



Appeal Decision

Site visit made on 8 August 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 11th September 2017

Appeal Ref: APP/X1925/W/17/3173257

Land South of Ash Mill, Barkway SG8 8HB

- 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 Ms Angela Rigg against the decision of North Hertfordshire District Council.
 - The application Ref 16/02588/1, dated 11 October 2016, was refused by notice dated 12 December 2016.
 - The development proposed is the construction of a terrace of 3 two-bedroom houses together with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application was refused on the grounds that, as a result of the proximity to the adjacent poultry farm, the living conditions of future occupiers of the dwellings would be affected through both noise and odour. Following the submission of further evidence from the appellant, the Council have now withdrawn their objection on the grounds of noise.

Main Issue

3. The main issue is whether the location is suitable for residential development, having particular regard to the relationship with the nearby poultry farm.

Reasons

4. The appeal site is a parcel of land that is accessed via a cul-de-sac and is bounded by a belt of established conifers which separates the site from the poultry farm to the west. Immediately to the east and north of the site are other properties that form a small cluster of dwellings developed to the rear of the High Street.
5. The poultry farm is part of a larger operation and is formed by three sheds that have the capacity to hold some 60,000 birds between them. The birds are raised for meat as opposed to eggs and have a growing cycle of around 49 days. During the growing cycle a percentage of the birds are removed to allow greater space within the sheds for the birds to grow. At the end of the cycle, the birds are removed and the sheds cleaned and disinfected for the cycle to begin again. It is common ground that bird droppings are the main source of odour from the site.

6. The appellant provided an 'Odour Impact Assessment' (OIA) whereby three site visits¹ and odour assessments were carried out at various locations around the site. The OIA clarifies that the Environment Agency's (EA) Environmental Permit for the poultry farm has an approved Odour Management Plan in place which has been prepared in accordance with the EA's Odour Guidance Note. Moreover, the environmental permit includes a specific condition to control off-site odour impacts. However, in spite of these controls and whilst I am mindful of paragraph 122 of the National Planning Policy Framework (the Framework) , it is clear from the representations received that off-site odours continue to be experienced in the immediate locality.
7. The OIA concluded that, "small odour exposures were identified during both the first and second visits, which at most equated to "slight adverse" odour impacts. During the third visit there were no odours detected..." The proprietor of the poultry farm confirmed that on the dates of the OIA, the birds within the sheds were at 11 days when high heat and low ventilation is required, at 33 days when 40% of the birds had been removed and at the last assessment the sheds had been empty for 6 days.
8. Thus, although the OIA was carried out in accordance with the relevant professional guidelines, the timing of the visits would not necessarily have coincided with those stages in the rearing process when odour emissions are likely to be at their strongest. In this respect, I note the observations of the EHO that emissions are intermittent. It seems to me, therefore, that the 5 minute assessment periods used would not fully reflect the experience of future residents, who could be expected to be on site for extended periods of time. Moreover, although the EHO has provided only limited details of the conditions at the time of her visit, I note that she recorded a strong odour at times. This again points to the intermittent nature of the odours and reinforces my concerns as to the limitations of the OIA.
9. I accept that the OIA was carried out in accordance with IAQM guidelines. However, I do not find that the assessments are an example of typical odour conditions at the poultry farm as no assessment was undertaken when odour from the sheds are likely to be at their peak, much nearer to the end of the 49 day growing cycle or when the sheds are emptied.
10. I acknowledge the appellant's argument that as a result of the basic approach that was used in the assessment of odour by the EHO very little weight should be attributed to this evidence. However, the EHO has visited the site on a number of occasions over recent years and provided an example of a recent visit using terminology from the OIA and with reference to IAQM guidelines. Although this evidence is limited in that weather conditions and exact location were not identified, it nevertheless provided opposing evidence that the poultry sheds can produce odours over and above the OIA findings. This is also supported by the proprietor of the poultry farm who confirms that odours from the sheds increase during the growing cycle.
11. Therefore, despite the findings of the OIA, given the closeness of the proposed dwellings to the poultry farm, with unit 1 some 4.5 m from the boundary, it is likely that future residents would be affected by odours which, even though they may be of varying strength and intermittent in nature, would nonetheless result in the living conditions of future occupiers of the dwellings being adversely affected by odours originating from the poultry farm.

¹ 15 June, 7 July and 14 July 2016

12. Moreover, I am conscious that the poultry sheds are the subject of an Environmental Permit issued by the EA and the introduction of dwellings close to the sheds could result in additional complaints, to the possible detriment of the poultry farm.
13. On this basis, I conclude that the living conditions of future occupiers would be significantly affected by odours as a result of the proximity to the existing poultry farm. The development would therefore be in conflict with Policies 6, 26 and 57 of the North Hertfordshire District Local Plan No. 2 and Section 6 of the Framework which seek to ensure that development proposals take into account the site and are acceptable in that location with regard to the environment and its surroundings.

The Planning Balance

14. At the time of determining the planning application, the Council could not demonstrate a 5 year supply of deliverable housing sites. Following the recent submission of the North Hertfordshire Local Plan 2011 – 2031 for examination, the Council contends that it can now demonstrate a 5 year supply of deliverable housing sites. However, the examination is still at an early stage so that, in the absence of further evidence to support the Council's claim, I consider that the provisions of para 49 of the Framework should continue to apply.
15. Therefore, I have determined this appeal on the basis that the Council cannot demonstrate a 5 year supply of deliverable housing sites. As a result, bullet point 4 of paragraph 14 of the Framework comes into play which states that for decision-taking this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the Framework taken as a whole.
16. The Council state that, "Officers remain of the view that the proposed development would represent a sustainable form of development" and no objections are raised regarding the principle of the development, its potential impact on highway safety or the living conditions of adjoining occupiers. I also recognise that the proposal would contribute to the overall provision of dwellings in the district, and would therefore have a small beneficial effect in terms of the social and economic strands of sustainability. However, against this I have found that the proposed development would have an unacceptable impact on the living conditions of future occupiers of the dwellings through odours from the adjoining poultry farm. Therefore, on balance and in my view the adverse effects I have identified above, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the proposal would not amount to sustainable development in the terms of the Framework.

Conclusion

17. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR