

Appeal Decision

Site visit made on 2 May 2017

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 May 2017

Appeal Ref: APP/A4520/W/16/3157682

9 Carden Avenue, South Shields, South Tyneside NE34 7QP

- 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 Miss C Petersen against the decision of South Tyneside Metropolitan Borough Council.
 - The application Ref ST/0992/15/FUL, dated 3 October 2015, was refused by notice dated 5 July 2016.
 - The development proposed is described as *'the use of current residential house as a mixed use of residential / commercial use'*.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the dwelling and curtilage to a mixed residential and business use, with the business use relating to dog grooming, with a timber building at the rear of the property providing accommodation in connection with the dog grooming at 9 Carden Avenue, South Shields, South Tyneside N34 7QP in accordance with the terms of the application, Ref ST/0992/FUL, dated 3 October 2015, subject to the following conditions:
 - 1) The development hereby permitted, insofar as it relates to the dog grooming operations, shall be carried out in the building labelled "room for grooming dogs" only, in accordance with the following approved plans: A-82-0915-01; A-82-0915-02 and A-82-0915-03.
 - 2) The dog grooming business shall not be open to customers before 09:00 and after 16:30 on Mondays to Fridays, and it shall not be open to customers at any time on Saturdays, Sundays or Bank Holidays.

Procedural Matters

2. The Council describe the application as being retrospective, and it is clear from their officer report that the business was operational at the time of their consideration of the proposal. However, whilst the timber buildings were in-situ when I visited the site, there were no dogs present and the two buildings referred to on the submitted plans¹ as being for *'Keeping dogs in day time'* were being used for the storage of domestic items.
3. The appellant has provided clarification in the Grounds of Appeal and supporting submissions that there is no longer an intention to provide a dog

¹ Drwg No: A-82-0915-01

day care facility at the property. I have noted that the appellant is licensed to provide a dog boarding service but from the evidence before me it appears that that is limited to the house, as opposed to the buildings within the rear garden area. I consider the implications of this below, but I have adopted an amended description of the development in my decision as set out above.

Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of occupiers of nearby properties, with particular regard to noise, disturbance and odours.

Reasons

5. The appeal property is an end of terrace dwelling with a modestly sized front garden, albeit larger than those of adjoining properties in the terrace, and a long rear garden. There is an off-street parking area within the front garden and a path that leads up to, and around the side of, the main house and which provides access to the rear of the property.
6. To the rear, there are a number of sheds of varying sizes immediately at the rear of the main house. Beyond these structures lies a lengthy rear garden laid to green matting over timber boarding. Similarly lengthy residential rear gardens bound the appeal site to the north, east and, beyond the adjoining local convenience store with residential flat above, to the south. The residential flat above the adjacent convenience store also has a large first floor terrace above the rear of the store.
7. The main focus of the business is stated as being the dog grooming element, for which a total of five appointment slots per day with one and a half hours between each one, are proposed between 09:00 and 15:00, the first at 09:00 and the last at 15:00. Dog grooming activities would be housed in the building adjoining the boundary with the adjacent convenience store and 11 – 17 Carden Avenue. Although no dogs were present at the time of my visit, the interior of the building was equipped with various pieces of equipment and furniture relating to grooming and accommodation of the dogs.
8. With regard to concerns raised in respect of noise and disturbance, even if all five dogs with grooming appointments were present on site all day, given the limited capacity of the grooming parlour I am not persuaded that the numbers of dogs present on the site would give rise to unacceptable levels of noise or disturbance beyond that which could potentially be expected from dogs housed at a residential property. As I do not consider the numbers of dogs likely to be on site at any one time would go beyond what could potentially be expected from a residential property, and in the absence of compelling evidence to the contrary, I also have no reason to believe that odour from dog excrement would cause an unacceptable impact upon the living conditions of neighbouring occupiers in this respect. Furthermore, although the Council make reference in passing to potential odours from grooming activities, I have no evidence to substantiate this matter and note that the grooming activities would take place within the grooming building which would itself provide some mitigation and containment to any potential odours.
9. In terms of the comings and goings associated with the proposed business use, whilst it would inevitably result in some comings and goings, I am not

convinced that they would amount to a level that would cause harm or disturbance to occupiers of adjacent residential properties. In reaching this conclusion, I am mindful of the property's location in the context of the surrounding area, which includes a local convenience store adjoining the site, the entrance for which is a short distance away just around the corner from the appeal site, an office opposite and the busy Prince Edward Road a short distance to the north.

10. However, in addition to the dog grooming service, I note that the appellant is licensed to provide a dog boarding service for up to three dogs at any one time. More significantly, a dog day care service was also initially proposed as part of the intended business use. The Council, seemingly mindful of recent appeal decisions² for dog grooming and dog day care operations at residential properties within the Borough, requested that the day care element of the business be withdrawn from the proposal.
11. Although the appellant did not wish to remove this element of the operation, the appellant's agent has subsequently indicated otherwise and confirmed that the proposal no longer involves the day care service. Whilst the appellant's concern that this would have had on the viability of the business meant that the Council considered that preventing the day care use by condition would not have been reasonable I have not been presented with any evidence to indicate the viability, or otherwise, of the business without the day care element. Nor, it appears, were the Council during the course of the application. In requesting its removal however, it seems to me that the Council clearly considered that the removal of this element would address an area of their concern.
12. However, I have to deal with the proposal as it is now before me. I have already concluded that the dog grooming operation, even if it were to result in up to five dogs being present on site at the same time all day, would not give rise to unacceptable levels of noise or disturbance beyond that which could potentially be expected from dogs housed at a residential property. The Council have not commented in response to the appellant's withdrawal of the day care element of the business but I have had regard to the evidence before me and I am satisfied that the omission of this element of the business would ensure that the resulting proposal for the dog grooming would not have an unacceptable impact on the living conditions of occupiers of nearby properties. As a consequence I have not considered any further the implications of additional dogs being present in association with the now omitted dog day care element of the proposal.
13. I note that residents have raised concerns regarding noise and disturbance in relation to early morning comings and goings arising from dogs being dropped off at the premises, and in connection with the numbers of dogs present at any one time within the site. However, those comments appear to be concerned more with the dog boarding and day care elements than in connection with the dog grooming. With appropriate control over the hours of operation and by virtue of the generally limited scale of the operation now proposed, I am satisfied that appropriate control would be able to be exercised so as to avoid unacceptable harm to living conditions.
14. Thus, in view of the generally small scale and limited nature of the dog grooming business, I do not consider that the proposal would have an

² APP/A4520/A/14/2226094 and APP/A4520/W/15/3133725

unacceptable, adverse or harmful impact upon the living conditions of occupiers of nearby properties, with particular regard to noise, disturbance or odour. There would, therefore, be no conflict with Policy DM1(B) of the South Tyneside Development Management Policies (DMP) which seeks to ensure that proposals are acceptable in relation to any impact on residential amenity.

Other Matters

15. It is noted that the Council do not object to the three buildings within which the various elements of the proposed business would be operated from in terms of their general design, scale and appearance and I have been given no reason to reach a dissenting view or to otherwise conclude that the building would be in conflict with the provisions of DMP policy DM1(A). I therefore concur with this view.
16. I have also considered other matters including matters related to animal welfare, and parking and highway safety. However, concerns relating to the former appear principally to relate to the interaction of dogs being groomed and those in day care which would not, with the removal of the day care element, occur. With regard to the latter there were no objections to the proposal on highways or parking grounds from the Council's transport planner. I saw during my visit that the property is located on a one-way street and that congestion or lack of parking did not appear to be a particular issue in the area. I appreciate that my visit to the site provides only a snapshot of activities, and that there were no dogs present at the time of my visit but I am also mindful that these matters did not form part of the Council's refusal reason and I am not persuaded that they should alter my conclusion in respect of the main issue.

Conditions

17. The Council has not suggested any conditions were the appeal to be allowed, instead referring to the content of their delegated report regarding the use of conditions. However, I have taken note of the appellant's proposed appointment times for the dog grooming operation and a condition limiting the operation of the dog grooming business to those particular hours is, I consider, both reasonable and enforceable. I have also added a condition specifying the approved plans insofar as they relate to the dog grooming operation in order to provide certainty.

Conclusion

18. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR