
Appeal Decision

Site visit made on 21 January 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/Z4310/W/24/3354319

2 Oak Leigh, Liverpool L13 7EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Neil McPartland of Pedigree Paws Day Care against the decision of Liverpool City Council.
 - The application Ref is 24F/1336.
 - The development proposed is for the change of use from retail (Use Class E) to a day care centre for dogs (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw during my site visit that the development has been carried out and a day care centre for dogs (the centre) is already operating at the appeal site. The application has been submitted retrospectively and I have determined the appeal on this basis.
3. I have taken the description of development from the Council's decision notice as this more simply and accurately describes the development. I have omitted the word 'retrospective' since this does not describe an act of development,
4. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. In this instance, the issues most relevant to the appeal are unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

Main Issues

5. The main issues are:
 - the effect of the development on the living conditions of the occupiers of nearby dwellings with particular regard to noise and disturbance; and
 - whether the development provides an accessible and inclusive environment with particular regard to the provision of an accessible toilet facility.

Reasons

Living conditions

6. Number 2 Oak Leigh (No 2) is located in a built-up area on a corner plot at the junction of Oak Leigh and West Derby Road, a dual carriageway. It comprises a

single-storey detached building set back from and fronting West Derby Road, with a hardstanding area located adjacent to its frontage.

7. Pedestrian access to No 2 is currently directed through a side gate which leads into an external yard area to the side of the building. The yard area is enclosed by a mixture of wall and fencing and this separates No 2 from the footway along Oak Leigh. Oak Leigh is a residential street consisting of two-storey terraced dwellings. Number 4 Oak Leigh is a two-storey commercial premises located immediately to the rear of No 2. Dwellings along New Road are located behind and to the side of the building.
8. There is no dispute between the main parties that No 2 is located in a Primarily Residential Area as defined by Policy H7 of the Liverpool Local Plan 2013 – 2033 (2022) (LLP) which seeks to ensure that development that generates a significant amount of noise is avoided in order to ensure that the living conditions of residents is protected.
9. I saw on my site visit a sign which indicates that the centre is open 7:30am – 6:00pm Monday to Friday. The evidence suggests that between 10-20 dogs can be in attendance at any one time. Interested parties suggest that harmful levels of noise and disturbance are generated whilst dogs are picked up and dropped off, towards the start and end of the day. Additionally, concerns have been raised with regards to dogs barking during their stay. I could hear multiple dogs barking from inside the building whilst stood on the footway adjacent to No 2 during my site visit.
10. The Council's Environmental Health Officer (EHO) visited nearby dwellings and confirmed that they witnessed a statutory noise nuisance, suggesting that noise and disturbance levels are such that it would disturb some nearby occupiers.
11. The appellant indicates that they no longer use the outdoor yard area in order to reduce noise levels and to address the concerns raised. Even if this is the case and air conditioning is used to minimise the need to open windows, it has not been demonstrated that unacceptable levels of noise would not arise from inside the building or during drop off and pick up times when the door is more likely to be open.
12. On this basis and given the experiences of neighbours, the EHO and my observations during the site visit, noise resulting in significant adverse impacts on the health and the quality of life of neighbouring occupiers is occurring. These impacts would be worse during summer months when occupiers of neighbouring dwellings are more likely to be using their gardens or have their windows open. Whilst noise occurs intermittently due to the unpredictable nature of dogs, occurrences would nonetheless be noticeable and harmful to the living conditions of nearby occupiers. There is no contrary evidence, for example in the form of a noise survey, before me to dispute this.
13. I conclude that the development has an unacceptable harmful effect on the living conditions of the occupiers of nearby dwellings with particular regard to noise and disturbance. In this regard the development is contrary to Policy H7 and R1 of the LLP insofar as it requires there to be no adverse impact on residential amenity within Primary Residential Areas and for development proposals to demonstrate the impact of noise will not be significant.

14. The development would also be contrary to Paragraph 198 of the Framework which requires new development is appropriate for its location and should 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 quality of life.

Accessibility

15. The floor plan indicates that there are three toilets located at No 2, one of which is identified as a disabled WC facility. The Council suggest that the layout of the disabled WC facility is not practical for wheelchair users. However, the Council's evidence suggests that the width of the door to the toilet which opens outwards is appropriate. Other than some concerns in respect of the layout of the toilet and sink, there is nothing to suggest that this internal arrangement could not be easily altered if necessary to meet the highest standards of accessibility or that this could not be required by planning condition. Moreover, the public would be unlikely to use the building except when briefly dropping off or picking up their dogs.
16. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I am satisfied that the proposed development would allow persons with protected characteristics including age and/or disability to use the premises thereby advancing equality of opportunity for those persons and fostering good relations between them and others.
17. I conclude that the development could provide an accessible and inclusive environment with particular regard to the provision of an accessible toilet facility. In this regard, the development would not conflict with the requirements of Policy UD4 of the LLP which requires development proposals for any building that the public may use to provide safe, easy and inclusive access for all people, including access into and within the building and its facilities.

Other Matters

18. The appeal proposal provides jobs and provides care for dogs whilst their owners are at work. However, there is nothing to suggest that there is a critical need for the proposal to be located on this site which results in an unacceptable harmful effect on the living conditions of the occupiers of nearby dwellings. In this context, these factors do not justify the harm identified.

Conclusion

19. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR