Appeal Decision

Site visit made on 11 November 2009

by Megan Thomas BA Hons in Law, Barrister

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

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Decision date:
1 December 2009

Appeal Ref: APP/Y3805/A/09/2107383
81 Downland Avenue, Southwick, West Sussex BN42 4RX

- 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 P Westley against the decision of Adur District Council.
- The application (Ref ADC/0538/08), dated 22 October 2008, was refused by notice dated 6 January 2009.
- The development proposed is the erection of cat boarding rooms to form a cattery.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of nearby dwellings, with particular regard to noise and odour.

Reasons

3. The appeal site comprises 81 Downland Avenue and its garden which includes a broadly rectangular piece of land to the north eastern side of the dwelling. The proposed cattery would be at the western end of this rectangular piece of land and pedestrian access to it would be via the shared driveway between 79 and 81 Downland Avenue through the immediate back garden and along a short pathway. This rectangular land and the pathway to it is surrounded by back gardens including 21 & 23 Overhill, 83, 85, 87, 89 & 91 Downland Avenue and 3, 5 & 7 Millcroft Gardens.

4. The proposal is for cat-boarding rooms to house a maximum of 12 cats at any one time. It would be a combination of 12 timber-built rooms with individual runs, accessed from a central servicing walkway. A shed is also proposed for the preparation of food which would be sited to the south of an existing steel shed in the south west corner of the site. The steel shed would be used for storage of cat food. The appellants indicate that infra red lamps would be used to heat the cattery and waste would be collected daily and stored until collected by the local authority with duration between collections being agreed with the Environmental Health department. Opening times, when clients could drop off or collect cats, would be restricted on a daily basis to between 0830 and 1630.

5. The land is currently part of a domestic residential use and lies within an established close-knit residential area. Policy AG1 of the Adur District Local Plan (1996) normally permits development in such a location subject to other policies of the Plan and to it not detracting from the existing local urban

environment. The closest bungalows to the north of the proposed cattery building are 3 & 5 Millcroft Gardens which are about 12 m away. No.5 has a very short rear garden and no.3 has a longer garden which would run parallel to the western elevations of the cattery and the existing and proposed sheds. Whilst there are fences and a high conifer hedge on the common boundaries, I consider that these would not adequately protect the occupants of 3 and 5 from potential noise, disturbance and odour. However hygienically run or operated in line with licensing requirements the cattery might be, experience indicates to me that there are always smells created, particularly when there are spells of warmer weather, and this could make it very unpleasant to be so close to the cattery. The cattery building would be between about 1.5m-4m from the common boundaries. Not only would there be potential for enjoyment of gardens to be severely curtailed but, with windows open at dwellings on Millcroft Gardens and Downland Avenue, there could be a disagreeable odour inside the dwellings.

6. The accommodation of as many as 12 cats together in an unfamiliar environment and unable to roam outside their runs, is likely to result in them making noise, even if they are all neutered. Catteries tend to attract other cats from the neighbourhood and sometimes foxes, and this can result in noise, especially during the quieter hours of the night. The nature of the noise can also be acute and intrusive. Given its location, the number of people who could potentially be disturbed is high and would include those living on Overhill and Downland Avenue to the east and south of the site.

7. I have borne in mind that other catteries operate, apparently without undue harm, in rear gardens of residential properties when there are other houses close by, but this does not alter the fact that I consider there would be harm from this particular proposal in this location.

8. I have considered whether it would be possible to limit the effect of the use by conditions but, bearing in mind the closeness of other properties and the fact that conditions have to be enforceable, I do not consider that to be a realistic possibility.

9. Overall therefore, I conclude that the proposal would be unduly harmful to the living conditions of the occupants of nearby dwellings with regard to noise and odour, and would be in conflict with policy AG1 of the Adur District Local Plan (1996).

10. Having taken into account all representations made, I dismiss the appeal.

Megan Thomas

INSPECTOR