

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 06/05/2022	Ref: 68113/FUL
Registration: 21/02/2022	LDfC: 25/03/2022	Expiry Date: 18/04/2022
Site Visit: 09/03/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level:
		Stat Class: COUS

Proposal: Change of use from residential (Use Class C3) to a mixed residential (C3) and dog grooming (Sui Generis), including erection of outbuilding to accommodate the dog grooming facility

Location: 6 Rectory Avenue, Prestwich, Manchester, M25 1DE

Description

The application relates to a semi-detached dwelling and garden, No 6 Rectory Avenue, which is located within an established residential area and immediately flanked by similar dwellings. There is a private drive that can accommodate a single vehicle. The rear garden is set over two levels with a raised patio immediately adjacent to the rear elevation, stepping down to a lawned area that extends to the rear boundary. The garden is bounded by 1.8m high close boarded timber fencing. Most neighbouring dwellings appear to have private driveways enabling off-street parking.

The proposal is for the change of use of the property from residential (Use Class C3) to a mixed residential (C3) and dog grooming (Sui Generis), including erection of outbuilding to accommodate the dog grooming facility.

The proposed building would have a flat bio-solar roof, horizontally timber clad elevations with dark grey windows and doors. It would be positioned immediately adjacent to the rear boundary. It would be 6.8m wide x 3m deep x 2.8m high.

The proposed dog grooming business is intended to operate 5 days in any week between 09:00 and 18:00 week days and 09:00 and 15:00 Saturday and Sundays (to allow for flexibility). It would be operated by a single member of staff (the applicant) and would serve one dog at a time on a pre-booked basis, with no overlap of customers. Customers could park at the single off-street parking space when dropping off/collecting. The street is free of parking restrictions. The applicant may also offer a pick-up/drop-off service. Waste arisings are stated as being disposed of via the domestic foul waste system and municipal waste site.

Relevant Planning History

62340 - Two storey rear extension - Approve with Conditions 09/02/2018

Publicity

Direct neighbour notification undertaken. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section: No objection.

Environmental Health - Pollution Control: Verbal confirmation that the response would be

the same as that provided for 66885 given the similarities.

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
H3/1	Assessing Non-Conforming Uses
HT2/4	Car Parking and New Development

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the

exercise of its functions.

Policies

EC4/1 - Small Businesses. Proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

EN7/2 - Noise Pollution. In seeking to limit noise pollution the Council will not permit:

- a) development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users;
- b) development close to a permanent source of noise.

H3/1 - Assessing Non-Conforming Uses. Seeks to assess proposals for non-conforming uses in primarily residential areas and will not permit proposals which are considered incompatible. Factors taken into account include noise, vibration, smells, visual intrusion, traffic, parking and hours of operation.

Principle of the development

The establishment of small home based businesses is welcomed and supports the principle of sustainable development subject to it being acceptable in terms of residential amenity, visual amenity and highway issues.

Residential amenity

The nearest residential properties are the attached neighbours and other immediate dwellings flanking the site.

The Pollution Control Section have verbally confirmed that given the nature of the business (dog grooming) and the intention to have host dog at a time, then there is a low risk of noise and disturbance to neighbouring property. However, the consultation response to 66885 stated that the building should be soundproofed to prevent the transmission of noise from the development and to demonstrate that there shall be no increase in the existing ambient noise conditions at the nearest noise sensitive property. In addition, the section recommend that further information is submitted on how the grooming salon is going to be ventilated and that a noise management plan should be required to include how noise break out from dog barking is going to be controlled.

It is considered that given the nature of the proposal and modest scale of operations, together with conditions to limit that 1 dog only would be on site at any one time, there would not be unacceptable impacts upon residential amenity. Furthermore, the outbuilding would be sited on the boundary furthest away from the neighbours and the applicant would intend for it to be constructed of insulated panels and double glazed doors and windows.

The Pollution Control Section verbally stated that the hours of operation are likely to be acceptable under the circumstances of the intended operation.

It is therefore considered that the proposed development, subject to conditions making it a personal permission and relating to soundproofing, operating hours and limiting operation to one dog per visit, would not have unacceptable impacts upon amenity in the locality. It is therefore considered unreasonable to require a noise report and technical soundproofing/ventilation specifications, given the scale and nature of the proposal.

It would however, be reasonable to include a condition for a personal consent in order to retain planning control over the use.

It is noted that no objections have been received from any of the adjacent properties consulted.

As such, it is considered the proposal would be acceptable and would comply with above

UDP policies.

Visual Amenity

The proposed building would have similar proportions to a domestic outbuilding/garage. It would be modest in size and of low stature, with elevations finished in natural timber cladding and positioned immediately adjacent to the rear boundary of the garden, which is enclosed by fencing. It is therefore considered there would not be an unacceptable impact on visual amenity and the proposal is therefore considered to be acceptable and be compliant with the above UDP policies.

Access, highways and parking

There is provision for a single off street parking within the site, but this serves the domestic requirements of the occupier. However, there is unrestricted on street parking directly outside the house and along Rectory Avenue and most adjacent dwellings appear to have off-street parking available. Given the limited scale of operations, that the applicant would offer a pick up service and that some custom would be local, traffic generation would not be significantly harmful to be problematic to the area.

As such, the proposed development is considered acceptable and would comply with above UDP policies.

CONCLUSION

The above assessment demonstrates that the proposed development would be acceptable in principle and would not have any unacceptable impacts on visual and residential amenity or highway safety.

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be approved.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 2 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 3 This decision relates to drawings - Location Plan (Dwg No. 191017/04) and Proposed Plan and Elevations (191017/01) and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 4 The use hereby permitted shall be carried on only by the applicant, Malgorzata Everet, the occupant at 6 Rectory Avenue, Prestwich, Manchester, M25 1DE.

DELEGATED REPORT

Reason. The proposed use is not in accord with the character of the area and permission has only been granted given the particular circumstances of the applicant pursuant to policies of the Unitary Development Plan listed below.

- 5 The approved dog grooming business shall not operate outside the hours of :
09:00 to 18:00 Monday to Friday;
09:00 to 15:00 Saturday and Sunday

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies EC4/1 – Small Businesses and H3/1 – Assessing Non-Conforming Uses of the Bury Unitary Development Plan.

- 6 There shall be no more than 1 dog to be groomed on site at any one time.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation and pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, H3/1 - Assessing Non-Conforming Uses and EN7/2 - Noise Pollution.

- 7 The building hereby approved shall be constructed with soundproof insulating panels and double glazed openings.
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation and pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, H3/1 - Assessing Non-Conforming Uses and EN7/2 - Noise Pollution.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	06/05/2022		