
Appeal Decision

Site visit made on 02 September 2020

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 15 September 2020

Appeal Ref: APP/R4408/C/20/3245051

69 Briton Street, Thurnscoe, Rotherham, S63 0HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Miss Annastarszia Logan against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 2 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to a mixed use as residential dwelling house and base for pet grooming, dog sitting and dog walking.
 - The requirements of the notice are to cease the unauthorised change of use relating to pet grooming, dog sitting and dog walking at the property and ensure that the only dogs present at the property are those registered to the occupants of the dwelling house. No further dogs should attend the premises for any grooming, sitting or dog walking purposes.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a) & (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

2. The original grounds of appeal made under sections 174(2) (b), (c) and (d) of the Act have been withdrawn by the appellant.
3. The first site visit, scheduled for 29 July, had to be aborted because of the failure of the Council to send a representative.

The appeal on ground (a) and the deemed application

4. The appeal property is a semi-detached house sited at the junction of Briton Street and Deightonby Street, within a predominantly residential area. The rearmost section of the very long back garden is gated off and contains 5 large dog pens used in connection with the appellant's dog breeding activity. The garden contains a large outbuilding which appears to be in use for domestic storage and a further, smaller building, nearer to the house, in which the dog grooming takes place.

5. The Barnsley Local Plan, adopted 2019, is consistent with national guidance in seeking to ensure that development does not have a significant adverse effect on the living conditions and residential amenity of existing and future residents by way of noise and disturbance. Accordingly, the main issue in this case is whether the alleged use unduly harms the living conditions of neighbouring residents.
6. At the time of my site visit, the appellant had 6 of her own dogs on site, 3 in the house and 3 in the dog pens, for the purposes of dog breeding. This use does not form part of the allegation in the enforcement notice and the appellant has indicated that her breeding licence requires her to provide grooming facilities. The additional use by the grooming business, advertised as Alpha Dog Groomers, is said by the appellant to comprise 4-5 customers per day. I understand that most arrive by car but that the business operates a collection service, using a van. Access to the outbuilding used for grooming room is via a gate to the side of the house. I am told that customers are directed to approach via the driveway of no.69, rather than via the shared pedestrian access with no.71 Briton Street.
7. Although the appeal on ground (b) was withdrawn, the appellant states that no dog sitting or walking is carried out from the premises; any walking is confined to her own dogs. The evidence on this matter remains rather unclear. However, as the onus is on the appellant to demonstrate her case, on the balance of probability, had an appeal been maintained on ground (b), it would have been unsuccessful.
8. There are representations from neighbours regarding noise, smell and parking congestion arising from the use. Turning first to noise, it is a fact of life that dogs bark on occasions. Whilst there might be some difficulty in identifying whether the barking arises from the appellant's own dogs, from visiting dogs, or from the interaction between the two, nonetheless, there is evidence in the representations of a noticeable amount of barking from these premises which appears to disturb neighbours.
9. Disturbance also arises from the coming and going of around 4-5 customers a day, plus their associated vehicular movements; these generally require parking and manoeuvring of vehicles on the street or the driveway, and customers with their dogs passing in close proximity to the front door of the neighbouring dwelling, no.71. To my mind, this amounts to an unacceptable level of disturbance in a residential environment.
10. On my site visit, I did not notice any undue canine smells and I consider it unlikely that such smells would emanate from the enclosed grooming building.
11. In my view, the level of noise and disturbance generated by the grooming business unduly diminishes the living conditions of neighbouring residents, contrary to the aims of the development plan and, in particular, Policies GD1 and Poll1.
12. In addition to the main issue, the appeal premises are located at a cross roads, in an area in which there appears to be a high level of on-street parking. I note that a number of vehicles, including a business van, belong to the appellant's household. I also note that, at the time of both my site visits, there was space on the driveway for at least one additional vehicle. Nonetheless, in my view the parking and manoeuvring of customers' vehicles, and/or the

business' own delivery vehicle, gives rise to both additional disturbance and to a reduction in highway safety at this congested junction.

13. I have taken account of the benefit to the appellant's brother of the grooming business to provide suitable employment. However, this is outweighed by the harm arising from the use. I have seen no evidence of the lack of alternative, more suitable, premises for this use.
14. The appeal on ground (a) and the deemed application fail and the enforcement notice is upheld.

The appeal on ground (f)

15. The steps set out in the notice appear to me to be no more than is required to address the breach of planning control. They do not prevent the appellant keeping at the premises dogs which are registered to her. The appeal on ground (f) fails.

B.S. Rogers

Inspector