

DELEGATED REPORT

Application No: P/21/0123

Site Address: 2 Barrack Row
Dowlais
Merthyr Tydfil
CF48 3NF

Development: Certificate of lawfulness to use summer house
for dog grooming

Case Officer: Caroline Pulley

Application Expiry Date: 1st June 2021

APPLICATION SITE

The application site relates to a two-storey, semi-detached dwelling situated within the residential area of Penywern, Dowlais. The property is set back from the road by approximately 13m. Its front garden is subdivided to provide a driveway accommodating two vehicles and a front lawn. To the side of the property there is an access path leading to the rear garden area. The summerhouse, which is the subject to this application lies along the western boundary.

PROPOSED DEVELOPMENT

A certificate of lawful development is sought under Section 192 of the Town & Country Planning Act for the proposed use of a summerhouse as a dog grooming salon. The summerhouse measures 3m wide by 2.4m deep. It is proposed to use the building for dog grooming for up to 3 dogs per day, 4 days per week between 0930 to 1430 hours Tuesday, Wednesday, Friday and the odd Saturday. The applicant states that she will groom two dogs in the morning and one in the afternoon and she will collect and return all dogs, except those which are in walking distance of the property. The information provided states that there are two small resident dogs at the property which will be kept inside the house while other dogs are being groomed.

PLANNING HISTORY

There is no recent planning history relating to the property.

CONSULTATION

No consultation exercise was undertaken.

PUBLICITY

No publicity exercise was undertaken as part of this application.

POLICY CONTEXT

The determination of this application does not require consideration of the planning merits of the proposed use. Therefore, the policies in the Merthyr Tydfil Replacement Local Development Plan (RLDP) 2016-2031 are not of direct relevance in so far as they go to the merits of the proposed use.

PLANNING CONSIDERATIONS

As mentioned earlier, the application seeks a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 for the use of a domestic summerhouse as a dog grooming salon. The application site is a semi-detached house located within a predominately residential area. The summerhouse is sited within the rear garden of the property and is accessed from the side pathway, which runs along the eastern elevation of the applicant's house. The photographs provided by the applicant indicate that some grooming equipment (i.e. grooming table, fur blaster) has been located inside the building but the applicant has advised that the use has not begun at the property.

The key considerations with this application is whether the proposed dog grooming use would be incidental to the use of the residential property known as 2 Barrack Row, or whether the proposal would constitute a material change of use.

Ancillary or incidental uses have been held to be those that are ordinarily associated with the primary use of the property. For example, the parking of vehicles for the domestic use of the occupiers of the house would be an incidental or ancillary activity and so would the repair of the occupiers own vehicles. However, the use of the summerhouse to carry out activities that are not normally associated within the use of the house would not be ancillary or incidental to the primary residential use. If the use was for the sole benefit of grooming the occupier's own dogs then it could be considered to be ancillary or incidental use. However, this is not the case. It is therefore necessary to consider whether the proposed use as set out by the applicant would be 'materially' different to that of a dwellinghouse and would result in the development requiring planning permission.

The Town & Country Planning Act does not define what constitutes a 'material change of use'. Therefore, it is necessary to exercise some considered judgement based on the individual circumstances of each case. In general, the differences that might be considered 'material' are those, which would result in a change in the character of the use of the land. This requires consideration of whether there would be any significant planning consequences in consequence of the change.

In this respect, it is noted that the proposed use would involve the applicant working alone providing a service to customers between the hours of 0930 and 1430 Tuesday, Wednesday, Friday and Saturday. Up to two visiting dogs would be on the premises at any one time and all dogs, except those in walking distance of the property would be collected and returned by the applicant. The maximum number of dogs treated per day would be three and there would be a maximum of 2 dogs in the salon at any one time. It is important to note that although the use would operate from the property for up to 4 days a week, there would not be a regular flow of customers either dropping off or picking their dogs up. The applicant has stated in writing that she will collect and return all dogs, except those which are in walking distance of the property. As such, in terms of coming

and goings and general activity, the proposed dog grooming use would not give rise to a noticeable change in the way the property is used as a dwellinghouse.

Notwithstanding the above, the handling of pets by a stranger and carrying out potentially unfamiliar or unsettling grooming treatment can sometimes elevate levels of anxiety in dogs on certain occasions. This has the potential for loud persistent barking and disturbance to neighbours. The grooming of two dogs at any one time also has the potential to create a situation whereby one dog may react to another which can also lead to persistent and loud barking. As such, the proposed use by virtue of its very nature has the potential to result in a level of disturbance for neighbours through a large part of the day, including times when the quiet enjoyment of neighbouring gardens might be a reasonable expectation. This level of noise and disturbance may also be experienced to a greater extent during the summer months when use of the neighbouring gardens is likely to be greater. Nevertheless, although some dogs are prone to excessive barking some are equally quiet. Also, while it is acknowledged that there may be some differences in the way resident and non-resident dogs may behave, the noise of dogs barking is not uncommon in a residential setting. Indeed, it is widely recognised that six dogs could be kept at a property as an incidental use. This could lead to similar if not greater levels of noise and disturbance. While there might be identifiable differences, between the proposed and existing uses, taking into account the limited coming and goings, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwellinghouse.

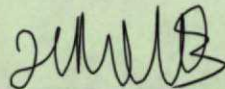
Accordingly, the proposed dog grooming use as set out by the applicant would not amount to a 'material' change of use. Therefore, the following recommendation is made:

RECOMMENDATION: the certificate of lawfulness **BE APPROVED**

REASON:

1. The proposed dog grooming use, under Section 55(1) of the Town & Country Planning Act 1990, would not result in a material change in the current use of the building as a dwellinghouse. Therefore, the proposal does not constitute development that requires planning permission.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

27/5/21