to provide visibility splays at the access, attached to the planning permission which allowed the conversion of the redundant farm buildings to dwellings, has not been implemented. It is contended that visibility is restricted thereby compromising highway safety.
8. Notwithstanding the appellant's claim that this matter concerns land that is outside her control and agreement has been reached with the land owner to comply with the condition, I note that the Council is investigating if a breach has taken place and if so whether this situation can be remedied by way of enforcement action. In my judgement, even if the access remained unchanged, the additional traffic generated by this proposal would be unlikely to significantly increase the number of vehicles using it. In which case, there would likely be no harmful change to highway safety beyond the existing situation. Consequently, I do not consider this to be a reason for withholding planning permission in this instance.
9. The Council has not put forward any conditions. Nevertheless, in addition to standard time and in the interests of clarity, I shall attach conditions relating to compliance with approved plans and submission of materials. Also in the interests of clarity and in line with the details stated in the appellant's Grounds of Appeal, I shall attach conditions restricting the number of pens to 20 and the

opening times to customers. These are necessary and reasonable to ensure a satisfactory development and accord with the advice in Circular 11/95.

Conclusion

10. In reaching my decision I have noted the draft National Planning Policy Framework but given it is in draft form that may be subject to change, it is not a material consideration that warrants the setting aside of the development plan. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

Richard McCoy

INSPECTOR