



Appeal Decision

Site visit made on 28 October 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2019

Appeal Ref: APP/D3125/W/19/3234587

Frog Cottage, Green Lane, Milton Under Wychwood OX7 6JY

- 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 Nigel Thoma against the decision of West Oxfordshire District Council.
 - The application Ref 19/00826/FUL, dated 13 March 2019, was refused by notice dated 13 May 2019.
 - The development proposed is the conversion of existing detached garage to a dog grooming salon.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed use would affect the living conditions of occupiers of adjacent residential properties in terms of noise caused by the intensification of use and from traffic disturbance.

Reasons

3. The appeal site is accessed via an unmetalled track from Green Lane. The track leads to the frontage of the appeal dwelling and on to rear access gates for dwellings served by both Shipton Road and Green Lane. The track passes the side of the rear garden of 'The Haven'. This rear garden is visually exposed to the track. Its boundary to the track consists of a low fence and some boundary planting. During my visit in the daytime, I observed that the surrounding area was quiet and there were only occasional traffic movements on Green Lane.
4. The proposed use would operate between 8.30am and 5pm, Monday to Friday. It would attract around 6 customers daily, and sessions would be designed to avoid overlap. The site would enable parking for 3 vehicles and have a small turning space within its forecourt. It would employ two members of staff, consisting of the appellant and a trainee. The activity would include some noise producing grooming equipment as listed in the appellant's Noise Impact Assessment. The Council's Environmental Health Officer is content that the use of the equipment would not cause substantial noise disturbance to neighbours. I see no reason to disagree with these findings.
5. The activity would include the frequent delivery and collection of dogs. Although the appellant has indicated that noisy dogs would not be encouraged to attend the facility, this would be difficult to regulate. However, the sound of

barking dogs is not uncommon or unexpected within a residential area. Furthermore, the quantity of dogs on-site at any one time would be limited by the number of employees engaged in the proposed activity. Consequently, even with the potential for windows to be open, I find that the noise associated with the grooming of dogs would be unlikely to be significantly greater than that expected from the keeping of dogs. I therefore do not consider that noise disturbance from grooming equipment or dogs barking on-site would be capable of creating substantial harm to the living conditions of neighbouring residents.

6. However, when arriving and leaving the business, customers would have clear views into some ground floor rear windows of 'The Haven'. The limited shared boundary planting would also enable sound to pass unfettered between the access track and the adjacent dwelling. The relatively high turnover of customer visits would create a business activity that would be out of character with the tranquil residential setting of the site. Therefore, due to this context, the noise of passing pedestrians, dogs and vehicles would be overt and invasive to occupiers of 'The Haven'. Moreover, noise created by this activity would be pronounced to occupiers both when within their rear garden and the dwelling itself.
7. The activity is proposed to only function during the daytime and not at weekends. However, it is not uncommon for residents to be at home in the daytime for a variety of reasons. Although customer visits might not be dissimilar in noise to a postal delivery, the frequency would be significantly greater. The level of activity would also be likely to be greater than the traffic movements associated with a busy household. As a consequence, the effect of the proposed use would cause significant harm to the living conditions of adjacent residential occupiers, especially those of 'The Haven', due to the intensification of activity on site.
8. Accordingly, the proposal would be contrary to policies EH8, OS2 and OS4 of the West Oxfordshire Local Plan 2018. These policies amongst other things, seek to prevent development that would cause unacceptable nuisance through noise disturbance, to focus a significant proportion of services within and adjacent to main service centres and to not harm the living conditions of occupiers of residential properties.

Other matters

9. A number of appeal decisions have been brought to my attention by the appellant. A dog grooming business in Treorchy was allowed¹ which included 4 visits a day. A dog grooming proposal in Bromley was allowed² for 5-7 dogs a day. A dog grooming and boarding services was allowed in South Shields³. Furthermore, a dog grooming service was allowed⁴ in East Bolden. Although, each case must be considered on its own merits these concluded that the sound of dogs barking, and traffic disturbance, would be limited. However, I do not have the full details for these cases. Nevertheless, they appear to be significantly different in character to the appeal site, both in regard to the arrangement of each access and in their relationship to neighbouring gardens.

¹ Planning Appeal Reference: APP/L6940/A/18/3204239

² Planning Appeal Reference: APP/G5180/A/10/2126602

³ Planning Appeal Reference: APP/A4520/W/15/3133725

⁴ Planning Appeal Reference: APP/A4520/A/14/2226094

10. The appellant has indicated that he would accept conditions to limit the number of dogs attending per day, visits being on an appointment only basis, that doors and windows be kept closed at all times and the hours of use be limited to those proposed. However, the third condition would be unlikely to pass the tests of the National Planning Policy Framework (The Framework), being both unreasonable and unenforceable. In any event, these limitations would not resolve the harm I have identified to the living conditions of adjacent residents.
11. The Framework supports the operation of businesses in rural areas. However, this support is not without regard to other considerations and objectives of the development plan.
12. The proposal would not have a significant effect on highway safety. Nevertheless, an absence of harm in this respect can only be considered as a neutral factor in the planning balance.
13. The site is within the Cotswolds Area of Outstanding Natural Beauty (AONB). The Framework requires great weight to be afforded to the conservation and enhancement of the beauty of the AONB. The proposal would have only a neutral effect on the designation due to the nature of the proposal and its limited impact on the wider area.

Conclusion

14. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR