



Appeal Decision

Site visit made on 7 January 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/N4205/W/19/3237480

444a Darwen Road, Bromley Cross, Bolton BL7 9HZ

- 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 Miss Leah Kellett of Estilo against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 05815/19, dated 1 April 2019, was refused by notice dated 3 September 2019.
 - The development proposed is the change of use from a salon to a dog creche / training unit.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For clarity and precision, I have taken the description of development in the banner heading above from the Council's decision notice and the appeal form as it more accurately and succinctly describes the proposal. Furthermore, as the description has been listed on the appeal form, it will not prejudice either main party.

Application for costs

3. An application for costs was made by Miss Leah Kellett against Bolton Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue of this appeal is the effect of the proposed development on the living conditions of neighbouring occupiers, particularly through noise.

Reasons

5. The appeal site comprises a ground floor mid-terraced property that is currently a hair and nail salon, which was operated by the appellant until recently. When viewing the host property from the front, the 'Bromley Cross Mini Market' is adjoining to the right. Adjoining the host property to the left is 'Artisan', which is a hair and beauty salon. The remaining commercial properties forming this small parade then comprise of 'Slate Barbers', Bromley Crust which is a sandwich shop, and at the end of the terrace adjacent to the junction of Mill Street is 'Turner & Pooch' which is a dog grooming parlour. At first floor, above these commercial properties are residential flats and associated storage areas.

6. The proposed training operation would be contained within the host property and dogs would only be taken to the rear yard when they needed to eliminate. During this time, they would be accompanied by a member of staff and when they had finished, they would be taken back indoors, with any mess being removed immediately. The individual training of dogs, including the creche facility and associated training and / or external walking off the premises would mainly operate between 09:00hrs and 16:00hrs. This would be for a maximum of 4no. dogs with the remaining dogs not being trained being placed in an open top pen. No dogs would be left unattended at any time on the premises. Between 16:00hrs and 20:00hrs group dog training would take place for up to 5no. dogs and this would have a duration of approximately one hour. No animals would occupy the host property overnight.
7. To this effect, I note that the appellant has a duty of care and responsibility under the provisions of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (the Animal Welfare Regulations). Additionally, I note the qualifications that the appellant holds¹ and that she is currently studying for a master's degree in canine behaviour and management. I have no doubt that the appellant is a dedicated canine professional through the existing business² that she operates 2 evenings per week and the level of studying that she is currently undertaking.
8. I note that the Council's Pollution Control Unit (the PCU) has not raised any significant concerns with regards to any potential impact from the proposal on nearby noise sensitive premises, such as the residential flats above. Accordingly, the PCU has recommended 3no. conditions relating to operating hours, control of noise emissions and external lighting / floodlighting. Additionally, the appellant has brought to my attention that the planning application generated a number of representations, both for and against the proposal. This included a petition with a notable number of signatures in support of the scheme and an individual representation of support from the occupier of the flat directly above the host property, who considers that the existing use to be noisier than that proposed.
9. Nevertheless, I find that in a ground floor terraced property with residential flats above and further dwellings to the rear, such as in the case before me, the relationship between the host property to its neighbours is very close. Even with the best intentions, I consider it highly likely that the neighbouring occupiers would experience unacceptable levels of noise caused by the operation of the proposed use, especially from dogs barking that are unfamiliar with one another in what are likely to be unfamiliar surroundings.
10. The Council have raised potential issues to the likely success of any future acoustic scheme that would be submitted, as it could be compromised through windows being opened. I find that this is a distinct possibility that could also potentially conflict with the requirements of the Animal Welfare Regulations. On the evidence before me, I share the Council's concerns in this respect. Consequently, I am not certain, in the absence of a detailed acoustic / management scheme before me, that it would be possible to provide the necessary mitigation to prevent any significant harmful effects to the living conditions of neighbouring occupiers.

¹ Distinction in puppy training; Canine first aid; Diploma in canine behaviour management and Diploma in canine behaviour and training.

² Paws for Thought

11. In the present case, I find that insufficient evidence to demonstrate that this proposal would not be harmful to the occupiers of nearby dwellings in terms of additional noise has been presented. Consequently, given my findings on the details before me, I do not consider that otherwise unacceptable development could be made acceptable through the use of planning conditions in this instance.
12. In conclusion, the proposed development would likely significantly harm the living conditions of existing occupiers of neighbouring dwellings, with particular regard to noise. Therefore, the development would not accord with the amenity aims of Policy CG4 of the Council's Core Strategy Development Plan Document 2011 and the National Planning Policy Framework.

Other Matters

13. I have had regard to various other matters raised by the appellant, including no objections being received from the Local Highway Authority. However, I have considered the development on its own merits and concluded there would likely be harm to the living conditions of neighbouring occupiers. A lack of harm associated with highways is a neutral factor that weighs neither for nor against the development. The site is located in an accessible location and the proposal would generate some limited economic and social benefits, but they are not sufficient to outweigh the harm identified above.
14. Additionally, I note the presence of the existing dog parlour at the end of the terrace. However, relatively little detail has been provided regarding the particular planning background to this scheme. Without such information a full and detailed comparison between this development and the case before me cannot be drawn except insofar as I was able to observe and assess the site at my visit. In any event, the fact that an apparently similar business may exist is not a reason, on its own, to allow otherwise unacceptable development. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Conclusion

15. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR