



Appeal Decision

Site visit made on 6 June 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/A4520/W/23/3319901

29/31 Breamish Street, Jarrow, Tyne and Wear, NE32 5SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mrs Sabrina Hubbert against the decision of South Tyneside Council.
 - The application Ref ST/0742/22/FUL, dated 30 August 2022, was refused by notice dated 22 December 2022.
 - The development proposed is change of use from dwelling house to a mix of dwelling house and dog breeding business.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the above banner heading has been taken from the original application form but excludes information regarding the breeding license and breed of dogs as this is not considered necessary for description purposes. The above description also reflects that contained within the decision notice.
3. There is no dispute that the change of use has already started. The appeal scheme has therefore been assessed on a retrospective basis.

Main Issue

4. The main issue is the effect of the development on the residential amenity of the area with particular reference to noise.

Reasons

5. The appeal site relates to an end terraced dwelling located along a row of other similar terraced properties. The properties along this row including the appeal site all directly front onto Breamish Street with a yard to the rear and access out onto the rear lane. The surrounding area is characterised by residential properties.
6. South Tyneside Council have provided the appellant with a license for breeding dogs and the Council's officers report explains that the applicant is currently licensed to breed Labradors from 5 breeding bitches with each dog having 1 no. litter of 2 or 3 dogs per year which does not appear to be disputed. The appellants Statement of Case confirms that there are 4 dogs currently in the property and are about 6-7 months old.

7. The nature of a dog breeding business is one where the level of noise and disturbance largely relates to the noise from dogs being kept on the site including the barking of dogs which is intermittent and difficult to control. At my site visit, I walked around the front and rear of the property and while there were no apparent activity coming from the appeal site, this is only a snapshot in time and not determinative as there may be other reasoning for this which I am unaware of.
8. Having regard to the site context, which is residential, noise associated with the dog breeding use particularly barking from several dogs is likely to be heard within the surrounding area and those living closer to the appeal site.
9. The appellant accepts that dogs bark at times and the application form explains that they are currently trying to rehome some of the noisier dogs and considering a smaller quieter breed. Whilst the appellant may not breed big dogs and the dogs currently in the property are of a smaller breed, they would still bark irrespective of the breed of dog, age or size, and this coupled with the number contained on site is likely to be audible in such a residential setting.
10. Whilst residential properties may accommodate dogs and they may bark at times such as when strangers pass the property etc, the nature of a dog breeding business is one where a greater number of dogs are likely to be kept on site at any one time as well as their litter at certain times of the year. Such a factor increases its overall effect.
11. It is not my role in the context of this appeal to determine whether or not any such use would be lawful, but I note that it is not disputed by the parties that the existing use has operated for some time. The Council has however explained that the Environmental Health team have provided details of the number of complaints that they have received regarding this use at the property and there have been complaints from five separate neighbouring properties over the past four years which have mainly related to noise at the premises impacting upon their residential amenity. Despite not having specific details of the complaints, the nature of the use and close proximity of nearby residential uses means that barking from a number of dogs would likely be audible particularly when windows are open or when dogs are outside.
12. The Councils' Environmental Health team have positioned noise monitoring equipment in neighbouring properties to assess noise levels and consider that the noise levels that are produced at the site are unacceptable and result in significant harm to residential amenity. I have not been provided with any noise monitoring results, and I am therefore unable to provide further comment on this. Nevertheless, I also do not have any substantive evidence to the contrary to demonstrate that the use of the site as a dog breeding business does not result in any significant impact to the residential amenity of the nearby properties nor have I been provided with any mitigation measures to help control noise. On this basis, I cannot be certain that the development is not harmful to others.
13. I appreciate that the license given is 5 star and all necessary requirements and checks have been done with no issues raised. However, such licensing applications are determined under different legislation to that of planning and thus carries very little weight. The Councils Traffic and Road Safety Team have not objected to the application, and I note the comments made in relation to objections and letters of support received. However, this does not affect my

findings on the main issue as I have determined the appeal based on its merits including the evidence before me and I have identified the harm that would arise.

14. For the reasons given above, I conclude that the development unacceptably harms the residential amenity of the area with particular reference to noise. The development is therefore contrary to Policy DM1 (b) of the South Tyneside Local Development Framework Development Management Policies (2011) which requires development to be acceptable in relation to any impact on residential amenity. The development is also contrary to paragraph 185 of the National Planning policy Framework which amongst other matters, requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Conclusion

15. The development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR