



Appeal Decision

Site visit made on 8 July 2021

by **Peter D Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2021

Appeal Ref: APP/B5480/W/20/3264574 5 Kenway, Romford RM5 3EH.

- 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 David Manley against the decision of the London Borough of Havering Council.
 - The application Ref P1238.20, dated 28 August 2020, was refused by notice dated 18 November 2020.
 - The development proposed is change of use of outbuilding (C3 Residential) to part-time dog groomers (Sui Generis).
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Decision

1. The appeal is allowed and temporary planning permission is granted for change of use of outbuilding (C3 Residential) to part-time dog groomers (Sui Generis) at 5 Kenway, Romford RM5 3EH in accordance with the terms of the application, Ref P1238.20, dated 28 August 2020, and subject to the conditions set out in the Schedule of Conditions.

Procedural Matters

2. As the description of development on the application form is not precise I have taken the description from the decision notice and appeal form for the purposes of this decision.
3. In the period since the appeal was submitted the Government has published the revised *National Planning Policy Framework* (the Framework) July 2021 which is being brought into immediate effect for the purposes of decision-making. I have considered the appeal in the light of the revised Framework but am satisfied that none of the amendments to the Framework raise issues relevant to the appeal and importantly none has brought me to any different conclusion on the appeal.

Main Issues

4. The main issues are whether the proposed development would have a detrimental effect on:
 - the living conditions of present and future occupants of Nos 3 and 7 Kenway in respect of noise and disturbance and loss of privacy; and
 - highway safety in Kenway as a result of limited off street parking.
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Reasons

5. Kenway, where the appeal site is located, is a residential cul-de-sac of mainly terraced, two storey houses although two detached bungalows sit to the east of the appeal site. The properties benefit from long but fairly narrow gardens reflecting the terraced form of the street. Most of the properties in the cul-de-sac have outbuildings to the rear typically at the foot of the gardens as is the case with the appeal site.
6. The outbuilding to the appeal property is small, of timber construction with a predominantly glazed frontage and pitched roof. It sits approximately 20 metres from No 5 and its neighbours in a rear garden that is well screened by shrubs and landscaping to the boundaries on both sides. At the time of my visit it was equipped as a dog grooming parlour with one bath and one grooming table.

Living Conditions

7. It has been put to me that insufficient details have been provided regarding how the use would operate and therefore its impact. However, the evidence before me shows that the proposed use would involve the provision of dog grooming services between the hours of 9.30 and 16.30 hrs 4 days a week excluding weekends. Due to the capacity of the single groomer working in the business a maximum of 4 dogs would be groomed on any one day and that only one dog would be on site at any one time. It is proposed that dogs would be met at the front gate by the groomer and taken to the outbuilding in the rear garden.
8. Concern has been expressed regarding the potential for noise and disturbance as a result of the use in an area where the background noise level is low. The Framework at paragraph 185 (previously paragraph 180) states that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life. The Framework refers to the *Noise Policy Statement for England* to assist in the interpretation of noise impacts. The Statement identifies 3 types of noise and it would be 'neighbourhood noise' that would be likely to be the issue in this case – i.e. noise arising from trade and business premises amongst other things. In this case there would be the potential for noise to arise from 3 possible sources – machinery used in the grooming parlour, dogs barking and noise and disturbance as a result of comings and goings to the business. I will consider each of these in turn.
9. The only machinery involved in the grooming parlour would be likely to be electric clippers and a hair-drying machine. During the site visit I had the opportunity to observe the drying machine in operation and whilst it was audible from the garden with the doors closed it was no louder than any small domestic garden machinery such as an electric mower. Given the small number of dogs involved the machinery would be running for only very short periods across the day.
10. In respect of dogs barking, I accept that a dog visiting a grooming parlour may result in it barking and that this could intrude in what is generally a quiet area. However, what would be proposed here is a very small number of dogs in the grooming parlour across the day, with only one present at any one time and the parlour would be open to dogs for only a limited period of 7 hours of the day. The outbuilding where the grooming would take place is fitted with doors and the grooming would take place inside. Therefore, the sound of any dog barking would be contained to a degree. In any event the sound of a dog barking in a residential area would not be unusual and given the small numbers involved I am satisfied

that this would be unlikely to result in noise that would be significantly intrusive.

11. With regard to noise and disturbance from comings and goings to the groomers it is clear from the evidence before me that some of the custom would be 'walk in' trade from the local area. However even if, on a particular day, all arrived by car, the small number of customers involved, spread across the day, would have only a limited impact in terms of disturbance on the frontage. The proposal indicates that access to the grooming parlour would be via the side gate to the garden with customers being met there and dogs taken from there. This would involve customers standing fairly near the side of the bow fronted window to the front of the adjacent bungalow but I noted at the site visit that this window is already screened with vertical blinds. The existing boundary fence although not full height is close boarded and would provide some separation. In any event a condition could be attached requiring the angled fence panel immediately adjacent to the gate to be heightened to 1.8 metres to protect privacy and mitigate disturbance at the gate. Beyond the gate the side passage passes between No 5 and the bungalow. Whilst there is a small window in the flank wall of the bungalow onto that passage this appeared to be a secondary window. Again, it is screened and privacy would be unlikely to be an issue in particular given that the groomer is intended to be the only person passing that point.
12. Given all of the above, the impact of the use as proposed on living conditions for neighbouring residents, particularly Nos 3 and 7, would be unlikely to be significant. However, notwithstanding the above this would depend on the use operating as set out as a 'low-key' business, subservient to the main residential use of the property. For that to be guaranteed, it will be necessary to impose conditions limiting operating hours (daytime only), limiting the number of dogs on site through the day and restricting the operation to the outbuilding only.
13. I have been referred by both parties to various appeal decisions relating to dog grooming parlour uses in residential contexts. In some of these the Inspectors have concluded that a small-scale use (similar to that proposed in this case) would not be an intrusion and in some the Inspectors have found that the use would be alien to the residential character of the area and potentially disruptive. It is difficult to assess whether any of these would be directly comparable to what is proposed at No 5 Kenway. I acknowledge that there would be increased activity at No 5 in relation to the business use but that this is unlikely to be at a level that would be problematic.
14. The Planning Practice Guidance does allow, in circumstances where the effect of a use is not entirely straightforward to predict, for a temporary permission to be conditioned to allow the use to be assessed in practice over a period of time. I believe that in addition to the controlling conditions referred to above that this would be a reasonable approach and necessary in this case and one that would be fair to both the appellant, neighbours and the Council to assess the effects of the use in practice.
15. Subject to these conditions being in place I am satisfied that the proposal would not give rise to levels of noise and disturbance resulting in significant adverse impacts on health and quality of life – (the Framework test). Moreover, impacts would not be such that the use would be in conflict with Policy DC61 of the *Haverling Local Development Framework Core Strategy* (HCS) dealing with urban design and which seeks to restrict development where it has unacceptable impacts on living conditions or unreasonable adverse effects on the environment. Similarly,

the use would not have an undue impact on amenity and therefore Policy 34 of the emerging *Havering Local Plan*, which seeks to control pollution from development, would not be conflicted.

Highway Safety

16. The appeal property at No 5 Kenway has off-street parking capable of accommodating two cars and a dropped kerb across the frontage onto the road. Kenway itself allows for on-street parking parallel to the kerb in the sections without dropped kerbs or entrances. The on-street parking is not subject to any restrictions.
17. It has been put to me that ordinarily during the daytime one car is away from the property meaning that one space would be available for dog owners dropping off /collecting dogs to park off-street. I accept that there may be some occasions when either the 2 cars based at the property would be present on the site or there is an overlap between customers dropping off and picking up. However, on these occasions a third car could easily park across the dropped kerb for the short time involved in a customer unloading/collecting their dog and without taking up any of the on-street parking space ordinarily available on Kenway.
18. For this reason, I am satisfied that running the business at No 5, given the scale of operation that is proposed, the proposed hours of operation avoiding peak times and given that some customers will be 'walk-ins' from the local area, would not contribute to parking stress in Kenway or have an adverse impact on highway safety in the cul-de-sac.
19. Nevertheless, it would be important to attach a condition to any permission which required the 2 existing off-street parking spaces at the property to be retained.
20. With such a condition in place the proposed use would not conflict with HCS Policy DC 33 dealing with car parking. Moreover, the test in the Framework at paragraph 111 (previously paragraph 109) is that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. For the reasons above this would not be the case here.

Conditions and Conclusion

21. The Council has suggested a number of conditions, which I have considered in the light of the advice in the Framework and *Planning Practice Guidance* (PPG). Although the Council proposed attaching the standard timing condition this is not required in its usual form as the application is retrospective and the outbuilding is in place and already set up. A condition requiring development to be carried out in accordance with submitted plans is however necessary in the interest of certainty.
22. A number of conditions are required in the interests of safeguarding living conditions for neighbouring occupants. As discussed above, although the scale of operation would be very small, given the nature of the use it is reasonable that it should be subject to a temporary permission in the first instance to allow the opportunity for the use to be observed and tested in operation. The PPG includes this as one circumstance where the use of temporary conditions can be appropriate. As the outbuilding already exists and is equipped there would be no capital cost involved in establishing the business and therefore a period of 12 months is a reasonable period for the temporary permission.

23. For the same reason, namely safeguarding residential amenity, I also intend to impose 4 further conditions restricting hours of operation, restricting numbers of dogs groomed and on site, limiting the use to the outbuilding only and restricting any advertising on the street frontage. All of these have been proposed by the Council and accepted by the appellant although he has requested some flexibility over which 4 weekdays the business can operate. This is reasonable and I have adjusted the wording of the Council's condition accordingly.
24. In addition, as stated above, in order to mitigate any potential disturbance from customers waiting at the side gate, I will impose an additional condition requiring submission of a scheme to heighten the angled fence panel immediately adjacent to the side gate. As this condition was not suggested by the Council I have consulted both parties on it. The appellant has agreed to it and, whilst the Council has not objected, it has pointed out that the scheme would have to take into account potential impacts on light and outlook for the front bow window to No 3. I have considered this but, because the fence panel involved angles away from No 3, the outlook from its front bow window westward down Kenway would not be affected to any significant degree. A modest increase in height on the west side of the bow window, given the angling, would similarly not have any undue impact on sunlight and daylight levels.
25. The Council had proposed that the permission be a personal permission. However, I am not satisfied that in this instance this would be justified. The grant as a temporary permission subject to the 5 additional conditions above provides the control necessary and, in any event, there would be a problem with a personal permission as proposed by the Council in that the business would not be operated by the appellant but by his partner.
26. The Council also proposed a condition to remove permitted development rights in connection with change of use. However, given the other conditions which I intend to impose and the fact that there is no permitted development rights to change from a sui generis use as a dog grooming parlour to any other use, I am not persuaded that removal of PD rights in this regard would be necessary.
27. Finally, as indicated above in the interests of minimising any impact on parking stress within Kenway it is important that the 2 available off-street parking spaces are retained as available for the residents and visitors'/customers' use at all times and I attach a condition accordingly.
28. I have considered the matters before me and for the reasons given above, I conclude that the appeal should be allowed and temporary permission granted for the use subject to the conditions set out in the schedule of conditions below.

P. D. Biggers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan
 - Wooden outbuilding – Existing use as Leisure
 - Wooden outbuilding - Future use as Sui Generis

- 2) This permission for use of the outbuilding as a dog grooming parlour (sui generis) shall be for a limited period only, expiring 1 year after the decision date for this approval, on or before which date the use hereby permitted shall be discontinued, all materials and equipment brought into the premises in connection with the use shall be removed and the site/outbuilding reinstated to its former condition to the satisfaction of the Local Planning Authority.
- 3) The use hereby permitted shall not operate outside of the following times:
09:30 – 16:30 on up to 4 days during the week but not at all on Saturdays, Sundays or Public and Bank Holidays.
- 4) The number of dogs groomed at the premises shall not exceed 4 per day and there shall be no more than one dog on the premises at any one time including those waiting to be groomed or those awaiting collection.
- 5) The use hereby approved shall not be carried out anywhere on the site except within the outbuilding denoted as "Part Time Dog Grooming" as indicated on the approved plans.
- 6) No advertising signs for the use and business hereby permitted shall be displayed at the front of the property (No 5 Kenway).
- 7) Unless within 1 month of the date of this decision a scheme for the heightening to 1.8 metres of the angled fence panel immediately adjacent to the side entrance gate, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site as a dog grooming parlour shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. Thereafter the fence shall remain in place for as long as the business is in operation.
- 8) The two off-street car parking spaces on the frontage to No 5 Kenway shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors/customers and for no other purpose.