

PLANNING APPEAL DECISIONS

Lead Officer – Tony Pomfret, Development Control Manager

To inform Members of recent appeal decisions at Lingmell Lodge, Seascale and Plot 3, Blythe Place, St Bees

Recommendation: That the decisions be noted in the context of the Council's local plan policies and also in relation to performance monitoring and in respect of Lingmell Lodge that enforcement action be undertaken.

Resource Implications: None

SUPPORTING INFORMATION

1.0 LINGMELL LODGE, SEASCALE

1.1 Planning permission for the change of use from a residential dwelling to a residential dwelling and private cat breeding premises (retrospective) at Lingmell Lodge, in Seascale, was refused on 27 April 2011 for the following reason:

“ The running of a private cat breeding business from this residential property situated in a predominantly residential area of Seascale represents an inappropriate form of development, the scale and nature of which could give rise to significant adverse affect on neighbouring amenity in terms of noise, smell and general disturbance arising from the coming and going of visitors, 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 **dismissed**.

1.3 The Inspector considered that the close proximity of the cat pens to the neighbouring property, Whin Rigg, is harmful to the living conditions of the occupiers as a result of noise and disturbance which would interfere with the quiet enjoyment they might expect from this part of their dwelling, particularly in summer months. As a consequence he concurred with the Council's view that such a business is not compatible with the residential nature of the area and conflicts with saved Policies DEV 6 and HSG 25 of the Local Plan.

1.4 In view of the outcome Members agreement to enforcement action being undertaken to secure the cessation of the business is requested.

2.0 PLOT 3, BLYTHE PLACE, ST BEES

2.1 This application for the erection of a two and a half storey detached dwelling at Blythe Place on Seamill Lane, St Bees was refused in July 2011 on the following grounds:

2.2 " By virtue of its scale, height and resultant massing the proposed dwelling, with accommodation provided over three floors, in this location would constitute an over dominant and incongruous form of development out of character with neighbouring dwellings and the surrounding area generally. Furthermore it would have an unacceptable impact on residential amenity, both visually and in terms of overlooking, on the existing properties of 'Wyndhow' and 'West View' contrary to Policies DEV 6, HSG 4 and HSG8 of the adopted Copeland Local Plan 2001-2016."

2.3 A recent appeal against this decision has also been **dismissed**.

2.4 Although the Inspector felt that the proposal would successfully integrate into its surroundings without harming the character and appearance of the area, he concurred with the Council's view in so far that the degree of overlooking and the overbearing presence it would exert in relation to 1 & 2 West View, situated in front of the site, would be oppressive and would harmfully affect the living conditions of the occupiers of these dwellings contrary to saved policies DEV 6 and HSG 4 of the Local Plan.

Contact Officer: Heather Morrison, Senior Planning Officer.

Background Papers: Copies of the decision letters are appended.



Appeal Decision

Site visit made on 9 January 2012

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

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

Decision date: 1 February 2012

Appeal Ref: APP/Z0923/A/11/2162605

Lingmell Lodge, Gosforth Road, Seascale, Cumbria CA20 1HQ

- 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 Paula Barrowclough against the decision of Copeland Borough Council.
 - The application Ref 4/11/2045/0F1, dated 19 January 2011, was refused by notice dated 27 April 2011.
 - The development proposed is the change of use from a dwelling to a private breeding and cattery (retrospective).
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Preliminary matter

1. It was apparent from my visit that the development described above has already been carried out. I have dealt with the appeal on this basis.

Decision

2. I dismiss the appeal.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of Whin Rigg in respect of any noise, smell and general disturbance.

Reasons

4. Lingmell Lodge is a detached house which occupies a corner site in a predominantly residential area. Part of the back garden is being put to an ancillary use for the purposes of breeding and selling show cats. The cats are housed in 2 sheds which incorporate internal pens and mesh runs. Access to the site is via a private lane which serves several dwellings.
5. The Council's Environmental Health Officer raised no objections to the development, subject to conditions, stating that there is no record of noise complaints arising from the development and it is deemed unlikely that statutory noise nuisance would occur.
6. However, the sheds are situated close to the back garden of Whin Rigg, an adjacent dwelling. In my judgement, the close proximity of the pens is harmful to the living conditions of the occupiers of that dwelling as a result of noise and disturbance arising from the use which would interfere with the quiet enjoyment they might expect from this part of their dwelling, particularly in the

summer months. Accordingly, the proposal would conflict with saved Policies DEV6 and HSG25 of the adopted Copeland Local Plan, 2001-2016.

7. I note the appellant's suggestion that the number of breeding queens could be restricted by condition to 6 to protect the living conditions of nearby occupiers. However, such a condition would be difficult to enforce and would not therefore satisfy the tests set out in Circular 11/95; *The Use of Conditions in Planning Permissions*.
8. I have also noted the appellant's arguments that the business provides employment for her family, is a valuable household income, visits are by appointment only and she provides care at home for her disabled husband. Nevertheless, I am not persuaded for the reasons stated above that such a business is compatible with the residential nature of the area within which the appeal site is located.

Conclusion

9. 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. For the reasons given above I conclude that the appeal should be dismissed.

Richard McCoy

INSPECTOR



Appeal Decision

Site visit made on 9 January 2012

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

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

Decision date: 1 February 2012

Appeal Ref: APP/Z0923/A/11/2163254

Plot 3, Wyndhowe, Sea Mill Lane, St Bees, Cumbria CA27 0BG

- 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 & Mrs A Runeckles against the decision of Copeland Borough Council.
 - The application Ref 4/11/2247/0F1, dated 24 May 2011, was refused by notice dated 22 July 2011.
 - The development proposed is the erection of a dwelling.
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Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are the effect of the proposal on the living conditions of adjacent residential occupiers in respect of any overlooking and loss of outlook, and on the character and appearance of the area.

Reasons

3. The appeal site is plot 3 of a larger site for which the principle of residential development was established by outline consent for 4 dwellings granted in 2005. This was renewed in 2008 (ref. 4/08/2237/001) when layout, scale and access were considered. Landscaping and appearance were reserved for a future application. The application subject to this appeal was made in full, not as a reserved matters application, and I shall consider it on this basis.
4. The outline permission was granted subject to a number of conditions, one of which restricted the dwellings to single storey buildings. This condition was imposed to minimise the impact of the development on neighbouring dwellings. Such a consideration is pertinent to this appeal given the steeply sloping nature of the land in the vicinity of the appeal site. Proposed is the erection of a substantial dwelling which on its western elevation would be of 2.5 storeys.
5. Notwithstanding the proposed separation distances, the height of the proposal allied to the difference in levels would, in my judgement, result in the development appearing oppressive in the views from the back gardens and windows of 1 and 2 West View. The west facing windows and elevated situation of the entrance to the proposal would also overlook the rear of nos. 1 and 2. The degree of overlooking and the overbearing presence the proposal would exert would be oppressive and would harmfully change the living

conditions of the occupiers of these dwellings. This would be contrary to saved Policies DEV6 and HSG4 of the adopted Copeland Local Plan, 2001-2016 and is a compelling reason to dismiss the appeal.

6. The Council is also concerned that the proposal would be an over dominant and incongruous form of development. However, the form and appearance of the proposal would blend with the design of other recently erected dwellings to be found nearby. Against this background, the proposal would successfully integrate itself into its surroundings without harm to the character and appearance of the area.
7. Accordingly, in this regard the proposal would not conflict with saved LP Policies DEV6 and HSG4. Nevertheless, this consideration would not outweigh the harm I have identified to the living conditions of the occupiers of nearby dwellings.

Conclusion

8. 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. For the reasons given above I conclude that the appeal should be dismissed.

Richard McCoy

INSPECTOR