



Appeal Decision

Site visit made on 4 December 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 20th December 2017

Appeal Ref: APP/E5330/W/17/3181280

155 Howarth Road, Abbey Wood SE2 0UW

- 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 E Koroni against the decision of Royal Borough of Greenwich Council.
 - The application Ref 16/4027/F, dated 5 December 2017, was refused by notice dated 31 January 2017.
 - The development proposed is change of use of dwelling to a mixed use comprising use as a dwelling and use for fostering of cats.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of dwelling to a mixed use comprising use as a dwelling and use for fostering of cats at 155 Howarth Road, Abbey Wood SE2 0UW in accordance with the terms of the application, Ref 16/4027/F, dated 5 December 2017, subject to the following conditions:
 - 1) Within 1 month of the date of this decision a Maintenance Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include the following:
 - i) Schedule of times of attendance for visitors and volunteers associated with the fostering of cats.
 - ii) Arrangements for the delivery, unloading and storage of cat food, litter and other goods associated with the fostering of cats.
 - iii) A scheme for the recycling/disposal of waste associated with the fostering of cats.Subsequently, the fostering of cats shall take place solely in accordance with the approved details.
 - 2) No more than 20 cats shall be fostered at the property at any one time unless otherwise agreed in writing by the local planning authority.

Procedural Matters

2. It was evident from my site visit that the development applied for has been carried out. I have determined the appeal on this basis. There is some dispute between the parties regarding the lawfulness of certain structures within the appeal site and their relevance to the appeal.

3. However, the lawfulness of development is not for me to determine in the context of a section 78¹ planning appeal because a separate procedure exists for such a determination. Whilst I note an enforcement notice has been served² and a certificate of lawfulness applied for, that is open for the appellant to do and any such application would be unaffected by my determination of this appeal.
4. An application for planning permission has been deemed to be required, has been made and it is that application which is now before me and which I am required to consider as a whole. The structures are clearly an integral part of the fostering use applied for and to which the Council objects. I have therefore had regard to them in my determination of the appeal.
5. The description of development in the heading and decision above has been taken from the application form. A different description has been referred to in Section E of the appeal form for '*retention of use for dwelling as a dwelling and use for fostering of cats (mixed use)*'. This appears to have been at the appellant's request and is used on the Council's formal decision notice. However, I have not been provided with any confirmation that this was formally agreed. The term 'retention' is not an act of development and noting the similarities between the descriptions given, I have used the description given on the application form as this reflects the development applied for and before me.

Main Issues

6. The main issues are:
 - The effect of the proposal on the living conditions of existing occupiers, with particular regard to suitable amenity space and on the living conditions of neighbouring occupiers, with particular regard to noise, odour and outlook.
 - The effect of the proposal on the character and appearance of the host property and area.
 - The effect of the proposal on the Borough's housing stock.

Reasons

The appeal site and background

7. The appeal site is formed by a 2 storey residential property and its curtilage. It is located in a terrace of similar properties in a residential area. To the rear is a modest and rectangular shaped rear garden enclosed by walls and soft landscaping. The garden contains 5 timber cat enclosures or 'suites' sited along the side and rear boundaries. One of which is a larger outbuilding abutting the rear boundary, filling the majority of the width of the garden. It appears to formerly have been used for purposes incidental to the use of the dwelling but has been converted into 4 suites.
8. The dwelling has 3 bedrooms on the first floor, along with a bathroom and living accommodation located on the ground floor in the form of an open plan living and kitchen dining areas. Catcuddles, or The Catcuddles Sanctuary is a

¹ Town and country Planning Act 1990 (as amended).

² Issued on 26 July 2017, taking effect on 1 September 2017, allowing 6 months for compliance.

registered charity founded in July 2009. The main functions of which are the rescue, fostering and rehoming of cats. The charity relies on a network of volunteers who foster cats within their own properties. On the evidence before me, the use of the property for fostering of cats has been in operation since 2007³ and is not a commercial animal boarding use.

Living conditions

9. The main day to day activities for the care of the animals is the sanitisation of the suites and general care. The maximum number cared for is 20 cats, although 15 appears to be the average and the number being cared for at the time of my visit. The suites along the side boundaries are enclosed but also have a small run area enclosed by mesh fencing and a door. They are insulated and are closed at all times, except for access for cleaning and care. At the time of my visit, a single cat was being housed within the dwelling along with the appellant's own cat and 2 dogs.
10. Two volunteers were also present at the time of my site visit, carrying out the daily care and sanitisation of the suites. This appears to take place between 10:00 and 14:00 albeit that once a week this occurs between 09:00 and 13:00 and by 1-2 volunteers. Once a week a single volunteer also stays until 17:00 to assist with veterinary care, when required. Visits to the property are by appointment only although I am mindful that third parties have also stated that visits frequently take place outside of these times.
11. Such activities were being undertaken during my visit and essentially involved opening and closing of the suites and subsequent cleaning and interaction with the animals. Noise from the animals was not discernible within the garden and I did not find the activities result in constant or unacceptable levels of noise and disturbance. To my mind, they were no more harmful than the typical activities associated with the occupation of a family sized home and associated use of a rear garden containing outbuildings.
12. I note that following a recent visit⁴ a Council officer found there was a strong odour but I am also mindful that following a complaint in 2016, the Council's Environmental Health officer⁵ found the cats were '*in sanitary conditions that did not give rise to any discernible odours, liable to affect neighbouring properties*'. At the time of my visit, when a similar number of cats were being cared for, I also found no discernible odours that would be likely to affect neighbouring occupiers and similar conditions. There is nothing substantive before me to suggest that this is not the typical situation and pests such as rodents were not evident as food was stored inside and in appropriate containers.
13. Overall, and even if my visit did not coincide with a typical day, in this particular case and subject to conditions, I am not persuaded that the likely levels of activity associated with the overall use of the property as a dwelling and for the fostering of up to 20 cats is such that it causes material harm to the living conditions of neighbouring occupiers in terms of noise or odour.

³ Prior to 2007 fostering took place but for another charity

⁴ 4 October 2017 by the Council's Senior Enforcement officer.

⁵ Email dated 24 January 2017.

14. The Council also refer to the effect on outlook from neighbouring properties and lack of suitable amenity space for the existing dwelling. Although I turn to the structures in greater detail below, there are limited views of them from neighbouring properties. Given their overall size, scale and appearance they are neither oppressive nor overbearing and are screened by soft landscaping and boundary treatments. They do not cause harm to the outlook from neighbouring properties. Furthermore, the amenity space I saw is sufficient for the size of dwelling and suitable space is retained for sitting out, relaxation and gardening. In my view, the proposal does not therefore harm the living conditions of existing occupiers in this regard.
15. For these reasons, the proposal does not harm the living conditions of the occupier of the host property in terms of suitable amenity space or neighbouring properties in terms of noise, odour and outlook. It therefore accords with Policy E (a) of The Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2015 ('CS') and Policy 7.15 of the London Plan 2016 ('LP'). When taken as a whole, these require development to not have a significant adverse effect on the amenities of adjacent occupiers in terms of unacceptable emissions of noise, odours and overall quality of life.

Character and appearance

16. The cat suites are predominantly formed by small timber animal enclosures sited along the side boundaries of the rear garden and set amongst and screened by soft landscaping. The area is characterised by modest, enclosed rear gardens that cumulatively contain a significant amount of soft landscaping and trees that positively contribute to the character and appearance of the area. The gardens also had a sense of tranquillity and a variety of domestic structures and outbuildings was evident within them, including timber sheds.
17. The structures that house the cats are not significant in terms of their scale and are not unduly dominant or overly prominent. On the contrary, they are low scale and visually unobtrusive and are similar to the type of wooden outbuildings and structures that you may reasonably expect to find in a domestic garden. Overall, I found that the structures and the use of them is sufficiently low key to not result in any unacceptable effects on the character of this busy residential area.
18. For these reasons and whatever the case may be in terms of their lawfulness, they do not harm the character and appearance of the host property or area. Accordingly, there is no conflict with Policy DH1 of the CS and Policies 7.4 and 7.6 of the LP insofar as these require a high quality of design and that new development positively contributes to the improvement of the built environment.

Housing stock

19. The Council are concerned that the proposal is used as a 'cat sanctuary' and no longer as a family dwelling. However, only 2 of the bedrooms were used for fostering activities and it was clear that these 2 bedrooms also contained beds and other furniture and served a dual purpose as sleeping accommodation. Overall, my observations were that it was primarily the appellant's home, albeit that some fostering of cats takes place within it. Were I to allow the appeal a family sized dwelling would be retained and would not be prevented by being occupied as such. For these reasons, I find no conflict with Policy H (a) of the

CS or Policy 3.14 of the LP which seek to ensure that development does not result in the loss of housing.

Other Matters

20. In reaching this view I have had regard to representations made by third parties both in support and objecting to the proposal in relation to highway safety and parking issues from vehicles delivering cat litter and from the parking of volunteer's vehicles. Deliveries appear to be every 6-8 weeks and the appellant confirms that pallet based deliveries ceased in October 2016. Moreover, I saw that in the immediate vicinity that there was no on-street parking restrictions in place and at the time of my visit, albeit during the day, a large number of spaces were available. This is also the time when volunteers arrive and leave the property.
21. There is no evidence before me of any particular highway safety issues associated with on-street parking in this area or related to the proposal and the relevant highway authority have not objected to the proposal. In my view, in such a busy and well trafficked area, there is no harm to highway safety from such an infrequent amount of deliveries and the low number of day to day vehicle movements associated with such a mixed use.
22. I accept that there are concerns relating to deliveries being left on the highway. Whilst such matters relating to obstruction normally fall to be considered by the appropriate highway authority, I have imposed a condition requiring details of the unloading of such deliveries and their location as part of an overall management plan. I have also been referred to a similar operation at a property in another local planning authority but do not find that this has any bearing on the planning merits of the appeal proposal before me. In any event, each case is determined on its own merits.

Conditions

23. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I note that there are some discrepancies regarding the hours of operation and number of visitors calling at the property. In the interests of ensuring the living conditions of adjoining occupiers continue to be maintained and protected I have imposed a single condition requiring a maintenance plan to be submitted and agreed. This plan includes confirmation of times of attendance for visitors and volunteers, details of the delivery, unloading and storage of associated goods and details of waste disposal associated with the fostering activities. It does not include details of visitor parking arrangements as this is solely limited to on street parking and is not therefore necessary.
24. The Council's request that a condition restricting the number of cats to 10 is not necessary or relevant because the appellant is clear that it is care for up to 20 cats that are fostered and being applied for. I have found that such a number would be acceptable in relation to the main issues and I have therefore imposed a condition that no more than 20 cats are fostered at the property at any one time, in order to maintain and protect the living conditions of neighbouring occupiers.
25. Whilst the Council has suggested a condition requiring removal of certain built structures it is not precise in terms of which structures, nor is it necessary or

relevant given my findings that they do not harm the character and appearance of the area or the living conditions of neighbouring occupiers and I have not imposed it.

26. A condition requiring soft landscaping is also not necessary due to the existence of adequate soft landscaping and the lack of opportunities for any additional benefits from such landscaping. The Council have also suggested that the use should cease should the current appellant cease to reside at the property and that all materials and equipment in connection with the fostering use removed. Given the nature of the mixed use and my findings insofar as the main issues and other considerations are concerned such a condition is not necessary or relevant and I have also not imposed it.

Conclusion

27. For the reasons given above, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with the development plan.
28. Having considered all other matters raised, I therefore conclude that the appeal should be allowed.

Richard Aston

INSPECTOR