
Appeal Decision

Site visit made on 15 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 25th October 2019

Appeal Ref: APP/T4210/W/19/3234348
220 Rochdale Road, Bury BL9 7HP

- 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 Mrs Michaela Beckett against the decision of Bury Metropolitan Borough Council.
 - The application Ref 63825, dated 14 May 2019 (date of registration taken from the decision notice), was refused by notice dated 20 June 2019.
 - The development proposed is described as "To use for the housing and breeding of small dogs. Wooden dog kennels and metal enclosures."
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application sought permission for a part change of use of No 220 for the breeding and housing of dogs. However, it is clear from the evidence and from my site visit that the change of use has already occurred and that the use of the premises for the housing and breeding of dogs is ongoing. I have therefore determined the appeal on the basis that retrospective permission is sought for the change of use which has already been implemented.
3. The date of the application in the application form is given as 30 January 2018. However, this appears to be incorrect as it does not correspond to the date given elsewhere and it is before the date that the change of use commenced. Therefore, I have used the date that the application was registered in the banner heading above.

Main Issue

4. The main issue is the effect of the change of use on the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance, odours and on-street parking pressure.

Reasons

5. No 220 is a 2 storey end of terrace property between Rochdale Road and the River Roch. It has a small front garden with a driveway to the side of the property and a long and enclosed rear garden which finishes near the river. This part of Rochdale Road is characterised by tightly-spaced short terraces of modestly-sized dwellings. Consequently, No 220 and its garden are in close proximity to several properties in the street.

6. The rear of the property comprises a series of kennels with dedicated outdoor runs, separate communal exercise areas, hardstanding and yard areas. There is a bin store compound immediately adjacent to the vehicular gates which open onto the driveway. The evidence indicates that the premises house 22 dogs and associated litters of puppies. At the time of my visit, there were several dogs within each kennel area, all with free access to the attached outdoor runs.
7. Bury Unitary Development Plan Adopted August 1997 (the UDP) recognises that non-conforming uses in primarily residential areas can result in harm to residential amenity as a result of factors including noise, smell and traffic generation.
8. In this case, there is evidence before me that the change of use is having an adverse effect on the living conditions of the occupiers of nearby residential properties. This is in the form of complaints to the Council's Environmental Health Officer and third party representations in respect of a number of issues, including noise, disturbance and odours.
9. At the time of my visit, and for its duration, a significant number of the dogs were barking. Given the nature and behaviour of dogs, and particularly large numbers of kennelled animals, it seems reasonably likely that they will bark to communicate and in response to noises in and around the property including visitors to the premises and occupiers of neighbouring residential properties. Moreover, given the permanent presence of dogs at the property, barking will potentially occur at any time of the day and during the overnight period.
10. Notwithstanding the nearby A58 Rochdale Road and motorway junction, the appeal site and neighbouring gardens are in a relatively quiet and secluded area adjacent to the river. Given that the dogs can be heard barking from locations in the surrounding area during the day, I would expect the noise to be even more intrusive at other times, including the evenings and overnight when background noise levels would be reduced. In this respect, there is nothing before me to indicate that the kennels have sound insulation or that the dogs do not in any case have unrestricted access to the outdoor runs. Moreover, the relatively low close-boarded fence between No 220 and the adjoining property will not mitigate the noise of the dogs. Given the close relationship of the appeal site to nearby residential properties, I find that the noise and disturbance arising from the likely frequent or prolonged periods of barking by the large number of dogs is detrimental to the quality of life and living conditions of nearby residential occupiers.
11. I am aware that the Council has been unable to determine the existence of a statutory nuisance in relation to the barking of dogs at the property. However, statutory noise nuisances are dealt with under environmental protection legislation whereas I have a broader duty to consider the living conditions of surrounding residents, having regard to planning policy. In this respect, it is not unreasonable for neighbouring occupiers to expect to be able to enjoy their properties free from significant noise disturbance, particularly at otherwise quieter times of the day and night. The fact that a noise abatement notice has not been served is not evidence that the noise from a large number of dogs is acceptable in the context of the surrounding residential area.
12. The dogs will inevitably generate a large quantity of waste material, the smell from which could result in adverse effects on the living conditions of

neighbouring residents. I accept that the appellant cleans the kennels and outdoor areas on a daily basis. However, there is little before me in respect of the frequency or method of cleaning or precisely how the waste material is stored and disposed of in order to minimise adverse impacts. The potential for odours to adversely affect neighbouring residents therefore adds to my concerns with regard to the compatibility of the change of use in this location.

13. There is off-street parking for the occupiers of No 220. However, in the absence of visitor parking, visitors will have to park on the street. This part of Rochdale Road is densely developed and the street is already well-used for parking purposes. While there were on-street spaces available at the time of my visit, this was on a weekday at a time when the majority of residents might be expected to be away from their properties. It therefore seems reasonably likely that there would be an increased demand for on-street parking spaces at busier times of day including evenings and at weekends.
14. Although visiting is by appointment only, there is nothing before me to demonstrate the likely timing, frequency or duration of visits. I cannot therefore be certain of the number of visitor parking spaces that might be required at any one time or that any current requirement might not in any case increase in the future. In the absence of any defined opening hours, there is nothing to demonstrate that appointments would avoid busier times of day with increased vehicle movements and increased on-street parking pressure. Given the relative isolation of the street from other residential streets, any residents unable to park on this part of Rochdale Road would appear to have little choice but to park some considerable distance away from their homes.
15. There is no entry to the street from the A58 Rochdale Road. Therefore, all vehicles entering the street, and a proportion of those leaving, will drive past the appeal property which is on a bend in the road near to the junction with Waterfold. An increase in the number of vehicles attempting to park and manoeuvring around the driveway and frontage of the appeal property, particularly at busier times of day, therefore has the potential to result in conflict between road users including pedestrians, cyclist and motor vehicles.
16. Therefore, the change of use is harmful to the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance, odours and parking. It conflicts with the residential amenity and parking aims of the development plan, including Policies EC4/1, EC6/1, ENV7/2, H3/1 and HT2/4 of the UDP. These require, among other things, that development does not result in unacceptable effects on the surrounding area and nearby occupiers, including in terms of noise and smells, and makes adequate parking provision. It also conflicts with policies in the Framework that require development to be appropriate for its location, taking into account effects on living conditions, and to minimise the scope for conflict between road users.

Conclusion

17. For the reasons set out above, the appeal is therefore dismissed.

Sarah Manchester

INSPECTOR