

Delegated Report

Planning Ref: 25/00014/CLP
Applicant: Miss Gemma Sullivan
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: 44 Beams Meadow, Hinckley

Proposal: Certificate of proposed lawful development for change of use of a garage to dog grooming salon

1. Recommendations

- 1.1. **Refuse Certificate of Proposed Lawful Use** for the reasons at the end of this report.

2. Description of the planning application, site and surrounding area

- 2.1. This is an application for a Certificate of Lawful Proposed Use at 44 Beams Meadow, Hinckley. The application pertains to the partial change of use of the existing garage to a dog grooming salon.
- 2.2. The application site is a garage associated with and attached to a two-storey link attached dwelling. The dwelling fronts a privately managed section of Beams Meadow, which is a loop-configuration road under mixed public and private management. The site is located in the south-west of Hinckley in a characteristically residential area, north-east of the A5.
- 2.3. The application is accompanied by the following information and evidence:
- Application Form
 - Site Location Plan
 - Planning Statement
- 2.4. The applicant has provided the following information in relation to their dog grooming business:
- The dog grooming business would occur in a space accounting for approximately 40% of the existing garage footprint. The remainder of the space will continue to be used for domestic storage.
 - The business will be run by the applicant at a one-person workstation. No other staff will be employed.
 - The business would potentially operate 9:00am to 5:00pm Monday to Friday and 9:00am to 1:00pm on Saturdays. It is not anticipated the business would open all six days each week, but these are the timeframes that would be offered to customers to allow flexibility.
 - An average of 4 dogs would be groomed per day, by appointment only.
 - There is no signage proposed to be displayed outside the property.
 - The interior walls of the salon would be sound-proofed.

3. Relevant planning history

Nil.

4. Publicity/Consultation

- 4.1. None is required for this type of application.

5. Policy

- 5.1. Town and Country Planning Act 1990 (As amended)

Planning Practice Guidance (PPG)

- 5.2. Development is defined in Section 55(1) of the Town and Country Planning Act (1990) which states:

Meaning of “development” and “new development”.

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

- 5.3. Section 192 of the Town and Country Planning Act 1990 (As amended) which states:

Certificate of lawfulness of proposed use or development:

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

6. Appraisal

- 6.2 Section 55 of the Town and Country Planning Act 1990 and the PPG both confirm that planning permission is only needed where there is a material change in use.
- 6.3 In determining whether the existing use is lawful the key question is whether there has been a “material change of use”. If so, then development has occurred and planning permission would be required.
- 6.4 This appraisal therefore has to ascertain as to whether there has there been a change in use of the garage and, if there has, is that change “material”.
- 6.5 In assessing whether a material change of use has occurred there are two main tests. The first is whether the use changes the character of the land where it is located, and secondly the effect of the change of use has upon the neighbouring uses.
- 6.6 The applicant has confirmed that the existing garage doors would be replaced for sliding doors to enable easier access to the dog grooming salon. There would be no other external alterations to the property.
- 6.7 It is considered that the replacement of the garage doors with sliding doors would make the premises notable in its immediate surrounds, as the external presentation of all other garages in the area are consistent. It is not considered this change alone would result in a material change in the character of the area, however it is considered that this element contributes to the balance of materiality as a whole. This is discussed further below.
- 6.8 Information has been provided regarding the running of the business. The information states that hours of operation would be between 9:00am and 5:00pm Monday to Friday and between 9:00am to 1:00pm on Saturdays. There is no intent, as per the planning statement, to be open for the duration of these hours, but rather that these are the timeframes that will be offered to clients to book within.
- 6.9 The applicant has stated that they will be the sole operator of the business, with no additional staff employed. An average of four dogs would be groomed per day, by appointment, and only one dog would be groomed at a time. The grooming area would comprise a grooming table, bath/shower, dryer and clippers. It has been confirmed that the dog grooming area would be soundproofed.
- 6.10 It is considered that the breadth of opening hours and potential appointment times, both in the mornings and evenings of weekdays and on Saturdays, do represent a material change of use at the property. Though the statement claims there is no intention to run all six days every week, this remains a possibility given that customers are to be given the full breadth of opening hours to select an appointment from. Furthermore, on the balance of probability it seems likely that the use would recurrently occur on Saturdays, which has the potential to disrupt residential amenity to a greater extent than weekday operations.
- 6.11 Information provided with the application states that parking is available on the driveway of the application site and that street parking along this section of Beams Meadow is not restricted.
- 6.12 The application site has one existing off-street parking space forward of the garage. There is insufficient room on the site to create an additional off-street parking space. It is understood from aerial imagery and a visit to the site that there are two cars regularly parked at the premises, and that at least one is likely to be present while the dog grooming business is operating. If drop off and pick up of dogs was to occur via the driveway, there would be a need for at least one of the residents’ own

cars park on the street. If the drive was occupied by a resident's car then customers picking up or dropping off dogs would need to park in the street.

- 6.13 The section of Beams Meadow which the application site fronts is understood to be privately managed and has limited opportunities for on-street parking. It is noted that while there are no street parking restrictions immediately forward of the application site, there are restrictions at the southern end of this section of the street. There is a parking bay with two spaces available north of the site along a section of Beams Meadow that appears to be in public management. Nonetheless, this is not a desirable parking location in association the application site as it would require foot traffic to round the corner on the highway itself as there is no pavement on this side of the street.

- 6.14 It is therefore considered that the proposal would have a material impact on neighbouring residential uses by way of its effects on highway safety and parking availability.

7. Equality implications

- 7.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 7.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

- 7.3 There are no known equality implications arising directly from this development.

- 7.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

8. Conclusion

- 8.1. It is considered that the external alterations to the garage, the breadth of proposed operating hours and the impacts the proposal would have upon highway safety and parking availability cumulatively represent a material change of use at the application site. Therefore, planning permission is required for the dog grooming business.

9. Recommendation

- 9.1. **Refuse Certificate of Proposed Lawful Use** for the reason below.

10. Reasons

1. The proposed use would result in a material change of use of the premises not permitted within The Town and Country Planning Use Classes Order

1987 (as amended). Planning permission is therefore required and the Certificate of Lawful Proposed Use must be refused.