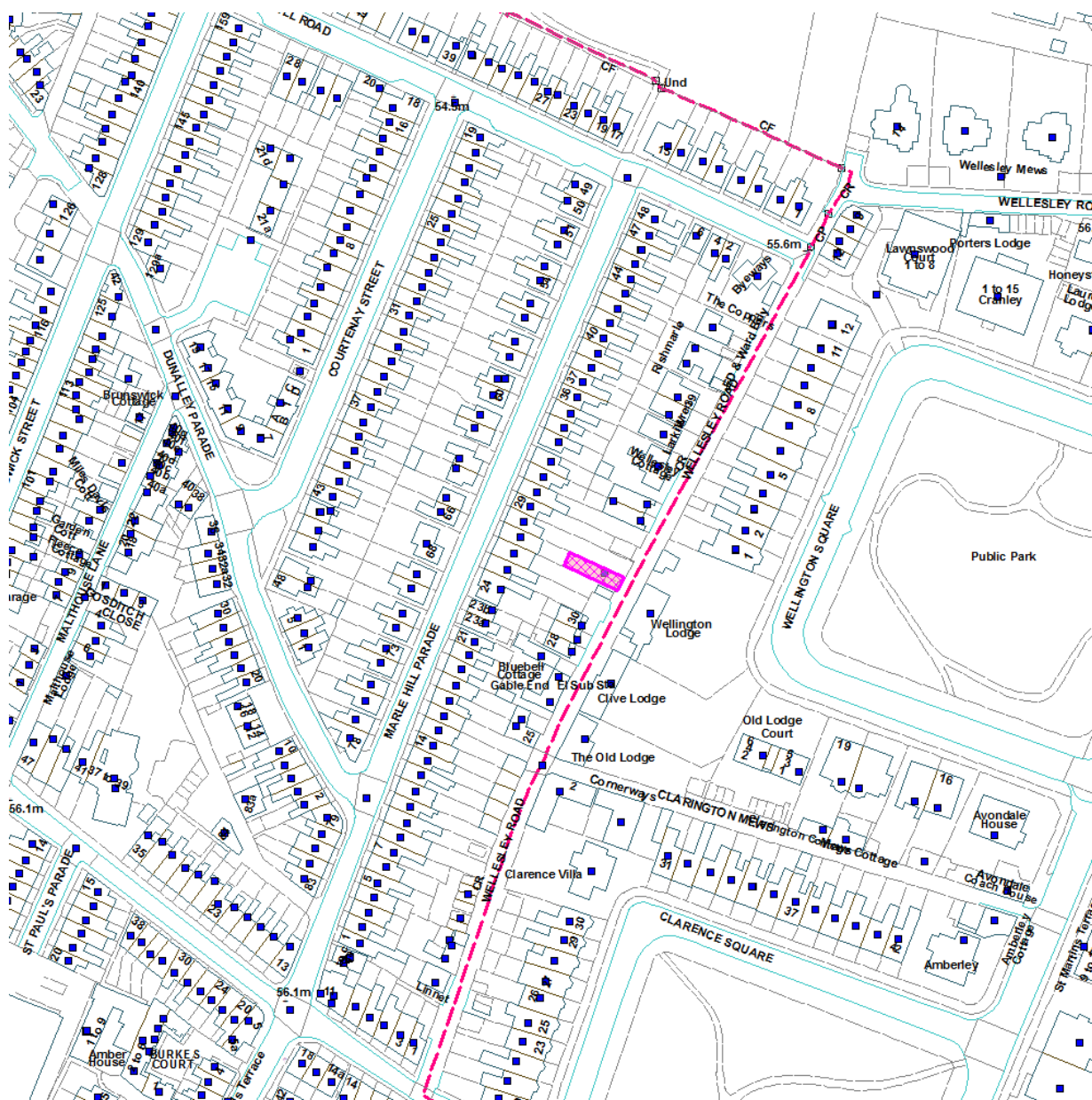


<b>APPLICATION NO:</b> 20/01311/FUL		<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 26th August 2020		<b>DATE OF EXPIRY:</b> 21st October 2020
<b>DATE VALIDATED:</b> 26th August 2020		<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> St Pauls		<b>PARISH:</b>
<b>APPLICANT:</b>	Ruth Hendry	
<b>AGENT:</b>	ChappellSmith Limited	
<b>LOCATION:</b>	Lotty Lodge, 33 Wellesley Road, Cheltenham	
<b>PROPOSAL:</b>	Use of part of ground floor as dog grooming business (sui generis)	

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located on Wellesley Road, a rear service lane which runs parallel to Marle Hill Parade. Development within the area is characterised by compact, high density artisan terraced housing with some modern infill development; and high levels of on-street parking. The terraces generally back onto one another with frequent service lanes running to the rear. Wellesley Road has been significantly developed in recent years with a variety of residential buildings which vary in size and architectural style.
- 1.2 The property to which the application relates was recently constructed following the grant of planning permission for the erection of a detached, two storey, two bedroom dwelling (ref. 18/02555/FUL).
- 1.3 Since completion, part of the ground floor has been in use as a dog grooming business, and this application is therefore retrospective in nature; the applicant being unaware that planning permission was required. The application has been submitted in response to an enforcement case.
- 1.4 The supporting information which accompanies the application advises that the business has relocated from other premises and was established in 2013. Following the first COVID-19 lockdown earlier in the year, due to a backlog of dogs needing to be groomed, the opening hours were temporarily extended to include Mondays and working until approximately 17:00; however, the normal opening hours are Tuesday to Friday, 08:45 to 16:00. The business currently employs 6 part-time members of staff, grooming between 6-10 dogs per day; a maximum of 4 dogs at any one time. Appointment times are staggered, between 15 and 30 minutes apart, so there should only be one vehicle arriving at any one time. The rear courtyard is only sometimes used to allow the dogs to “shake off” or wait for collection when the weather allows.
- 1.5 The application is at committee at the request of Councillor Hobley for the following reasons:
  - *Level of resident concern as expressed in the number of recorded objections*
  - *The small and densely packed nature of Wellesley Road*
  - *Change of use from purely residential to business/residential*
  - *Concerns regarding the quality of living environment for residents of the property, including fire separation between the proposed business premises and new flat above*
  - *The impact of a new business premises on an exclusively residential street*
  - *Concerns regarding existing planning conditions relating to the back windows of the property not being observed*

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### **Constraints:**

Airport Safeguarding over 45m  
Article 4 Directions  
Conservation Area  
Principal Urban Area  
Smoke Control Order

### **Relevant Planning History:**

**18/02555/FUL**

**PERMIT**

**23rd April 2019**

Erection of two storey, two bedroom, dwelling at rear of 27 Marle Hill Parade

### 3. POLICIES AND GUIDANCE

#### **National Planning Policy Framework (NPPF)**

Section 2 Achieving sustainable development

Section 4 Decision-making

#### **Adopted Cheltenham Plan (CP) Policies**

SL1 Safe and Sustainable Living

HM3 Loss of Residential Accommodation

#### **Adopted Joint Core Strategy (JCS) Policies**

SD1 Employment - Except Retail Development

SD14 Health and Environmental Quality

INF1 Transport Network

### 4. CONSULTATION RESPONSES

#### **GCC Highways Development Management**

*16th September 2020*

Having considered the details submitted as part of the application, the Highway Authority recommends no highway objection to be raised.

#### **Environmental Health**

***15th September 2020***

I have reviewed the application and documents regarding 20/01311/FUL | Lotty Lodge 33 Wellesley Road Cheltenham Gloucestershire GL50 4LD.

Environmental Protection have received no complaints regarding the business operating from the above address and the hours of operation are suitable.

There are no objections from the Environmental Protection Team.

If you would like to discuss further, please do not hesitate to contact me.

***24th September 2020***

At the time of my consultee comment, dated 15th September 2020, Environmental Protection had not received any complaints regarding the above application; however we are now investigating an active complaint of alleged statutory noise nuisance from the business at 33 Wellesley Road.

The complaint was received on Monday 21st September 2020 and further information confirmed on the 22nd September 2020.

Environmental Protection would like to request that the application is not called to committee until such time as we have concluded our investigation and provided any subsequent planning recommendations, if necessary.

***27th October 2020***

I can confirm that we have received no further contact from the complainant during the required time frame therefore both cases have been closed.

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to 17 neighbouring properties. In addition, a site notice was posted and an advert published in the Gloucestershire Echo. In response to the publicity, 27 representations have been received; 7 in objection and 20 in support.
- 5.2 The representations have been circulated in full to Members but the main objections relate to:
- Parking and highway safety
  - Noise and disturbance

## 6. OFFICER COMMENTS

### 6.1 Determining issues

6.1.1 The main considerations when determining this application relate to the principle of a change of use; neighbouring amenity; and highway matters.

### 6.2 Principle

6.2.1 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development, which should be applied to plan making and decision taking. For decision-taking this means (unless material considerations indicate otherwise) approving development proposals that accord with the development plan without delay.

6.2.2 Adopted JCS policy SD1 advises that *“Employment-related development will be supported...Where it would encourage and support the development of small and medium sized enterprises, subject to all other policies of the plan”*.

6.2.3 Additionally, whilst CP policy HM3 seeks to prevent the loss of residential accommodation through a change of use, exception d) to the policy states that uses beneficial to the wider economy and the local community may be supported. Note 1 to the policy goes on to suggest a range of services and facilities that will be considered but sets out that *“Each case will be judged on its merits, taking into account its effect on the locality.”* Notwithstanding policy HM3, it is pertinent to note that in this case, the change of use does not result in a loss of a residential unit, but rather a smaller unit of accommodation.

6.2.4 As such, the principle of a change of use must be acceptable, subject to the material considerations discussed below.

### 6.3 Neighbouring amenity

6.3.1 Adopted JCS policy SD14 and CP policy SL1 seeks to prevent development which is likely to cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality; in this instance, particularly in regard to noise and disturbance, concerns having been raised by occupiers of neighbouring residential properties.

6.3.2 With regard to the concerns raised in respect of noise and disturbance, officers consider that even if four dogs were present on site all day during business hours, the numbers of dogs present would not result in unacceptable levels of noise or disturbance beyond that which could potentially be expected from dogs housed at a residential property. However, it is noted that concerns have also been raised in relation to the dryers used during an appointment.

6.3.3 That said, letters of support from residents living adjacent to the site, and within the flat at first floor, have also been received which suggest that, whilst the dryers are audible, they do not cause any significant disruption, particularly given the limited business hours and when the rear doors are closed.

6.3.4 Given the nature of the application, Environmental Health were consulted on the application. On initially reviewing the application, the Environmental Health Team raised no objection to the proposed retention of the business having, at that time, not received any complaints from local residents. However, during the course of the application, a complaint of alleged statutory noise nuisance resulting from the business was received. Consideration of the application was therefore deferred to allow for an investigation into the alleged noise nuisance to take place.

6.3.5 As part of the investigation, a letter was sent to the complainant asking them to record any further incidents of noise for a two week period; the letter explaining that if no records were submitted within a one month timeframe, it would be assumed that the matter had been satisfactorily resolved or that the complainant no longer wished to proceed with the matter. At the same time, a letter was sent to the business owner to advise them of the complaint.

6.3.6 Subsequently, Environmental Health have confirmed that they have not received any further contact from the complainant, and that the case has been closed. It can therefore be reasonably assumed that the issue has resolved itself. It is possible that the concerns of local residents were heightened during lockdown as a result of the coronavirus pandemic.

#### 6.4 Highways

6.4.1 Adopted JCS policy INF1 advises that planning permission will only be granted where the highway impacts of the development are not severe.

6.4.2 It is noted that concern has been expressed by local residents in relation to parking and highway safety; however, the County Highways Development Management Team have reviewed the application and raise no objection.

6.4.3 The property does benefit from one car parking space; albeit, this parking space was secured in connection with the residential use. That said, there are currently no minimum parking standards for new developments to adhere to.

6.4.4 Given the staggered arrival times for bookings, and the limited number of vehicular trips throughout the day, officers are satisfied that the highway impact resulting from the use simply cannot be considered to be 'severe'.

#### 6.5 Other considerations

##### *Rear upper floor windows*

6.5.1 Officers acknowledge that the first floor rear facing windows in the approved dwelling were required to be inward opening, hopper style, obscure glazed windows to prevent any unacceptable overlooking of neighbouring properties; but that the windows have not been installed as such. However, this matter is being looked into separately by the Enforcement Team, and is not relevant to the determination of this application.

##### *Fire separation*

6.5.2 Questions have been raised by objectors in relation to fire separation between the commercial unit and the residential unit; however this is a matter for Building Regulations and is, again, not a material consideration in the determination of this application.

### *Public Sector Equalities Duty (PSED)*

6.5.3 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.5.4 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

6.5.5 In the context of the above PSED duties, this proposal is considered to be acceptable.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 With all of the above in mind, the proposal is considered to be in accordance with the development plan, and the recommendation is to grant planning permission subject to the following conditions.
- 7.2 Whilst the application form and supporting information detail the standard working hours to be Tuesday to Friday, 08:45 to 16:00, the condition relating to the hours of operation also allows for working on Mondays to allow for some flexibility in the needs of the business.

## **8. CONDITIONS**

- 1 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The use hereby permitted shall be carried out only between the hours of 08:45 and 16:00 on Monday to Friday, and at no time on Saturdays, Sundays or Bank/Public Holidays.

Reason: To safeguard the amenities of adjoining properties and the locality, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

## **INFORMATIVE**

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise

when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.