

Committee Report

Application No:	DC/18/00568/COU
Case Officer	Owain Curtis
Date Application Valid	10 October 2018
Applicant	Mrs Debby Brown
Site:	Brockburn 32A Barlow Lane Winlaton Blaydon On Tyne NE21 6EZ
Ward:	Winlaton And High Spen
Proposal:	Change of use of house and garden (use class C3) to mixed use house and garden and dog boarding business (sui generis) for up to twelve dogs (Retrospective)
Recommendation:	REFUSE
Application Type	Change of Use

1.0 The Application:**1.1 DESCRIPTION OF SITE**

The application site is a 3-bedroom split-level detached property on Barlow Lane which is sited between a bungalow and two storey house. The property has a large garden at the rear and a driveway and parking area to the side with access gained from Barlow Lane. There is a small garden at the front of the property enclosed by a low wall. The surrounding area is residential in nature.

1.2 DESCRIPTION OF APPLICATION

This application is for the use of 32A Barlow Lane as a dog boarding service. In planning terms this would result in the change of use from a dwelling (use class C3) to a mixed residential and commercial use (sui generis). Planning permission is required in this instance as, as a matter of fact and degree, the overall character of the dwelling has changed as a result of the business activities therefore a material change of use has occurred.

1.3 Retrospective planning permission is sought for the boarding of up to 12 dogs within the property. The applicant states there are 7 rooms designated for dog boarding, with 4 further rooms (including a detached 'quarantine building') in the event that dogs need to be separated. Of the 13 of rooms in the house, 11 of them are used for the dog boarding business. The remaining 2 rooms (which includes a bathroom) are retained for standard residential use. The business employs 7 staff.

1.4 PLANNING HISTORY

Ref No DC/11/00877/HHA Status: GRANT Proposal: Proposed erection of pitched roof on porch, rebuilding of existing porch pillars and infilling of existing boundary wall at rear of property. Decision Date: 09.11.2011

2.0 Consultation Responses

None

3.0 Representations:

- 3.1 This application is referred to the Planning and Development Committee for determination due to the number of representations received.
- 3.2 Ward Councillor Simpson objects to the development due to the noise levels the development will produce and questions whether the provision is in keeping with the area and in keeping with a residential property.
- 3.3 Neighbour notifications were carried out in accordance with Article 15 of the Town & Country Planning (Development Management Procedure) Order 2015 (as amended). A total of 32 representations have been received with 15 letters in support and 17 objections received.
- 3.4 The letters of support raise the following points:
- Business accommodates dogs in an efficient, safe, bountiful and contained manner, that remains sympathetic throughout to neighbours, clients, and dogs alike.
 - House is well maintained
 - Dogs are well looked after
 - Clients park off-road in the driveway
 - Well run house boarding service/ dog walking which is essential to a lot of local people.
 - Their training sessions or lessons have always been well organised and carefully planned ahead of time.
 - No above normal noises
 - The property has adequate parking
- 3.5 The objections raise the following concerns:
- Loss of residential amenity
 - Additional noise
 - Disturbance in early mornings / late evenings
 - The business is inappropriate in a residential area
 - Increase of bad smells
 - Inadequate parking facilities
 - Light pollution from the security light
 - Concern over health issues
 - Increase of traffic
 - Out of character with area

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

DC1H Pollution

DC2 Residential Amenity

ENV61 New Noise-Generating Developments

5.0 Assessment of the Proposal:

5.1 The main issues to be taken into account when assessing this planning application are:

- i. the effect of the development upon the living conditions of the occupiers of nearby properties;
- ii. the impact on highway safety and parking; and
- iii. any other material considerations.

5.2 EFFECT ON LIVING CONDITIONS

Paragraph 117 of the revised NPPF states that planning policies and decisions should, amongst other things, ensure safe and healthy living conditions. Paragraph 180 goes on to state that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. Decisions should, amongst other things, 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.

5.3 Local policies CS14 of the CSUCP and saved policies DC1(h) and DC2 of the UDP require that development does not have any negative impacts on nearby residents and ensures a high quality of amenity for residents.

5.4 The dog boarding business is principally contained within the house although dogs are allowed to exercise in the rear garden and there is a detached garage or 'quarantine building' to the side. The applicant states time in the garden is restricted to 2 dogs at any one time for a period of 15 to 20 minutes per session.

5.5 Officers have considered the potential for noise and disturbance from the business use and associated comings and goings of vehicles and pedestrians. The applicant states that dogs are walked offsite rather than being left to roam in the garden for exercise and the service includes a collection and drop off service for all dogs. Clients are able to drop off and pick up their dogs and the applicant states this is restricted to between 9:30am and 4pm.

- 5.6 It is considered the general level of activity associated with the business is considerably greater than that of a typical home and therefore, increases the potential for noise and disturbance. The boarding of 12 dogs has led to, and would continue to, cause a significant intensification of the use of the property and associated activity when compared to standard home under use class C3. Officers consider that the level of activity and associated movements on a daily basis causes a significant and abnormal level and nature of activity. Consequently, the business is inappropriate in a residential area and would continue to cause unacceptable levels of noise and disturbance to the occupiers of the surrounding residential properties.
- 5.7 Although the letters of support state that the business is well organised and run well, it is clear from the objections received that despite this, the business is currently causing harm to the occupiers of the surrounding residential properties.
- 5.8 Paragraph 54 of the revised NPPF states that the LPA should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. National Planning Practice Guidance also advises that conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.
- 5.9 Case law has found that the keeping of 6 dogs in a detached cottage in a relatively isolated village location, where the property was large enough to accommodate 16 dogs indoors and a further 25 outside, was seen by the Court as a 'generous' estimate of the number which might normally be kept in such a setting. It has also been held that activities such as the keeping of dogs in large numbers will amount to a material change of use if outside what could normally be expected to occur within a dwellinghouse and its curtilage. Scale is therefore an essential determinative of what might be held to be 'normal'. Officers have considered whether planning permission could be granted subject to a reduction in the number of dogs allowed at the property which is more suitable to a residential area.
- 5.10 Officers are of the view that conditions trying to restrict the number of dogs boarding at all times, the number of dogs in the rear garden or comings and goings in an attempt to reduce the level and intensity of the business activity would not be practicably possible to enforce and detecting a contravention would be extremely difficult. As such, conditions of this nature would not meet the six tests set out in paragraph 55 of the revised NPPF.
- 5.11 To conclude on this issue, the intensive use of the property and significant and abnormal level and nature of activity causes material harm to the living conditions of the occupiers of the surrounding residential properties by virtue of noise and disturbance. The development therefore fails to accord with the revised NPPF, policy CS14 CSUCP and saved policies DC1(h) and DC2 of the UDP.

5.12 HIGHWAY SAFETY AND PARKING

Paragraph 109 of the revised NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.13 Several representations raise concerns regarding the traffic associated with the business and problems with parking. Barlow Lane is not subject to parking restrictions therefore there is scope for parking without obstructing neighbours' driveways – albeit this may not be directly outside the application property. Further, it is highly unlikely that all dog owners would arrive and leave at the same time and it is noted the applicant provides a pick up / drop off service. Accordingly, the development does not result in any unacceptable highway safety issues nor does it have a severe impact on the road network. The development would therefore accord with the revised NPPF and policy CS13 of the CSUCP.

5.14 OTHER ISSUES

An objection states that security lights are causing light pollution however the installation of security lights would not require planning permission. Concern is also expressed over health issues however there is no evidence that the business is or would cause any health implications for surrounding residents. It is considered all other material considerations are dealt with in this report.

5.15 It has also been raised that the property is licenced by the Council for home boarding of dogs. The property is licenced for the boarding of 4 dogs. The current licences expires on 31 December 2018. The licencing process takes into account how the operators take booking, number of rooms, infection control and whether they are registered with a vet as well as other welfare concerns. It is therefore appropriate for the impact on neighbours' living conditions to be fully assessed through the planning system and there would be no conflict with replicating an assessment already undertaken through another regulatory regime.

5.16 COMMUNITY INFRASTRUCTURE LEVY

This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying housing or retail related development.

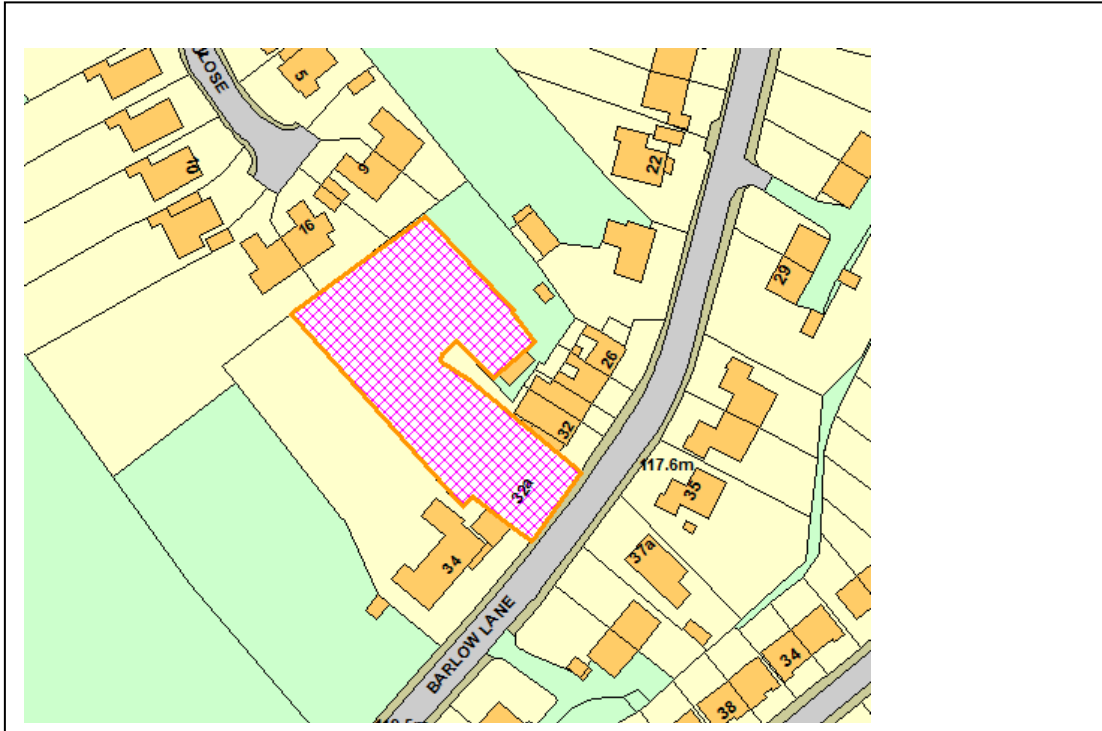
6.0 CONCLUSION

6.1 Taking all the material planning considerations into account, including the representations received, it is recommended that planning permission be refused.

7.0 Recommendation:

That retrospective permission be REFUSED for the following reason(s):

The intensive use of the property causes a significant and abnormal level and nature of activity resulting in material harm to the living conditions of the occupiers of the surrounding residential properties by virtue of noise and disturbance. The development therefore fails to accord with the revised NPPF, policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle and saved policies DC1(h) and DC2 of the Gateshead Unitary Development Plan.



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