



Appeal Decision

Site visit made on 10 August 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/B5480/W/22/3306128

5 Kenway, Havering, Romford RM5 3EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mrs Colleen Manley of Hounds and Barker Dog Grooming against the decision of the Council of the London Borough of Havering.
- The application Ref P0950.22, dated 13 June 2022, was approved on 9 August 2022 and planning permission was granted subject to conditions.
- The development permitted is continued use of outbuilding granted temporary permission for use of outbuilding (C3 Residential) to part-time dog groomers (Sui Generis).
- The conditions in dispute are Nos 1 and 6, which state that:
 - 1) 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 planning 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.
 - 6) The applicant shall submit to the Council's Planning Enforcement Team via planning_enforcement@haverling.gov.uk on a monthly basis, a log of the days and times of clients and the numbers of dogs groomed at the premises.
- The reasons given for the conditions are:
 - 1) To enable the Local Planning Authority to retain control and to allow time for an alternative permanent premises to be found.
 - 6) In the interests of maintaining residential amenity and to accord with Policy 7 of the Local Plan 2021.

Decision

1. The appeal is allowed and the planning permission Ref P0950.22 for continued use of outbuilding granted temporary permission for use of outbuilding (C3 Residential) to part-time dog groomers (Sui Generis) at 5 Kenway, Havering, Romford RM5 3EH, granted on 9 August 2022 by the Council of the London Borough of Havering, is varied by deleting condition Nos 1 and 6.

Main Issue

2. The main issue is whether the disputed conditions are necessary and reasonable to safeguard the living conditions of neighbouring occupiers.

Reasons

Background

3. Planning permission was originally granted on appeal in July 2021¹. In allowing the appeal, my colleague imposed several conditions to safeguard the living

¹ APP/B5480/W/20/3264574

conditions of neighbouring occupiers, among which was a 1 year temporary permission. The reason given for imposing this condition was to allow the opportunity for the use to be observed and tested in operation, and this was noted to be a relevant circumstance for the use of a temporary condition, as set out by the Planning Practice Guidance (the PPG).

4. The planning application to which the current appeal relates was granted in August 2022, which added the disputed condition No 6. Other than this, the main differences between this and the planning permission granted by the previous appeal are an amended condition to add an additional 30 minutes to the afternoon operational period, and the flexibility to allow up to two dogs on site rather than one at a time, provided they belong to the same owner.

Disputed conditions

5. Condition No 1 imposes a further 1 year temporary permission from the date of the planning permission. The reason given for this in the Council's decision notice is to enable the Local Planning Authority to retain control and to allow time for an alternative permanent premises to be found.
6. In justifying this condition, the Council's statement of case sets out that the effects of the additional hours of operation and additional dogs are not easy to predict. It also references the complaints lodged with the Council's planning enforcement team from possible breaches of conditions.
7. I acknowledge that objection letters from neighbouring occupiers reference matters including, but not limited to, the existing use operating outside of permitted hours, dogs not being collected before the next dog arrives, noise from equipment, customers talking in the street and dogs barking, and various parking and highway concerns. However, whilst I do not dispute there may be some external evidence of the use taking place that is noticeable to neighbours, I have limited substantive evidence that the effects are of such a magnitude that would be unusual for a typical residential area. Furthermore, other than the objection letters, I am provided with limited evidence that the planning conditions have been breached, nor do I have any evidence of enforcement action being taken.
8. Whilst the PPG provides for the use of temporary planning permissions in certain circumstances, this case relates to a use that has already operated for a period under a temporary permission and I have no substantive evidence of any harm occurring. Whilst there are subtle changes to the operation under the latest planning permission, these are not of a scale that would warrant a further trial period to determine their effects.
9. Condition No 6 requires the appellant to submit a monthly log containing details of appointments to the Council's Planning Enforcement team, for the reason of maintaining residential amenity. The Council advises that they do not have the enforcement resources to continually monitor the appeal conditions, and this condition is a way to ensure this happens.
10. I appreciate the Council may have resourcing issues. However, the other conditions attached to the permission relating to matters including hours of operation are appropriately precise and enforceable for the Council to monitor and, if a breach is detected, to take enforcement action. The current situation appears to be a position where the appellant contends that they have met the

conditions of the planning permission, but some neighbouring occupiers argue otherwise. The Council appears not to have taken a definitive view on the matter, as it has not taken enforcement action. As such, even if the log sought by condition No 6 were produced and submitted on a monthly basis, this will require resources to monitor and would retain the potential for disagreement.

11. At the time of my visit, the appellant was grooming a dog. It was a warm day, and the windows were open on the outbuilding, yet from outside the building very limited noise was audible from either the dog or the powered equipment. Furthermore, the building is positioned at the far end of the garden a significant distance from the closest residential properties.
12. I observed one car parked on the property's driveway. Many houses in the immediate vicinity have full width driveways, leaving limited kerbside space for on-street parking without blocking driveways. However, there was space either on or in front of the appellant's drive for customers to park for a temporary period. I acknowledge there is always potential for individuals to park in an inconsiderate manner. However, given the scale of the operation and the availability of suitable parking, any adverse effects would in all likelihood be limited and comparable to typical vehicle movements in a suburban street comprising residents, visitors and delivery vehicles.
13. The evidence before me provides little doubt that some neighbours are unhappy with the ongoing use. However, I am provided with no substantive evidence that the use is creating any tangible harm to the living conditions of neighbouring occupiers over and above what might be expected of a typical residential use in this area. Furthermore, the remaining conditions that are not in dispute provide sufficient limitations to the permitted use to safeguard the living conditions of neighbouring occupiers. As such, I do not find the continued imposition of condition Nos 1 or 6 to be necessary or reasonable when assessed against the tests outlined in paragraph 56 of the National Planning Policy Framework and the PPG.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed, and the planning permission varied to delete condition Nos 1 and 6.

P Storey

INSPECTOR