

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Change of use of dwelling/dog grooming parlour (Residential Use Class 5) to dwelling/dog grooming parlour, dog boarding and dog day care (Residential Use Class 5) and vary condition 4 of planning permission (FULL/2016/1199) to allow up to 14 dogs on the premises at any one time. (retrospective)

LOCATION: Koumassi, La Route Des Capelles, St. Sampson.

APPLICANT: Mr & Mrs Duquemin

I refer to the application referred to below received as valid on 04/10/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 30/11/2022

Drawing Nos: Turnstone Architecture Ltd: 213-10 and letter dated 30/09/2022 ref: 220929-213-3.1

Application Ref: FULL/2022/1954

Property Ref: B01402A000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The proposal for a total of 14 dogs to be on site at one time in connection with a home-based dog boarding and dog daycare business would introduce an unacceptable degree of noise nuisance, in an area with an established character of residential development, and would be severely detrimental to the amenities that can reasonably be expected to be enjoyed by the occupiers of the surrounding residential properties. The proposal is therefore contrary to Policies GP8 d., GP9 b., GP13 a. and GP14 b. of the Island Development Plan.

OTHER REMARKS:-**Right of appeal against planning decisions**

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision.

Copy of representations made

In reaching this decision the Development & Planning Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2022/1954
Property Ref: B01402A000
Valid date: 04/10/2022
Location: Koumassi La Route Des Capelles St. Sampson Guernsey GY2 4GH
Proposal: Change of use of dwelling/dog grooming parlour (Residential Use Class 5) to dwelling/dog grooming parlour, dog boarding and dog day care (Residential Use Class 5) and vary condition 4 of planning permission (FULL/2016/1199) to allow up to 14 dogs on the premises at any one time. (retrospective).
Applicant: Mr & Mrs Duquemin

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal for a total of 14 dogs to be on site at one time in connection with a home-based dog boarding and dog daycare business would introduce an unacceptable degree of noise nuisance, in an area with an established character of residential development, and would be severely detrimental to the amenities that can reasonably be expected to be enjoyed by the occupiers of the surrounding residential properties. The proposal is therefore contrary to Policies GP8 d., GP9 b., GP13 a. and GP14 b. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Koumassi, La Route Des Capelles is a detached, hipped roof bungalow with rendered exterior. A detached pitched roof garage exists to the rear of the property with a driveway along the south boundary leading to the garage. The south boundary with Algonquin is marked by a hedge.

The garage has been converted for home-based employment as a dog grooming parlour.

The property is in a residential area with neighbours very close by.

The site is Outside of the Centres as designated in the Island Development Plan.

Relevant History:

FULL/2016/1199 - Alterations and change of use of garage to dog grooming parlour (Residential use class 4) – granted.

- Condition 4 – no more than 6 dogs on the premises at any time. Hours of operation for dog grooming parlour.
- Condition 5 – operate business in accordance with details provided with the application.
- Condition 6 – revert to residential.

FULL/2017/2744 - Variation of condition 4 of planning permission FULL/2016/1199 for change of use of garage to dog grooming parlour - to allow eight dogs on the premises at any one time and for the change of use from Residential Use Class 1 (Dwelling) to Residential Use Class 5 (use of part of dwelling for business purposes - dog boarding) (Retrospective) – granted.

- Condition 3 – use for dog boarding to cease by 31/12/2018
- Condition 4 – personal permission to the applicant
- Condition 5 – no more than 8 dogs on the premises at any time with a maximum of four dogs boarding and dog grooming limited to a maximum of two at any one time
- Condition 6 – operating hours for the grooming parlour and drop off and collection for dog boarding

Condition 3 of this 2017 permission lapsed almost four years ago and cannot be varied or rescinded.

Conditions 5 and 6 of this 2017 permission now relate only to the applicants own pet dogs and the dog grooming parlour as there is no authorised dog boarding facility operating from the site.

Existing Use(s):

05 home based employment (dog grooming parlour)

Brief Description of Development:

Retrospective planning permission is sought for a material change of use from the authorised Residential Use Class 5 (dog grooming parlour) to Residential use Class 5 to operate a dog boarding and dog daycare facility from Koumassi (in addition to the authorised dog grooming parlour) and to vary condition 4 of the 2016 permission (FULL/2016/1199) in relation to the number of dogs permitted on the premises at any one time.

An authorised dog grooming parlour currently operates from the former domestic garage on the site.

Condition 4 of the 2016 permission states:

There shall be no more than six dogs on the premises at any time and the hours of operation for the dog grooming parlour shall be limited to Mondays to Fridays 0800 hours to 1600 hour, Tuesdays and Thursdays 1800 hours to 2000 hours and Saturdays 0900 hours to 1500 hours.

This application seeks to increase the number of dogs from the 2016 level by varying condition 4 from 6 to 14 between 8am and 5pm and 5 dogs outside these hours (8 dogs, 4 of which associated with dog boarding, 2 for dog grooming and 2 owned by the applicant were permitted for the duration of the temporary permission for dog boarding until 31/12/2018).

A letter accompanying the submission sets out that a dog grooming parlour has operated from the site since permission was granted in 2016 and a further application was granted in 2017 for the use of part of the dwelling for dog boarding both within Residential Use Class 5. A total of 8 dogs were permitted at the premises at one time. Although a condition was imposed to the dog boarding permission limiting the use to a year this use has continued since the time without complaint. Since that time the business model has evolved (particularly due to Covid) with boarding being non-existent but gradually building again to more customers looking for day care for dogs. The number of boarders has reduced to 2 (plus 3 dogs owned by the applicant) and day care facilities can accommodate an additional 7 dogs between 8am and 5pm. These dogs share the ground floor and exercise areas with boarders.

The submission sets out that the dog grooming business remains operational in accordance with the 2016 permission (FULL/2016/1199) (two dogs at any one time). Drop off and collection is between 8am and 11am and 5pm and 8pm (times allocated in advance) and that the business operates by appointment and with an optional collection service which reduces visitors to the site. Boarding dogs stay on the ground floor of the property not in kennel accommodation and there is outside space to the rear for informal exercise and they are taken off-site twice daily for exercise. The dogs are accompanied on the property throughout the day and night and dogs are vetted prior to bookings being taken to keep potential noise disturbance to a minimum.

In relation to off-road parking there is ample space described as being available for both the dog grooming business and dwelling with on-site turning available. The application would not see the use of the vehicular access or parking change significantly.

Relevant Policies of any Plan, Subject Plan or Local Planning Brief:

Island Development Plan Policies:

GP8: Design

GP14: Home Based Employment

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation - have reviewed the proposed plans for the change of use of the above dwelling and the variation to permit 14 dogs on the premises at any one time which were received by email on 12th October 2022 and there are a number of issues of concern that I must raise.

OEHPR have significant concerns regarding this application and understand that this application is being made retrospectively following a complaint being received by the Planning Service. OEHPR are very concerned about the close proximity of neighbouring domestic properties and the noise impact that 14 dogs may have. The area is relatively densely populated, and consideration needs to be had to the impact of the application on neighbouring properties.

Unless the applicant is willing to significantly reduce the number of animals accommodated at one time and to ensure measures are in place to reduce the impact of barking, OEHPR have no other alternative than to recommend refusal of this application.

Deputy States Veterinary Officer - would like to advise, that we will likely be introducing licencing of activities involving animals under our animal welfare legislation next year and we will be using the Defra licencing regime in the link below as the basis for licencing home boarding. Based on the current proposal for Koumassi, it is unlikely that they would receive a licence, as I believe the housing of 14 dogs means that they will not be able to meet point 13.2, "Each dog or dogs from the same household must be provided with its own designated room, where it can be kept separate from other dogs". (<https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities/home-boarding-for-dogs-licensing-statutory-guidance-for-local-authorities>)

The applicant needs to clarify (in relation to the upcoming welfare legislation) if they are operating as a dog boarder, dog day care or both, as the requirements under our licencing will vary according to their proposed business model. The letter refers to dog boarding but it seems that the 14 dogs is primarily for day care which holds different standards to boarding. With regard to the proposed legislation there being only 2 boarding dogs (plus their own 3) sounds more reasonable.

Boarding requires the following: "13.2 Each dog or dogs from the same household must be provided with its own designated room, where it can be kept separate from other dogs" whereas day care does not stipulate that each dog must have its own designated room, it requires the following: 21.3 There must be an area where any dog can avoid seeing other dogs and people if it so chooses. This can be done by using open crates, screening with blankets as well as by separate areas."

Therefore, in this circumstance, the owners of Koumassi would need to ensure that they had enough separate rooms to house boarding dogs, if need be. Based on the numbers provided, they would require 3 separate rooms; one for their own 3 dogs and one for each of the boarding dogs (assuming they belong to different owners). I anticipate this would be achievable based on the size of the property.

Regarding day care dogs, I would advise following these requirements:

<https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities/dog-day-care-licensing-statutory-guidance-for-local-authorities#part-b-specific-conditions-providing-day-care-for-dogs-schedule-4-part-4-of-the-regulations>, with the anticipation that we will use this as a precedent for our own licencing regime next year.

Summary of Issues:

The key issues in this case relate to the potential impact of the proposed use on the amenities of surrounding residents with regard to noise and nuisance and in relation to increased vehicle movements at the site.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Policy GP14 makes provision for home-based employment as this can reduce the demand for additional business accommodation and allow people to start up a business at their home with very little initial outlay in premises costs. Nonetheless, such proposals will only be supported where there would not be an adverse impact on neighbouring residents or the surrounding area because of increased activity and disturbance.

The business now has three elements, dog boarding, dog daycare and dog grooming. The number of dogs accommodated in the boarding (2 dogs) and grooming (2 dogs) aspect of the business is limited. The daycare element offers space for 7 dogs. It is also clear from the application form that the applicant is operating the business and lives in the dwelling-house, Koumassi (GP14 a) with 3 dogs of their own.

To operate dog boarding, day care and grooming from the site can represent home-based employment provided there would not be an adverse impact on neighbour amenity and the area (criteria b) resulting, in this case, primarily from disturbance from dogs on the site which is considered in more detail below.

Impact on visual and residential amenity

Impact on visual amenity is limited as no alterations to the site are proposed. It is concluded that the proposals would have a negligible impact on the visual amenities of the area.

It was noted in the 2017 report that if *“no nuisance is recorded it would be inappropriate to restrict the use to a specified timescale if a further application is submitted to continue the dog boarding element of the home-based employment.”*

Whilst the operation of the site, without planning permission, may not have generated complaints, as suggested through the submission, it is necessary to assess whether there would be undue harm to residential amenity from the dog boarding continuing without time limits should permission be granted and whether planning conditions could be used to help mitigate any potential impact. In this case, it is not simply a retrospective application for the dog boarding element of the business, previously approved on a temporary basis, because the business model has evolved since that time.

The use of the site for overnight boarding operated by the person living in the dwelling house satisfies criterion a) of GP14 and criterion c) is not considered directly relevant in this case. Planning permission was previously granted for dog boarding to occur on a limited basis (temporary permission and limiting the number of dogs to 4) and there has been no change in the policies against which the application was considered to alter this conclusion. There is scope to operate a dog boarding facility from the site subject to conditions relating to the number of dogs/hours of drop off/pick up in accordance with Policy GP8 and GP14 of the Plan.

The application also seeks retrospective permission for dog day care which is a new element to the business operation. Nonetheless, as with the dog boarding referred to above, the principle of the use operated by a person living in the dwelling would accord with Policy GP14. Although day care dogs would only visit during the day the use can be accommodated through Policy GP14 subject to conditions relating to the number of dogs and hours for drop off/pick up to manage the impact of the use on the amenities of surrounding residential occupiers.

The key issue in this case is not the principle of dog boarding (which has previously been granted a temporary permission) or an element of dog day care but rather the number of dogs on the site at any one time and whether this would represent home based employment which can operate without unacceptable detrimental impacts on the amenity of the area or the amenities of nearby residents.

As part of the application and given the nature of the business for dog boarding and day care, consultation has been undertaken with the Office of Environmental Health and Pollution Regulation who have raised concerns in relation to the increase in number of dogs on the site at any one time. One dog can generate a statutory nuisance and as the number of dogs increases so does the likelihood of a nuisance arising. Each case must be

considered on its own merits given the policies in place at the time and the relationship of the site to surrounding residential neighbours.

Whilst vetting dogs to board or attend day care at the premises could mean the selection of dogs that are not inclined to bark in their home environment and/or who do not have known behavioural issues this is not a matter that can be controlled nor enforced by planning condition. Furthermore, how dogs behave in their own home may be different to their behaviour in a day care/boarding setting with multiple other dogs. A dog may enjoy the company of some dogs in the day care/boarding setting but not others which cannot be known until the dog has been vetted and accepted.

Up to 14 dogs in the house/garden of this residential property at one time has the potential to create a significant level of noise which would have a detrimental impact on the amenities enjoyed by the occupiers of neighbouring properties and the enjoyment of their private external amenity space. Policies GP8 d., GP9 b., GP13 a. and GP14 b. all require consideration to be given to the health, well-being and amenities of neighbouring properties and the application as submitted, for 14 dogs, has the potential to lead to unacceptable noise and nuisance harmful to the amenities of surrounding occupiers and is therefore contrary to these relevant policies in the IDP.

Although consultation was carried out with the States Vet in relation to welfare standards ultimately this would be assessed under other relevant laws.

Traffic and Parking

A large area of hardstanding exists to the front and side of the dwelling allowing for ample opportunity for vehicles to be parked and turn on site in order to leave the site in a forward gear in accordance with Policy IP7 of the Plan. The additional vehicle movements associated with the increased business activity at the property is not considered to represent significant or unacceptable highway safety, capacity or management issues having regard to Policy IP9.

Conclusion

In view of the above it is recommended permission is refused to vary condition 4 of permission reference FULL/2016/1199 for an increase in the number of dogs kept on the premises at any one time to 14.

There would be potential scope for the home based business to include an element of dog boarding and/or dog daycare for a limited number of dogs beyond the authorised dog grooming parlour however, this would need to be the subject of a further planning application. Such an application would be considered against the relevant planning policies and in consultation with Environmental Health and the States' Vet.

3 - General material considerations set out in the General Provisions Ordinance.

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning

considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no adverse impact on protected trees, buildings or sites.

Date: 30 November 2022

