The Planning Inspectorate

Appeal Decision

Site visit made on 23 January 2018

by Roy Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2018

Appeal Ref: APP/M0655/W/17/3181021
The Dog Bus / Dog Day Care Centre, Warrington Lane, Lymm WA13 0SW

- 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 John Pearson, The Dog Bus, against the decision of Warrington Borough Council.
- The application Ref 2016/28369, dated 1 June 2016, was refused by notice dated 23 June 2017.
- The development proposed is change of use for site to be used as a dog day care centre.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is retrospective, the use having been commenced.

Main Issue

3. The main issue is the effect of the development on working conditions for nearby businesses with particular regard to noise disturbance.

Reasons

4. The appeal site is part of a narrow linear estate which accommodates various industrial and office related land uses, located between Warrington Lane to the south and the Bridgewater Canal to the north. The site, which is relatively small and rectangular shaped, essentially comprises an external concrete compound with a timber cabin situated in one corner. Enclosed by a combination of a wall and security fencing, it is immediately bounded by other industrial uses on either side.

5. I have considered the appellant's noise assessment which has had regard to British Standard BS 8233:2014 – Guidance on sound insulation and noise reduction for buildings (BS). The assessment, which was based on a monitoring exercise, concluded that noise levels in relation to dogs barking, experienced within the nearest office to the appeal site would be well within parameters that are considered to be reasonable for work environments where concentration is required.

6. However it is undisputed that the assessment is based on the average noise levels recorded over a given period. I concur with the Council that the

potential effect of this would be to smooth out peaks in noise levels associated with sudden bouts of barking in amongst quieter periods.

7. Furthermore irrespective of levels, the BS recognises that people's sensitivity to noise varies and that it is not practicable within the guidance to consider psychological factors such as distinctions between pleasant and unpleasant sounds. The BS goes on to indicate that in a residential context there is usually more tolerance of noise without a specific character, which would not include that which is irregular enough to attract attention. I consider that it would be reasonable to regard the noise of a barking dog as having a specific character and therefore, having regard to the BS, a potentially less tolerable form of noise. Whilst I acknowledge that the appeal site is within an industrial rather than residential location, where there may be greater tolerance of a less quiet environment in general, I am not persuaded this means that a business worker seeking to concentrate on a particular task would not be sensitive to unpleasant noise.

8. I am in no doubt that the sudden experience of dog barking, when not expected, the characteristics of which may be unpleasant and aggravating, would be a startling source of disturbance and irritation for occupiers of nearby businesses seeking to focus on various aspects of work. Accordingly, it seems to me that this would be harmful to the working conditions of those occupiers.

9. From the information before me I have no reason to conclude that barking would occur infrequently, given the number of dogs that might be present on the site. Notwithstanding the presence of a high boundary wall to part of the site, the impact would be exacerbated given that barking may occur externally in relatively close proximity to offices with potentially open windows.

10. I accept that such disturbances would be unlikely to occur constantly and acknowledge the presence of isolation rooms within the cabin intended as space for calming excited animals. I also note the appellant's point that additional staff have been employed allowing dogs to be walked away from the site more frequently.

11. However, notwithstanding these considerations, I also note that the appellant has taken steps to procure a purposely constructed noise insulated building. Whilst, in principle, this would indicate a positive approach in terms of attempting to deal with the issue, irrespective of whether a solution could be found that is acceptable to the Council, it also indicates recognition on the part of the appellant that there is an ongoing issue that needs to be dealt with.

12. The appellant has suggested that if the appeal is allowed, he would then take steps to put a suitably constructed building in place on the site. However, there can be no guarantee that an effective solution would be found that would be acceptable to the Council. Accordingly this would not be an appropriate or realistic approach.

13. I am also mindful that a nearby occupier found reason to proactively complain to the Council about the appellant's business and whilst it appears that some land users are now content with the position, a significant number of others have maintained objections on disturbance related grounds. Although the appellant makes the point that industrial noise on the estate is greater than that being made by dogs, it has not been brought to my attention that other forms of noise are a source of disturbance to occupiers. Whilst I note the

appellant's intention not to accept noisier dogs at the site, this is not a solution that could be readily enforced.

14. Drawing the above considerations together, I give limited weight to the findings of the appellant's noise assessment and conclude that the development is causing genuine and ongoing harm to the working conditions of nearby businesses with particular regard to noise disturbance. Accordingly I find conflict with Policies CS 1 and QE 6 of the Warrington Borough Council Core Strategy 2014 and the National Planning Policy Framework insofar as they seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion

15. Therefore, for the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Roy Merrett

INSPECTOR