



Appeal Decision

Site visit made on 13 March 2025

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/E2340/W/24/3353804

217 Halifax Road, Nelson, Lancashire, BB9 0EW

- 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 Mrs Leah Hampson against the decision of Pendle Borough Council.
 - The application Ref is 24/0064/FUL.
 - The development proposed is change of use of residential property to a mixed use of residential and commercial dog breeding.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of residential property to a mixed use of residential and commercial dog breeding at 217 Halifax Road, Nelson, Lancashire BB9 0EW in accordance with the terms of the application, Ref 24/0064/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos: Site Location Plan (HAMP/01 Dwg 00); Existing Floor Plans and Elevations (HAMP/01 Dwg 01); and Existing Site Plan (HAMP/01 Dwg 02).
 - 2) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 3) The commercial dog breeding hereby permitted shall at all times be limited to not more than three breeding bitches.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbours, with regards noise and activity.

Reasons

3. No 217 Halifax Road (No 217) is a semi-detached house located on the north side of Halifax Road, a predominantly residential road. It is two-storey on the Halifax Road frontage, but three-storey to the rear including a basement which is accessed from external steps from a ground floor balcony. It is proposed to use this basement for commercial dog breeding, accommodating a puppy sleeping and play area, as well as a utility area for washing and food preparation.
4. In addition to one dog as a domestic pet, there would be four dogs associated with the proposed commercial dog breeding: a potential stud dog; and three breeding bitches. The appellant's evidence is that there would be on average 17 to 20 puppies a year, based on one bitch being in season twice a year with an average

litter of nine puppies, and the other two being in season every eight months with average litters of five or six. The Council calculate that based on the seasons and estimated puppies from each litter over 24 months, there could be an average of around 34 puppies per annum.

5. I recognise that the figures provided by the appellant are for her existing breeding bitches, and I do not dispute these. However, planning permission relates to the use of the appeal property, not the dogs, and the appellant may have different dogs in the future. I am also mindful that the number of seasons a bitch would have in a year is unpredictable, and the size of any one litter is likely to vary according to the individual dog, its size and its breed. It is also possible that more than one of the breeding bitches could have puppies at a similar time.
6. The rear garden of No 217 slopes steeply away from the house and it has different levels which are accessed by external steps. The first level is accessed directly from the basement and would include an area, identified on the Basement Floor Plan as an 'under cover puppy play area' (*the play area*). It would extend around half the width of the basement, up to the undercroft of the ground floor balcony, and would abut the shared boundary with the attached neighbour at No 219 Halifax Road (No 219). I observed that this area is already enclosed on the shared boundary, and to the rear, by a full height timber and plywood structure and is covered by a clear plastic canopy. The play area would, however, be open toward the undercroft, and toward steps down to the second level of garden, giving the puppies some access to natural light and air.
7. For parts of the day, noise and activity associated with the puppies would be contained within the basement area, or the puppies would be sleeping. However, it is reasonable to assume that there would be some periods of the day and evening when the puppies would use the play area, and this would be throughout the year. This could well include more than one litter, so at least ten puppies.
8. There is a large ground floor window on the rear elevation of No 219, which is sited reasonably close to the common boundary with No 217 and looks directly down over the external play area. I acknowledge that some noise would be heard from this window. However, because the play area would be partially enclosed, notably along the shared boundary, and covered with a canopy, the noise would be largely contained at basement level. Whilst puppies at 8 weeks old would bark, noise levels associated with them would nonetheless typically be low, particularly compared to adult pet dogs who could use the basement area if in a wholly residential use.
9. A condition has been suggested by the Council which would limit the number of breeding bitches associated with the commercial dog breeding business to three, and I note the appellant would be willing to reduce the number to two. Although there is unpredictability of seasons and litter sizes, a limitation on the number of breeding bitches to three would reduce the potential for multiple litters being on site at any one time, and therein the number of puppies. It would also limit the number of litters per annum, so that there would be periods of the year when no puppies would be on site. Subject to this condition, I am therefore satisfied that the noise and activity associated with the puppies' use of the play area would not be of such a level that it would cause harm to the living conditions of the neighbours at No 219.

10. To the front of No 217 is a driveway which can accommodate two cars, which would be used by the occupiers of the house. Customers of the commercial dog breeding business would be required to park on Halifax Road, and I observed that on-street parking was available on either side of the road. The appellant's evidence is that customers would visit to first choose a puppy and then to collect it. Based on the appellant's figures on average litter numbers per annum, this would equate to between 34 and 68 visits to the appeal site per annum. Despite being a predominantly residential road, the number of visits over the course of a year is relatively few and would be infrequent. Even allowing for an increase in the average litter numbers per annum, this would not result in a level of on-street parking on Halifax Road that would cause disturbance or inconvenience to neighbours.
11. The Council have raised concern that exercising the dogs and puppies in the rear garden of No 217 would create a noise nuisance for the neighbours at both 215 and 219 Halifax Road. However, I note that the appellant has confirmed that this does not form part of the proposal, and the puppies would not have access to the garden to exercise. It would only be used by the adult dogs, which would not be uncommon for a house in a residential area.
12. I therefore conclude on the main issue that the proposed change of use from a residential property to a mixed-use of residential and commercial dog breeding would not result in harm to the living conditions of neighbours, with regards activity and noise. It would accord with Policy ENV5 of the Local Plan for Pendle: Core Strategy 2011-2030 (2015) in so far as it requires new development to ensure the potential for noise is minimised.

Conditions

13. In addition to the standard commencement condition, a condition specifying the approved plans is necessary for reasons of certainty. Because no external alterations are proposed to No 217, it is not necessary to impose a condition which would require external materials to be as stated on the application form and approved drawings.
14. For the reasons I have given above, I agree that it is necessary that a condition be imposed which limits the number of breeding bitches to three. However, to accurately reflect the proposal and avoid confusion, I have amended the Council's suggested wording so that the condition refers to 'commercial dog breeding' and breeding bitches, rather than dogs.
15. The Council have also suggested a condition which would require a 'noise management plan' to be submitted, outlining the action to be taken to prevent excessive noise nuisance, including possible internal changes to the basement. However, I have been provided with no further information as to what actions and measures this would or could include, and given my conclusions above, I am not persuaded that such a condition is necessary in this case.
16. Finally, the Council have suggested a condition which would require a scheme for the collection and disposal of foul effluent and animal faeces from the dog breeding use be submitted and approved, and fully implemented upon commencement of the use. I have not imposed this condition because I have no evidence before me that the level of waste associated with the proposed use would be any different to a house with multiple pet dogs, common in residential

areas. I do not therefore find such a condition is needed to make the development acceptable in planning terms.

Conclusion

17. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate a decision should be taken other than in accordance with the development plan. I therefore conclude the appeal should be allowed.

R Gravett

INSPECTOR