



Appeal Decision

Site visit made on 5 January 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2021

Appeal Ref: APP/R4408/W/20/3257496

157 Wilthorpe Road, Redbrook, Barnsley S75 1JQ

- 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 Rebecca Phillips against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2020/0573, dated 5 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is the erection of a 12m² outbuilding for use as a dog grooming parlour in rear garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the decision of the Council, the appellant has submitted amended proposals to the Council for their consideration. The relevant plans have been submitted with the appeal for reference. For the avoidance of doubt, and in the interests of fairness, I have determined the appeal on the basis of the original plans that were before the Council when it made its decision and on which third parties were consulted.

Main Issue

3. The main issue is the effect of the development on the living conditions of nearby residents with particular regard to noise and privacy.

Reasons

4. The site lies within a residential area bordered by an enterprise park and a small number of other commercial premises including a veterinary practice close to a main road. The two-storey semi-detached property lies within a row of similar properties. The dwelling is set behind a front garden with a side driveway and a spacious enclosed private garden to the rear of the dwelling. A detached garage and a modest timber shed are located within the rear garden area close to the common boundary with 155 Wilthorpe Road.
5. The proposal would result in the removal of the timber shed to the rear of the garage and replacement with a serviced off-the-shelf timber summerhouse which, according to the applicant, would be about 3 x 4.9m in total area and have a height of some 2.44m. At the time of my site inspection, a smaller timber shed shown on the submitted plans had been relocated elsewhere within the garden. It is proposed to use the new building for dog grooming for up to 6 dogs per day, 6 days per week between 0900 to 1800hrs Monday to Friday

- (inclusive) and 0900 to 1600hrs on Saturdays on an individual appointment basis only. Activities would include canine washing, drying, nail clipping and fur trimming. Individual appointments would accommodate up to two dogs at a time.
6. The nature of the proposed use is one where the unpredictability of animal behaviour is a key consideration. Although some dogs are prone to excessive barking some are equally quiet. Notwithstanding the qualified nature of the operator, the handover of pets to a stranger and carrying out of potentially unfamiliar or unsettling grooming treatment is likely to elevate levels of anxiety in dogs on certain occasions. This has potential for loud persistent barking and attendant disturbance to neighbours.
 7. The level of noise would no doubt vary on each occasion and instances of excessive barking may be limited such that a noise nuisance, as defined in the Environmental Protection Act 1990, would not necessarily occur. However, that test is distinct from consideration of the impacts on living conditions and potential for disturbance of neighbours through noise generation in a planning context.
 8. At the time of my site inspection, although only a snapshot in time, barking from dogs waiting at the nearby veterinary surgery was occasionally audible. Whilst I acknowledge that this circumstance may have been exacerbated by practice policies for social distancing imposed at the time of my site inspection, whereupon animals were waiting outside the building, it was notable that it triggered barking responses from other dogs elsewhere in the locality. This demonstrated an effect that could be experienced when unfamiliar dogs are introduced where other dogs are resident or present nearby. An effect that extended the duration of the combined barking episodes.
 9. Despite the proposal to restrict the maximum number of dogs treated per day and maximum of 2 dogs in any one sitting, the potential for loud disturbance would remain high through a large part of the waking day, including times when the quiet enjoyment of neighbouring gardens might be a reasonable expectation. This effect would be experienced to a greater extent during the warmer months when use of the neighbouring gardens is likely to be greater.
 10. To seek to minimise the potential for disturbance to neighbours, it is proposed to board out and insulate the interior of the building. Consistent with the approach of Paragraph 54 of the National Planning Policy Framework (the Framework), this is a detail which could be secured through a planning condition. Although this is unlikely to make barking instances inaudible outside of the building it would, nevertheless, go a long way to mitigating barking impacts and limit potential for disturbance to those arising at the limited times and duration of dog transfers.
 11. However, this would also be subject to the appellant's proposal to carry out grooming with the building's doors and windows closed. Given that the proposals include shearing and drying which would generate dander within the small confines of the building, and, that it is proposed to operate the business throughout the year including high summer, this would inevitably require a reasonable level of ventilation and air-conditioning to be installed. This is a matter which is recognised by the appellant.

12. Little detail of those mechanisms have been provided in the evidence before me. Whilst such installations might typically be left to agreement through planning condition in instances of permanent buildings where noise and vibration levels can be more easily controlled, I do not have the same confidence that such apparatus could be successfully installed within the lightweight fabric of the building without causing an additional or alternative external source of noise. Accordingly, although such a condition may pass the majority of the tests for planning conditions, it may, in the circumstances of the case, impose an unrealistic or disproportionately burdensome, and therefore unreasonable requirement upon the development such that it would nullify the benefit of any permission it was attached to. This would be contrary to the tests set out in Paragraph 55 of the Framework.
13. The lack of certainty that a suitable environment for the activity could be secured without pressure to leave windows or doors open whereupon the experience of barking would be greater, or, where a persistent audible drone of equipment and/or apparatus might result, leads me to find that there is insufficient evidence to demonstrate that noise disturbance sufficient to cause significant harm to neighbouring living conditions would not arise. I note the appellant's offer to reduce the operational hours of the business use of the building. Although this would invariably lessen any effect of the use, it is of limited benefit in the context of the noise concerns and ability to mitigate them for the remaining operational times.
14. I note the appellant's reference to other appeal examples and decisions by the Council for similar development and attendant comparisons to potential noise generated by domestic pet ownership. However, domestic pet ownership can, in itself, generate unwelcome disturbance. Moreover, the fact that the property lies so close to a veterinary practice where higher numbers of anxious dogs will be present throughout much of the day distinguishes it from the circumstances of those cases.
15. The boundary fences would substantially screen users of the adjacent gardens to protect the privacy of people within them. However, some close views to the rear openings of the adjacent properties could be gained in the event that dog owners were permitted to enter the rear garden area. Although these would generally be limited and fleeting, the cumulative number of callers throughout 6 days per week would result in a disproportionate level of comings and goings by third parties such that neighbouring occupiers could justifiably feel that their privacy was undermined.
16. However, the appellant has indicated that handovers could be restricted to the front of the main house where only the semi-private frontages of the neighbouring dwellings would be observable. Although the level of activity here would increase, the effect on the living conditions of neighbours through loss of privacy would be limited and would not warrant a refusal of planning permission on that basis alone. Accordingly, the effect on the privacy of neighbouring occupiers could be made acceptable through a restriction on customer access to the rear of the property secured by planning condition.
17. For the above reasons, I find that it has not been adequately demonstrated that the use could be undertaken without giving rise to disturbance through noisy activity. The proposal therefore fails to meet the requirements of Policy GD1 of the Barnsley Local Plan [2019] as it seeks to avoid significant adverse

effects on the living conditions and residential amenity of existing and future residents.

Other Matters

18. I acknowledge the comments of third parties. Taken with the existing high boundary fencing of the site, the domestic scale and appearance of the structure and the distance from the adjacent dwellings, I find that the building would not cause harm to the living conditions of neighbouring occupiers through poor outlook.
19. Although Wilthorpe Road is a busy road, the site lies at a point where the speed limit changes between 30 and 40 mph and there are no parking restrictions or observed high levels of parking competition in the immediate vicinity. Furthermore, the length of the driveway serving No157 is such that it could provide additional space for callers. Accordingly, those clients choosing to travel by private vehicle will have sufficient opportunity to park and load/unload animals without significant impact on highway safety.

Conclusion

20. Whilst I find that concerns in relation to the privacy of neighbouring occupiers could be addressed through restriction on delivery and collection, this does not outweigh the harm I have identified in relation to potential affects arising from noise and disturbance associated with the proposed use. I therefore conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR