

## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	25 September 2019
<b>Application Number</b>	18/11885/FUL
<b>Site Address</b>	The Yard, Westwood, Bradford on Avon, BA15 2AL
<b>Proposal</b>	Change of use from agricultural (equestrian) to mixed use - equestrian and dog day care facility for maximum 20 dogs.
<b>Applicant</b>	Mr George Schofield
<b>Town/Parish Council</b>	WESTWOOD
<b>Electoral Division</b>	Winsley and Westwood - Cllr Johnny Kidney
<b>Grid Ref</b>	381740 159104
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Verity Giles-Franklin

### **Reason for the application being considered by Committee:**

The Local Member requested that this application be called in for the elected members to determine should officers be minded to grant permission, due to local concern over the potential noise nuisance generated by the proposed use and its consequential impact upon the amenity of nearby occupiers. There is also local concern regarding access to the site.

#### **1. Purpose of Report:**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

#### **2. Report Summary:**

This report appraises the principle of the change of use, and the impact of the proposed use on the green belt and neighbouring amenity and in terms of highway safety.

Westwood Parish Council objects to the application for the reasons cited in section 7 of this report. The local resident observations are summarised within section 8.

#### **3. Site Description:**

The application site, which is illustrated in the plan below, relates to an existing hay store and paddock, located within a wider site used for the stabling and grazing of horses. The application site is located to the north-east of Lower Westwood and south-west of Bradford on Avon.



The application site is bounded by an established hedgerow on its southern boundary which borders the road and is accessed by an existing vehicular entrance set back from the road (which connects the Westwood Road to the B3109 Frome Road), as illustrated in the following site photos. The application site is located within the West Wiltshire Green Belt. The site has a gentle incline from the road to the north of the site which is used for the turning out of horses; however, the paddock subject to this application is located to the north-east of the existing stable building and is not elevated above the existing buildings.



*Facing north from the entrance*

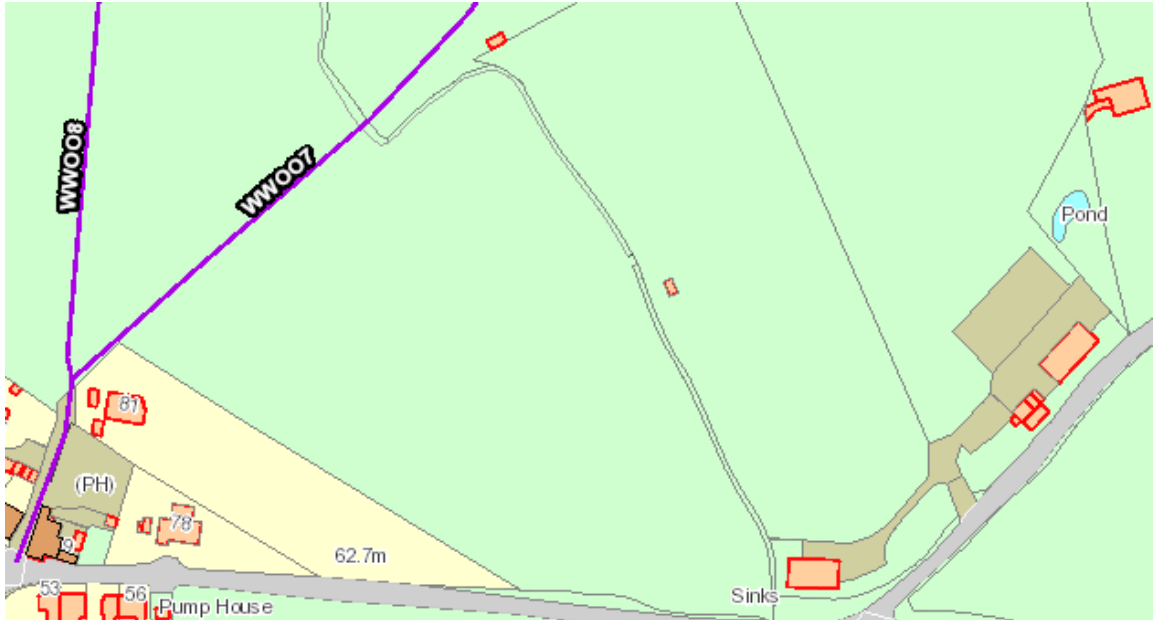


*Facing south from the entrance*



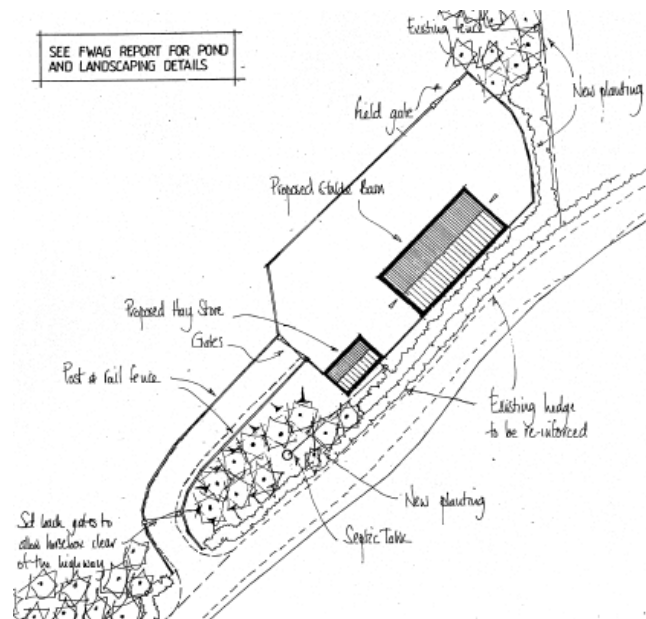
*View of existing entrance*

Two public rights of way (both footpaths, references WWO07 and WWO08) cross the wider site to the north, as depicted by the purple lines illustrated on the map provided on the following page, however these footpaths would remain unaffected by the proposed change of use. The paddock to be used for dog exercising/play measures approximately 915 sq m in size and is enclosed by existing fencing. The paddock is located some 200 from the closest public footpath.



**4. Planning History:**

W/01/01033/FUL - Stables and haystore/tackroom – Allowed at appeal following the applicant’s submission of an appeal against non-determination by the former West Wiltshire District Council. An extract of the approved site plan is shown below:



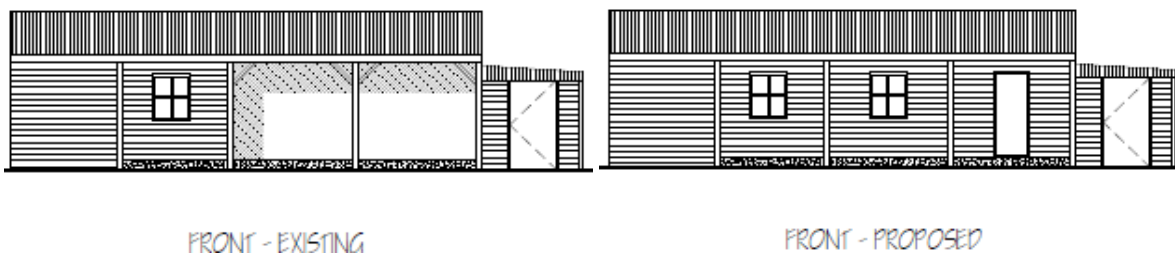
W/02/00237/FUL - Proposed erection of stables and haystore/tack room – Approved with conditions.

W/11/02028/FUL - Retrospective application for an agricultural building for the storage of animal fodder and farm machinery – Approved

## 5. The Proposal:

This application seeks planning permission for the change of use of an existing paddock and part of an existing hay store building to a sui generis use, for a dog day care facility for a maximum of 20 dogs. The proposed change of use would employ the equivalent of two full-time employees - one full-time employee and two part-time employees. There would be two employees on site at all times when the dog day care use is operational. The proposed hours of operation are 07:00 to 18:00 Monday to Friday, with no weekend hours or on bank holidays. The existing equestrian use for approximately ten horses would also continue to operation on site.

As part of this application the existing open-fronted hay store would be enclosed with timber cladding to match the existing wall finish, as illustrated by the existing and proposed elevation drawings reproduced below. This would provide a shelter for the dogs when not being exercised.



During the course of this application's determination period, a revised red line boundary was submitted to clearly illustrate which buildings and parcel of land are subject to this proposed change of use. A revised location plan drawing was received on 6 February 2019 to illustrate this and was subject to a fresh consultation exercise with third parties. A revised proposed block plan drawing was received in May 2019 to demonstrate the available visibility splay at the existing access to address comments received from Wiltshire Council's highways department. Furthermore, an acoustic/noise report was submitted to the Council on 18 July 2019. This revised and additional information was published to the Council's planning pages and was subject to a fresh consultation exercise with third parties.

## 6. Planning Policy:

Wiltshire Core Strategy (WCS) - Core policies: CP34 - Additional Employment Land; CP51 - Landscape; CP57 - Ensuring High Quality Design and Place Shaping; CP61 - Transport and New Development; and CP64 - Demand Management

The Wiltshire Local Transport Plan 2011-2026 Car Parking Strategy is also relevant

National Planning Policy: National Planning Policy Framework (NPPF); and the National

Planning Practice Guidance (NPPG) and Noise Policy Statement for England (NPSE) are also of material relevance to this application.

## **7. Summary of consultation responses**

Westwood Parish Council: Object for the following summarised reasons. Two representations were received in total from the Parish Council, which are both summarised below. The additional and revised information/drawings did not overcome the Parish Council's concerns with the proposed change of use.

- Loss of amenity to neighbouring properties from the noise generated from up to 20 dogs
- Highway issues
- Increase in traffic
- Inappropriate development in the Green Belt
- Conflict with neighbouring land used for grazing of other animals (e.g. sheep)
- The noise report is “very selective” and does not overcome noise nuisance concerns

Wiltshire Council Highways: On receipt of revised plans to show the achievable visibility splays and on-site car parking provision, no objection raised.

Wiltshire Council Public Protection/Environmental Health: On receipt of noise report, no objections subject to condition restricting the use of the outdoor walking/exercise area

## **8. Publicity:**

The application was advertised by neighbour notification and by the display of a site notice. Twelve representation letters were received during the initial round of consultation and following receipt of the revised red line boundary, raising the following summarised objections:

- Increase in traffic
- Insufficient car parking on the site
- Limited visibility
- Impact on use of nearby footpath
- Noise nuisance/impact on amenity from dogs barking
- Harm to the rural character of the area
- Incompatible with the surrounding residential land use
- Would lead to overnight boarding and 24 hour kennels/increase operational hours/future expansion
- Welfare of the dogs
- Dog faeces
- Potential impact on livestock in the surrounding area
- Flooding
- Concern regarding the amount of time taken to produce a noise report

Seven representations were received following consultation on the revised block plan and noise report, raising the following summarised objections:

- Noise of 20 dogs barking by a public footpath and interaction of dogs
- Anomalies/validity with the noise report including specified dogs breeds referred to in report which fails to assess/mention terrier breeds
- Highway concerns have not been addressed
- Noise and air quality impacts from generator use have not been considered

## 9. Planning Considerations:

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1.1 **Principle of the Change of Use:** The adopted WCS does not have a specific policy that directly relates to this proposal. However, CP34 of the WCS supports opportunities for the provision of employment land that may come forward in the Principal, Settlements, Market Towns and Local Service Centres of Wiltshire, but also aims to support the rural way of life through the promotion of modern agricultural practices and appropriate diversification of the rural economy.

9.1.2 Furthermore, the NPPF outlines that planning policies and decisions should enable *“a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; ...b) the development and diversification of agricultural and other land-based rural businesses”* (paragraph 83)

9.1.3 This proposal would result in the diversification of part of the site from solely equestrian use to a mix of horse stabling/livery and dog day care. Part of an existing building would be converted to support the proposed dog day care use and an existing paddock would be used as an exercise area for the dogs. In order to meet CP34, proposals outside Principal Settlements, Market Towns and Local Service Centres would only be supported where they meet the following criteria, copied below:

- i) *are adjacent to these settlements and seek to retain or expand businesses currently located within or adjacent to the settlements; or*
- ii) *support sustainable farming and food production through allowing development required to adapt to modern agricultural practices and diversification; or*
- iii) *are for new and existing rural based businesses within or adjacent to Large and Small Villages; or*
- iv) *are considered essential to the wider strategic interest of the economic development of Wiltshire, as determined by the council.*

Where they:

- a. *meet sustainable development objectives as set out in the policies of this Core Strategy and*
- b. *are consistent in scale with their location, do not adversely affect nearby buildings and the surrounding area or detract from residential amenity and*

- c. are supported by evidence that they are required to benefit the local economic and social needs and*
- d. would not undermine the delivery of strategic employment allocations and*
- e. are supported by adequate infrastructure.*

9.1.4 In this instance, the site is located a short distance from Bradford on Avon and Lower Westwood and seeks to diversify the existing equestrian use, to a use which would serve the adjacent settlements. As such, the principle of the development is considered acceptable, subject to compliance to CP57, as discussed below.

9.2 **Impact on the Green Belt:** The application site is location within open countryside and outside the defined limits of development for both Bradford on Avon and Westwood. However, this proposal solely involves the change of use of an existing paddock to a dog exercise area (measuring approximately 915 sq m in area) and the conversion of part of an existing hay store to a dog shelter area. The proposal therefore would not result in the construction of any new buildings or the extension to any existing buildings on site. Furthermore, the proposed use would utilise the existing hardstanding for car parking, therefore no operational development is proposed as part of this application.

9.2.1 It is therefore considered that the proposal would not result in any harm to the openness of the Green Belt or result in inappropriate development in the Green Belt. As such, officers conclude that the proposal would not conflict with the aims of national planning policy, which seeks to prevent urban sprawl by keeping land permanently open.

9.3 **Impact on Neighbouring Amenity:** Officers acknowledge that this is a key issue for local residents, as expressed within the received representations and comments made by the Parish Council. The paddock and existing hay store subject to this application are located within an area of open countryside, used predominately for equestrian use. As such, officers appreciate the sensitivities of the proposal and potential for up to 20 dogs making some noise disturbance in the wider area.

9.3.1 The concerns raised by third parties are duly noted and as part of this application the applicants commissioned and submitted a noise survey at officers' request, in order for a robust assessment of the potential noise generated by a maximum of 20 dogs to be made and for the impact of this upon the nearby residential properties to be made.

9.3.2 As part of the report, an on-site noise survey was carried out by the consultants to assess the existing prevailing background noise levels at the nearest noise sensitive receptors, as illustrated by the extract below, taken from the page 11 of the report. The properties hatched in blue indicate the noise sensitive receptors, with the area in red depicting the building and parcel of land subject to this application. The nearest noise sensitive receptors are located approximately 290m to the west and approximately 160m to the north-east of the application site and are residential properties. The report acknowledges that the area is generally quiet, with the main noise generated by traffic on the nearby roads. Some intermittent animal noise is also audible from the application site, as evidenced from the case officer's site visit.





9.3.3 The submitted report concludes that the proposed noise level to be generated by the proposed use (at the highest predicted level) would be approximately 45 dB LAeq,T at the nearby buildings. This figure would be 10dB below the quoted WHO figure taken from their 'guideline values' section of the publication *Guidelines for Community Noise*, which states that in order for people to not be 'seriously annoyed' during the daytime, the noise level should not exceed 55 dB LAeq for "a steady, continuous noise".

9.3.4 It is likely that dogs barking would be intermittent and not continuous over the operational hours of the proposed use. The predicted noise level would remain 5 dB lower than the 50 dB LAeq figure the WHO recommends to "protect the majority of people from being moderately annoyed during the daytime". Therefore, the potential noise disturbance generated by the proposed dog care day use would be limited.

9.3.5 The Council's public protection team were consulted on receipt of this report and have raised no objections, subject to a condition restricting the use of the outside exercise/walking area.

9.3.6 Furthermore, as the proposed dog day care use would only be operational during working hours on weekdays, with no overnight boarding/kennelling or weekend use, officers are satisfied that the proposed noise omitted by a maximum of 20 dogs in this location would not cause significant adverse harm to the living conditions and amenity of the nearby occupiers.

9.3.7 The applicant has confirmed within the submitted design and access statement that all dog waste would be collected and disposed of by a specialist waste disposal company. Therefore officers conclude that dog waste should not impact local residents.

9.3.8 Within the received representations concerns have been raised by third parties regarding the potential interaction between users of the nearby footpaths and other animals such as sheep in the locality, with the dogs that would use the proposed dog day care facility. However, officers consider that the likely event of such interactions to be minimal given that the dogs would be exercised within an enclosed paddock and would be under supervision.



9.3.9 It is considered that any permission should be conditional on restricted hours of using the site for outside exercising. With due regard to the proposed use during normal daytime hours on weekdays only and the predicted 'worse case' noise level, officers are satisfied that the proposal would not create an unacceptable adverse impact on neighbouring amenity to warrant a planning refusal.

9.4 **Highway Issues:** The third party and Parish Council concerns with the proposed use upon the existing highway are duly noted. Wiltshire Council's highways department were consulted on this application and additional information was requested from the applicant to address the initial comments received by the highways engineer, which have been made publically available on the Council's website, and no highway based objection has been raised.

9.4.1 The proposed use would entail customers arriving between 07:00-09:00 in the morning and return to collect their dogs between the hours of 16:00-18:00 on a Monday to Friday basis only. Within the submitted Design and Access Statement it is acknowledged that the applicants anticipate collecting 6 dogs to start with and hope to increase the number of collections over time once the business has established to reduce vehicle movements and the need for customers to travel to and from the site.

9.4.2 With due regard to the proposed hours of operations and nature of the proposed use, it is unlikely that all customers would be arriving to the site at the same time to drop off and collect their dogs. Furthermore, the site is accessed off a road from Westwood Road, which is subject to a 20mph speed limit close to the junction which leads to the application site. Given the narrow nature of the roads and position of the application site in relation to the junction to Westwood Road, it is unlikely that vehicles would be travelling at high speeds.

9.4.3 This application does not propose any alterations to the existing access and this has not resulted in an objection from the Council's highway department. The applicant has demonstrated and illustrated on the submitted revised block plan what the achievable visibility splays are at the existing entrance to the site and this has been considered acceptable.

9.4.4 Whilst concerns have been raised regarding the impact of the proposed use on the junction with the C216, Frome Road located north-east of the application, officers considered that this proposal would not present an unacceptable highway safety concern at this junction. The applicant has further demonstrated the available on-site car parking provision and officers consider this also to be acceptable.

9.4.5 Whilst officers acknowledge that the proposed use of the site would result in some additional traffic along this road, the Council's highways officer has raised no objection to the proposal. Furthermore, there are no measures/restrictions on vehicles using this particular road; therefore it is likely that vehicle movements along this road fluctuate on a daily basis. In addition, during the case officer's site visits to The Yard, both of which were undertaken in daytime hours, there was no evidence of local roads being impassable or significantly congested. Officers therefore conclude that on the basis that the applicants would be

operating and offering customers a collection service and would utilise the existing access with sufficient on-site car parking and turning space on site, the proposal would not result in an unacceptable impact on highway safety.

## **10 Conclusion (The Planning Balance):**

The proposed change of use of an existing paddock and part of an existing hay store to a dog day care use during weekdays would satisfy the requirements of the NPPF and WCS policies in terms of the principle as well as the impacts on the Green Belt and neighbouring amenity implications. The proposed development is also considered to comply with the requirements of Paragraphs 109 of the NPPF. As such, it is considered that planning permission should be granted subject to conditions.

**RECOMMENDATION:** Approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, as received on 6 February 2019; and Drawing No: PBPDS/PP187, Rev C, Existing and Proposed Elevations, Floor Plans and Site Plan, as received on 28 May 2019

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

3. The use hereby permitted shall only take place between the hours of 0700 - 1800 on Mondays to Fridays. The use shall not take place at any time on Saturdays, Sundays or during Bank or Public Holidays.

REASON: To define the terms of this permission and in order to protect residential and local amenities.

4. The exercise and play area use within the paddock hereby permitted shall only take place between the hours of 0900 - 1700 on Mondays to Fridays. The use shall not take place at any time on Saturdays, Sundays or during Bank or Public Holidays.

REASON: To define the terms of this permission and in order to protect residential and local amenities.

5. There shall be no more than 20 dogs on the site at any one time.

REASON: In the interests of residential amenity

6. The site shall not be used for the kennelling of any dogs at any time.

REASON: In the interests of residential amenity

7. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.