
Appeal Decision

Site visit made on 29 March 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/V4630/X/16/3164831

17 Old Lindens Close, Streetly, Sutton Coldfield B74 2EJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs J Bacon against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 16/1038, dated 6 July 2017, was refused by notice dated 28 November 2016.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of part of home for pet grooming.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposed use would be ancillary to the enjoyment of the dwellinghouse or would constitute a material change of use.

Reasons

3. Old Lindens Close is a residential development of around 20 detached dwellings in a 'Y' shaped cul-de-sac off Aldridge Road within a wider predominantly residential area.
4. The appeal premises, No. 17, are located at the central junction of the cul-de-sac which also serves as a turning head. The neighbouring property, No.18, is set forward of No. 17 and has the main entrance to its side, adjacent to the garage of No. 17.
5. The application sought a certificate of lawfulness for the proposed use of the garage for a pet grooming operation described as part business, part hobby. The application statement described the operation taking place within the hours of 09:00 to 18:00 Monday to Friday, 3-4 days per week on average, grooming 2 dogs on an average day but up to 4 on busier days.
6. Therefore, whilst the statement refers to an average of 3-4 days per week and an average of 2 dogs per day, it suggests a maximum of 4 dogs on each of up to 6 days in any one week.

7. Whether a use of domestic premises for a business use is ancillary to the enjoyment of the dwelling is a matter of fact and degree. Planning Practice Guidance (PPG) [Paragraph: 014 Reference ID: 13-014-20140306] explains *that planning permission will not normally be required to home work or run a business from home, provided that a dwelling house remains a private residence first and business second (or in planning terms, provided that a business does not result in a material change of use of a property so that it is no longer a single dwelling house). A local planning authority is responsible for deciding whether planning permission is required and will determine this on the basis of individual facts. Issues which they may consider include whether home working or a business leads to notable increases in traffic, disturbance to neighbours, abnormal noise or smells or the need for any major structural changes or major renovations.*
8. The appellant therefore acknowledges that the series of tests in relation to home businesses to be:
 - Will the premises no longer be used mainly as a private residence;
 - Will the business result in a marked rise in traffic or people calling;
 - Will the business result in any activities unusual in a residential area; and
 - Will the business disturb neighbours at unreasonable hours or create other forms of nuisance such as noise or smells.
9. There is no suggestion that the pet grooming operation will result in the appeal premises no longer being used as a private residence.
10. The appellant claims that the scale and frequency of activity would not be sufficient to change the character of the premises and that the activity would not be dissimilar to a postal delivery or the arrival or departure of a family friend. However, there could be up to 8 visits to the premises to deliver and collect pets (8 movements in and 8 movements out) each day on up to 6 days a week. Given the description of the business model it would not be possible to limit the number of movements below this, quoted as a maximum, level. This would not be an insignificant number of vehicular and pedestrian movements on a regular basis and it would change the character of the residential cul-de-sac.
11. The appellant suggests that there are no likely noise impacts and that the house is detached such that there are no adjoining neighbours. Old Lindens Close is a small residential development with no through traffic. The appeal premises sit at the turning head and the proposed use would regularly bring persons to the area who otherwise would have no reason to visit, with the comings and goings potentially causing disturbance to the surrounding residents.
12. There is no boundary treatment between Nos. 17 and 18 and the main entrance to No. 18 is only around 1m from the indicative entrance to the pet grooming room. Not only is there potential for disturbance from the arrival and departure of clients but also from dogs being groomed, some of which might potentially be distressed.
13. The application for the Certificate is not precisely defined as to the intensity of use other than the indicated maximum numbers of dogs per day or the

maximum number of days and hours of operation. If a Certificate were to be issued on those terms, there would be no means of control as to the numbers of dogs on the premises at any one time, including any dogs belonging to or staying with the appellant, there would be substantial potential for disturbance and detriment to the residential amenity of neighbouring residents.

14. The nature and intensity of the proposed use, as described in the supporting statement, would therefore go beyond a use incidental to the use of the dwellinghouse and would constitute a material change of use.
15. The appellant has drawn attention to a number of Appeals and Court judgements relating to home working. However none of these related to a comparable proposal where clients would bring pets to the premises for grooming, collecting them later. The closest comparison was Appeal APP/G5180/C/10/2142178 relating to the use of garden buildings as a cat rescue centre with a maximum of 35 cats on the premises at any one time and rehoming around 3 cats per week. Whilst the full details of that case, and hence the potential for traffic and other disturbance, are not known, each case must be considered on its individual merits. None of the cases quoted can be considered as a precedent.
16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of part of 17 Old Lindens Close, Streetly, Sutton Coldfield B74 2EJ for pet grooming was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Hammond

Inspector