

## PLANNING APPEAL DECISION

**Lead Officer:** Tony Pomfret – Development Control Manager

To inform Members of a recent appeal decision in respect of a site at Woodend Barn, Woodend, 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 demolish a dilapidated outbuilding and erect a two storey detached dwelling in its place, within the curtilage of a converted barn, was refused on 16 August 2010 for the following reason:-

"By virtue of its scale, design, layout and location outside any settlement boundaries identified by the adopted Copeland Local Plan 2001-2016 and in the absence of demonstrable local need the proposed dwelling constitutes non-essential development in the countryside contrary to Policy HSG 5 of the Plan. Furthermore, by virtue of its siting and design the proposed dwelling would have an adverse impact on the amenities of the adjoining property, Woodend Barn in terms of overlooking and loss of privacy at variance with Policies DEV 6 and HSG 8."

1.2 A subsequent appeal against the decision has been DISMISSED. Whilst the Inspector does not believe the proposal would give rise to any material loss of privacy she considers that it would amount to the provision of a dwelling outside a defined settlement boundary, for which no particular justification exists. It would thus be in clear conflict with the advice in PPS 7, PPS 3 and HSG 5 of the Copeland Local Plan. A copy of the Inspector's decision letter is appended to this report.

**Contact Officer:** Rachel Carrol–Planning Officer

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



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## Appeal Decision

Site visit made on 1 July 2011

by **Alison Roland BSc DipTP MRTPI**

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

Decision date: 20 July 2011

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**APP/Z0923/A/11/2147419**

**Woodend Barn, Woodend, Egremont, CA22 2TA.**

- 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 A Musgrave against the decision of Copeland Borough Council.
  - The application Ref: 4/10/2287/0F1, dated 17 June 2010, was refused by notice dated 16 August 2010.
  - The development proposed is demolition of existing dilapidated outbuilding with erection of two storey dwelling with garage.
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### Procedural Matters

1. The appellant submitted revised plans with the appeal. Drawing Nos 10-001-02A and 10-001-04A reduce the height of the garage and amend its roof to a hip on one end. The change is minor and designed to lessen the impact of the development on Woodend House (the occupant's of which support the proposal in principle). Drawing No 10-001-10 illustrates the interface distances between the proposed dwelling and Woodend House. I consider I can determine the appeal on the basis of these plans without prejudice to any party.

### Decision

2. The appeal is dismissed.
3. I have taken account of the views of local residents and other interested parties in reaching this decision.

### Main Issues

4. The main issues in this appeal are (1) whether the appeal site is an appropriate location for a dwelling having regard to national and local planning policies for new housing in the countryside and (2) the implications of the proposal for the living conditions of the adjoining dwelling.

### Reasons

5. Policy HSG 5 of the Copeland Local Plan deals with housing outside settlement boundaries. Such development will not be permitted except where it is required to meet exceptional circumstances arising from local
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social and economic conditions. The Council also refer to paragraph 9 (ii) of Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS 7) which seeks to strictly control new house building in the countryside away from established settlements, or from areas allocated for housing in development plans.

6. I understand that local residents were canvassed about the proposal and were unanimous in their support. I also appreciate it would replace an existing ruinous building which is not particularly attractive. However, neither of these circumstances amount to the exceptional social and economic conditions envisaged by Policy HSG 5. It is also not particularly unusual to see dilapidated farm buildings and the like in the countryside and whilst local residents may welcome the proposal, I do not consider this factor outweighs the strong policy presumption against the provision of new housing outside settlement boundaries.
7. The appellant maintains the site is previously developed land (pdl) and accords with Planning Policy Statement 3: *Housing* (PPS 3). The lawful use of the building is not clear, but PPS 3 expressly excludes from the definition of pdl land that is or has been occupied by agricultural buildings and residential gardens. Either way, even if the site is pdl, its development for residential purposes would still conflict with the thrust of the advice in PPS 3 to locate housing in existing towns and service centres where there is good access to a range of jobs and local services, in the interest of sustainable development, to reduce reliance on the private car.
8. The appellant suggests that the proposal would accommodate visitors and amount to tourist accommodation. However, the description of the development in the planning application was for a new dwelling, as it was in the Design and Access Statement. The latter referred to providing a "client option to supply holiday rental accommodation when they retire". The appellant also refers in his statement to providing accommodation for family visiting from outside the area and holiday makers. However neither of these statements amount to a clear intention to develop tourist accommodation and the application submitted to the council was unequivocally for a dwelling.
9. The appellant refers to other cases where permission has been granted by the Council. However, the Council say or imply that in four of the five cases, the sites in question fell within a settlement boundary as defined in the 1997 version of the Copeland Local Plan and the case at Ghyll Farm Egremont concerned the conversion of traditional buildings. It therefore seems to me that the circumstances pertaining to those cases were materially different to the appeal before me, which I must in any event, determine on its merits.
10. Overall on the first main issue, the proposal would amount to the provision of a dwelling outside of a defined settlement boundary, for which no particular justification exists. It would thus be in clear conflict with the advice in PPS 7 and PPS 3 as well as Policy HSG 5 of the Copeland Local Plan, all of which seek to resist such development, other than in exceptional circumstances. I do not consider that local support for the proposal, coupled with the environmental improvement it would effect, would outweigh this clear policy presumption against it. I also do not consider that the condition

suggested by the appellant, tying the future sale of the dwelling to the sale of Woodend Barn would overcome these concerns.

11. The appellant refers to positive pre-application advice from the Council. The email referred to does not appear to me to be conclusive either way. Nevertheless, such advice is not binding on the Council and also has no bearing on my assessment of the appeal.
12. Turning to residential amenity, the Decision Notice refers to an adverse effect on Woodend Barn, the appellant's house, whereas the Officer report refers to an adverse effect on Woodend House. At the site visit it was clear the latter property faces the appeal site and the Council representative confirmed that it was in fact this property that was the subject of their concern.
13. As the evidence in relation to the rooms served by the windows facing the appeal site is inconclusive, I visited Woodend House. The occupier appeared to suggest that the nearest window in the first floor gable served a bedroom and the larger window set back served a bathroom. The appellant's agent subsequently forwarded correspondence from the occupier of that property with a clearly annotated photograph. This indicates that the nearest facing window in the gable of Woodend House serves a landing and the larger window set back in a reveal serves a bedroom. The Council were afforded the opportunity to comment on this information but declined to. I thus have no reason to doubt the information submitted.
14. The Officer report refers to the interface between the appeal building and neighbouring dwelling Woodend House falling short of the 12m and 21 m separation distances set out in Policy HSG 8. Drawing No 10-001-10 depicts a 12 metre separation between the landing window in Woodend House and the first floor dining room window in the proposed dwelling. The 21 metre separation distance in Policy HSG 8 refers to face elevations of dwellings containing windows of habitable rooms, which does not apply here. There would be less than 21 metres between the proposed dwelling and the bedroom window in Woodend House, but as that window is offset relative to the proposal, I consider the relationship between the two properties would be acceptable and adequate privacy would be maintained.
15. Overall, on the available evidence, I am satisfied that the proposal would not give rise to any material loss of privacy to the occupants of Woodend House. Moreover, there would be a net benefit to the occupiers therein insofar as the bulk of the proposed dwelling would be sited further away from that property than the existing dilapidated building. The proposal would thus comply with Policies HSG 8 and DEV 6, which seek to protect residential living standards and maintain reasonable standards of general amenity.
16. Whilst I have found in favour of the appeal on the second main issue, this is nonetheless outweighed by my concerns on the first main issue.

#### **Other Matters**

17. The Decision Notice refers to the scale, design and layout of the proposal as well as its location, giving rise to conflict with Policy HSG 5. However, no evidence has been advanced by the Council in relation to these matters and

their concern in relation to that policy appears to be the principle of the development. I therefore have no reason to take issue with the appeal proposal on these particular matters.

18. The occupiers of Ennerdale House object to the proposal and I viewed the appeal site from their land at my visit. Whilst the proposal would have a number of windows facing their property, the land concerned was in agricultural use. I do not consider it appropriate to consider the potential impact of the proposal on a possible future residential use which may or may not come into effect. The situation may have been different if there was a clear indication it would be likely to be developed for housing, for example, had it been specifically allocated for such a purpose in the Local Plan, but that is not the case here.
19. The delineation of the boundary between the proposed dwelling and adjoining agricultural land is a private matter between the parties concerned and has no bearing on the planning merits of the appeal.
20. The occupier of Ennerdale Garth also refers to windows overlooking their property. I was not able to view that property at my visit. Either way, I am satisfied given the available separation distances, that the relationship between the proposed dwelling and nearby residential properties would be acceptable.

*ALISON ROLAND*

INSPECTOR