

## REPORT FOR WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	28 October 2020
<b>Application Number</b>	20/02178/FUL
<b>Site Address</b>	Land adjoining Hatch House, Up Street, Upton Lovell, BA12 0JP
<b>Proposal</b>	Change of use from agricultural land to a dog exercise area with the retention of small paddock for agricultural use following expiry of the 2-year temporary permission granted under 18/01841/FUL
<b>Applicant</b>	Mr Mark Street
<b>Parish Council</b>	Upton Lovell
<b>Electoral Division and Division Member</b>	Warminster Copheap and Wylve – Cllr Christopher Newbury
<b>Grid Ref</b>	394,347 141,070
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	David Cox

### Reason for the application being considered by Committee

Cllr Christopher Newbury has requested that should officers be minded to approve this application without a condition granting temporary permission, it should be brought before the elected members of the western area planning committee for its determination and to consider the relationship with adjoining properties as well as the environmental and highways impacts of the development.

### 1. Purpose of Report

Having assessed the merits of the proposed development and tested it against the policies of the development plan and other material considerations, officers recommend that the application should be approved subject to conditions.

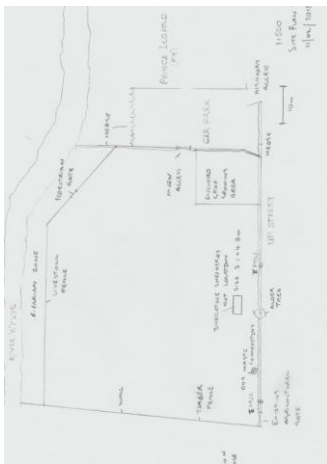
### 2. Report Summary

The main issues discussed in this report are as follows:

- The Principle of the Development
- Impact on Neighbouring Amenity
- Impact on Visual Amenity and the Area of Outstanding Natural Beauty
- Drainage and Flood Risk
- Highway Safety and Parking
- Impact on Ecology
- Impact on Designated Heritage Assets

### 3. Site Description

The application site is a rectangular piece of land located off Up Street at Upton Lovell – which is a small village without settlement limits located about 0.5km from Corton and 2km south-east of Heytesbury and extends to approximately 0.43 hectares. The site is located in close proximity to the River Wylve, located to the west; and the Prince Leopold Public House and its car park, located to the North. Two dwellings (Hatch House and Vazon House) share a boundary with the site; and six residential properties are located on the north eastern side of Up Street – all of which can be easily identified on the site location context plan which is reproduced below. The application site is located within the Cranbourne Chase Area of Outstanding Natural Beauty and the land is classified as grade 4 agricultural land.



Despite the site's close proximity to the river, the land is not at risk of flooding. The Council's /EA flood risk mapping database reveals that flood zones 2 and 3 (i.e. land that have the highest risk of flooding) do not encroach into the application site parameters, although it is noted that other land owned by the applicant, which is fenced off from the main field, is at risk of flooding which is illustrated below. It should also be noted that the River Avon is a SSSI and a Special Area of Conservation.



**Flood Zone 2 Extent**



**Flood Zone 3 Extent**

There are two grade II listed buildings within close proximity to the site at No 55 The Trumpeters approximately 45 metres to the north; and listed walls, railings and a gate which form the south, west and north boundaries of Lovell House – which is located approximately 77 metres to the south. BOYT21 and ULOV11 public rights of way footpath pass Hatch House to the south and in a western direction, although views from the PRow are limited.

#### **4. Planning History**

W/89/00504/OUT – Ten dwellings – refused

W/92/00369/FUL – Two dwellings and garages – refused

18/01841/FUL - Retrospective change of use from agricultural land to a dog exercise area with retention of small paddock for agricultural use. Retrospective siting of ancillary mobile Shepherd's hut – Temporary two-year permission granted 30 May 2018 at the Western Area Planning Committee.

#### **5. The Proposal**

Following the granting of a two-year temporary planning permission at the Western Area Planning Committee meeting on 30 May 2018, the applicant has submitted this application seeking permanent planning permission for the change of use of land from agricultural use to a sui generis use pursuant to dog exercise and training. Part of the landholding/paddock would still remain in agricultural use and the site photograph shown on the previous page illustrates the area that would left for crop growing.

For the avoidance of any doubt, this protracted application was validated and registered on 9 March (i.e. a couple of months prior to the expiry of the two-year temporary permission granted under 18/01841/FUL. The delay in the determination of this application has been due to the COVID 19 pandemic and the associated cancellation of several scheduled planning committees and application prioritisation since June when virtual committees meetings were introduced by the Council following the passing of the necessary legislation - all of which has been beyond the control of the applicant.

The application seeks to use the site between 9am and 5pm between Mondays and Fridays with no use taking place at the weekends or on bank holidays. The applicant has confirmed that when the site was used, dogs were brought to the site for exercise and training purposes for a maximum of 5 hours on any given day but to satisfy business needs, the applicants seeks the flexibility of using the site from 9am-5pm.

Following the submission of third-party objections, the applicant submitted a diary record of the times the dog exercise use has been used since August 2018. It sets out that the land has been used over 100 times between August 2019 to March 2020 with the minimum daily duration being one hour with the maximum period of use being 5 hours. During the autumn and winter months, the average time spent using the site was between 1 ½ and 2 hours a day which on average, increased to 2-3 hours a day during the spring and summer months.

The applicant has confirmed in an updated diary that since the national lockdown due to the COVID pandemic on 24 March, the site has only been used twice (on 1 September and 21 September). This has been because that since reopening her business, the number of dogs to be exercised has been lower and through the applicant not wishing to frustrate neighbours until the committee meeting has taken place.

It is understood that the applicant runs a dog training/dog day care business from the shared family home at Wellhead Drove in Westbury some 10km away. As dogs need to be exercised and stimulated, they are taken off site and since October 2016, the parcel of land at Upton Lovell has

been used for outdoor dog exercise. Similar dog walking/dog day care businesses would usually take dogs for walks in the open countryside but due to the applicant's health and mobility restrictions, unenclosed long walks are not a viable option, and instead a dedicated parcel of land that is suitably enclosed and secure where the dogs can be exercised and stimulated without the applicant having to walk long distances is a far more effective and practical arrangement.

The dogs are brought to the site via a large family sized car and up to 9 dogs are exercised by the dog trainer at any given time. No kennels are provided or proposed on the site as the dogs are transported from the applicant's home address on each occasion. For local dog owners, dogs could be brought direct to the site for the applicant to exercise and train, should permanent permission be granted.

Within the supporting Planning Statement, it has been confirmed that the facility is operated by Lorna Street who was awarded a 5-star, 3-year home boarding and day care licence from Wiltshire Council in December 2018. This is the top grade and length of licence under the current DEFRA Licensing rules.

The site has a Shepherd's hut with four wheels that could be moved around the site and off the site fairly easily and quickly. Under planning law, the hut is considered to be a 'Chattel' as set out by the following case: *Wealden District Council v Secretary of State for Environment and Colin Day (1988) JPL 268*. The hut could be used for associated ancillary agricultural use and it would not require planning permission for such purposes.

The primary issue with this application relates to the principle of the change of use of the agricultural land and the impact exercising dogs has upon neighbouring amenities.

If the Planning Committee approves the application for the change of use, by virtue of the hut not being "*operational development*", and not requiring planning permission, it could continue to be used for ancillary uses by the applicant when on site exercising the dogs and/or be used for storage purposes associated to the agricultural land use. If, however, the planning committee resolves to refuse planning permission and the land and hut are used beyond what is permitted development under the 28-day provisions in any given calendar year, planning enforcement action could be taken to secure the cessation of unauthorised use.

## **6. Planning Policy**

The **Wiltshire Core Strategy (WCS)** - The following Core Policies (CP) are relevant when assessing this application: CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP3 (Infrastructure Requirements), CP31 (Warminster Area Strategy), CP51 (Landscape), CP57 (Ensuring High Quality Design and Place Shaping), CP58 (Ensuring Conservation of the Historic Environment), CP60 (Sustainable Transport), CP61 (Transport and Development), CP62 (Development Impacts on the Transport Network), CP64 (Demand Management), CP67 (Flood Risk).

When adopting the WCS, some policies remain saved from the **West Wiltshire District Local Plan (1st Alteration) (WWDLP)**. There are no saved policies which apply to this application.

The **National Planning Policy Framework (NPPF)**, **Planning Practice Guidance (PPG)** and **Noise Policy Statement for England (NPSE)**.

**The AONB Management Plan**

## **7. Summary of Consultation Responses**

**Upton Lovell Parish Council** – Objects for the following reasons:

- The site has only been used on an occasional basis and therefore the impact of any intensification of the use hasn't been tested
- There should be another temporary permission
- The only 'chattels' that are on the land should be those associated with the daily operation of the business
- No more than one temporary mobile building should be allowed on site
- Conditions that all equipment on the site should be of a scale, character and colour appropriate for the location
- All other conditions of the original application should be maintained.

**Wiltshire Council's Environmental Health Officer** – No objection. The applicant's supporting 'diary' statement has been appraised and it should be noted that the Council's public protection team have received no noise related complaints associated to barking dogs at this facility since temporary planning permission was granted in 2018. We therefore have no concerns.

**Wiltshire Council Ecology Officer** – No objection

**Wiltshire Council Drainage Officer** – No comments.

**Wiltshire Council Highways Officer** – No objection

**AONB Board** – No objection

## **8. Publicity**

A site notice was displayed along Up Street and twelve individual notification letters were posted to local residents. Following these notifications, 4 letters of support and 6 letters of objection were received. It should be noted that two of the letters of objection were from the same address.

### **The 6 letters of objection raised the following points of concern:**

- The field was regularly used at first (for the first 3 months following the temporary permission) but then tailed off to about twice a month. The use of the field has only been sporadic
- The lack of environmental health noise complaints is due to the lack of the use of the field
- On the few occasions when the field is in use, there is a noticeable increase in noise when there are dogs in the field (due to excessive numbers)
- When the permission was granted the applicant encountered problems of substantial noise/barking whenever she was exercising dogs as other dogs pass by in the road. The screening that was on the gates has now gone and the dogs can see out into the road and vice versa
- The applicant claims an alternative site cannot be found but there are walks available near her home. Assume the reduced use of the field has been that the applicant's knee condition has improved and therefore is now able to do the local walks
- Traffic use has increased over the last two years from the pub and local houses, causing severe congestion. When the dogs arrive there is further chaos, which is made worse when dogs are also dropped off here
- There has been chaos when the field was used for other uses than agriculture and dog use when 500 people turned up over a single day with public address system which could be heard all over the village. There are also weddings at the pub. No prior warning is given to the village.
- There is absolutely no value to the village from this use
- Dispute the dates in the diary as the applicant has not been seen on these days
- The agricultural use plot is very unsightly, and nothing has been done.
- The hedge has been left to grow straggly
- Still don't understand why this field is needed as it's miles from where they live and are not local dogs

- We have friends who can walk dogs for free
- The only reason for this is because the applicant's parents used to live in Hatch House and retained ownership of the field
- The hut is used rarely and is an eyesore
- For the past few months the field has been used as a football pitch (letter received 27 April)
- There are no benefits to using this field for this use and no local employment
- This is unnecessary to sustain a rural business
- This takes away from local dog walking businesses in Upton Lovell
- The use is so infrequent why is a change of use necessary
- The use harms the protected species alongside the river

**The 4 letters of support can be summarised along the following grounds:**

- "I live directly opposite, work from home and fully support the application"
- The use of the land is quite charming
- The hut is also aesthetically pleasing
- The agricultural land is used to grow wild and traditional plants (including vegetables), attracting insects and birds. A wildflower area was also planted last year
- There has not been any additional traffic, it's only the applicant who travels to the site
- The applicant keeps the land organised, clean and free from dog mess
- There has only been the odd bark
- The owners of the adjacent pub send their dog to the business – and great care is taken of the dogs with dog noise kept to a minimum
- Since the pandemic started, as the field hasn't been used, the applicant agreed that local children could play football there instead

Following a change of description and the application reference suffix (in recognition that the two year temporary permission had lapsed) the third parties (and the Parish Council) were re-consulted. Should any late representations be received raising additional material planning issues, they will be raised verbally by officers at the committee meeting.

## **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. In this case, the Wiltshire Core Strategy (WCS), including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Warminster area.

### **9.1 Principle of the Development**

9.1.1 The adopted Core Strategy at its very heart, seeks to promote and deliver sustainable forms of development that extends to supporting existing businesses; and at the same time, protect the natural, built and historic environment as well as protecting neighbouring amenity.

9.1.2 As reported above, the applicant has an existing business which is based in Westbury, and it is understood that when the business started, the applicant walked dogs on the Salisbury Plain as advertised on the applicant's website to which some objectors have referenced in their representations. However, because of the applicant's health, walking on the Plain has become more difficult and relying solely on her Westbury home garden ground is not ideal. The business is reliant upon providing dogs with a stimulated environment where the dogs can experience different sensations and to run about in a larger, enclosed setting which the Upton Lovell site provides. Without the ability to change the dog's environment or to go out for walks, the quality of the dog care would ultimately suffer along with the viability of the business.

9.1.3 The applicant owns the land which was retained when the family sold one of the adjacent dwellings, and the field provides an opportunity for the applicant to provide the exercise and training the dogs require within the existing secure site parameters, which negates the need to go out on long walks. As the applicant has mobility issues, whilst the dogs are on site, there is no need to do a lot of walking.

9.1.4 The Council's mapping constraint record indicates that the site is grade 4 agricultural land. The best agricultural land is graded as 1, 2 and 3a, with grade 1 land having the highest productive value. Whilst the field could be used for animal grazing or hay making for example, its productive and practical value given the low-quality soil and limitations of the site, the value of the land for agricultural purposes is very limited. It should also be taken into consideration that this application comprises no operational development of the land, which means the field could readily return to agricultural use, should the dog business cease. WCS Core Policies 60 and 61 seek new development to be located in accessible locations and be designed to reduce the need to travel particularly by private car. Whilst there is an option for dog owners to drop dogs off at the site, officers understand that dogs are generally dropped off at the applicant's home in Westbury by the owners at the start of the working day and the dogs are brought to the site when required. It is a regular activity for dog owners to exercise their dog(s) and it is often the case for dog owners to drive to set locations to walk their dogs, and making use the private motor vehicle to take dogs for a walk is part of daily life for many people, and there is an argument that one person taking up to 9 dogs in a car to a set location is better for the environment compared to individual dog owners all driving to set locations to walk their dogs. On the basis of the above observations and commentary, officers maintain that the principle of using the field at Upton Lovell for dog exercising on a permanent basis, is acceptable.

9.1.5 The representation objection letters have raised issues about the other uses taking place on the site including the 'village fete' type event that happened without prior warning. This can have no bearing on the assessment of this application as some temporary uses of land such as the holding of a fete do not require planning permission as set out by Schedule 2, Part 4, Class B of the General Permitted Development Order which (currently) states;

*"The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the proposes of*

*(a) The holding a market;*

*(b) Motor car and motorcycling racing including trials of speed, and practice for these activities*

*And the provision of the land of any movable structure for the purposes of the permitted use."*

9.1.6 This means that the land could be used to host a village fete, car boot sales or weddings without the need for planning permission providing the number of stated number of days in any given 12-month period is not exceeded.

9.1.7 The use of the land for dog exercising would and has in the past, exceeded 28 days each year, which triggers the need for planning permission. However, since the temporary two-year permission expired in May 2020, the application site has only been used for dog exercising purposes twice, which is well within the provisions allowed under Permitted Development Rights.

## **9.2 Impact on Neighbouring amenity**

9.2.1 Officers acknowledge that the impact the dog exercising has upon neighbouring amenity is the key determining issue which is clearly expressed within the representations submitted by the concerned third parties and the Parish Council. Given the sensitivities of the contrasting neighbour responses and the potential for up to 9 dogs to create noise disturbance, the case officer visited the site on more than one occasion. On the first visit in April 2018, the site was not in use. The case officer was however able to appreciate the site's context as well as its proximity and



relationship with neighbouring properties, as well as appreciating the various background noises. A second visit took place on 8 May 2018 in the late morning when the applicant had seven dogs to exercise and the case officer was able to appreciate how dogs were kept under control and the extent of the noise from dogs barking. Since permission was granted on a temporary basis, officers have had no reason to visit the site as no concerns have been raised about noise from dogs being exercised and as reported above, the site has not been used except for two occasions since the COVID 19 outbreak and national lockdown, which did not lead to any noise related complaints.

9.2.2 During the case officer's second site visit pursuant to application 18/01841/FUL, the case officer spent 30 minutes walking up and down Up Street (without the applicant's knowledge) and noted that during that time there were only 3 single isolated barks (equating to 1 for every 10 minutes). The opportunity was taken to view the dogs from both the existing access from Up Street and from the public house car park access, during which time the dogs were exercised and kept under the control of the applicant. The case officer proceeded to walk past the site trying to make his presence known to the dogs making audible noises by juggling a set of keys from hand to hand and making other noises, but the dogs did not react by barking. From this observation, the case officer's own experience would align more with the supportive testimonies received from third parties which assert that the applicant has very good dog handling capabilities and control and provides excellent interaction to keep the dogs stimulated and that the dogs are very much focused on the activities provided within the site.

9.2.3 During the case officer's 30-minute observation period, a passing dog walker who had brought their dog to Upton Lovell was observed. As they walked past the site along Up Street, none of the 7 dogs who were being exercised on the site by applicant, barked and nor did the dog being walked. Indeed, the dog walker was surprised to learn of the presence of seven dogs in the adjoining field when the case officer explained the use of the site beyond the hedge. The case officer, who is not a dog owner, had fully anticipated that other dogs when being walked near or past the site would trigger outbursts of barking, but this was not the case. It is also important to appreciate that socialised dogs do not tend to bark at other dogs whilst on walks, and through proper training and keeping dogs interested in their localised environment, disobedience and unruly barking can be quickly managed and dealt with. From the case officer's own on-site observations, the applicant appears to be a very capable dog handler.

9.2.4 If permitted as proposed, the dog exercising use would take place during the set hours of 9am and 5pm on Mondays to Fridays which could be secured by planning condition. There would therefore be no potential early morning, evening, weekend or bank holiday nuisance to neighbours. Furthermore, officers have been advised that when the applicant had dogs to exercise and train, the sessions were split between the application site and the applicant's home address to offer a different environment and sensory interest for the dogs. The applicant maintains that the dog exercising use at the Upton Lovell site would only be used for to a limited part of any given weekday. The submitted diary of the use confirms that for the majority of the time, the applicant has brought dogs for the most part, between 1-3 hours, which has limited the impact upon neighbours. In the absence of any evidence to the contrary, officers are satisfied that the proposed operational hours of 9am-5pm would provide the applicant's business with sufficient flexibility in terms of when to bring dogs onto the site and share the use of the Westbury home garden and this site. After witnessing the good dog handling skills of the applicant, officers are not convinced that the use of the field would create an unacceptable adverse impact to neighbouring amenity to warrant a planning refusal.

9.2.5 The third-party concerns about barking dogs when people stop at the public house when out walking their dogs at weekends would not be an issue as the site would not be in use at weekends. It is accepted that dogs will bark occasionally, but the case officer's own observations and the testimony of several local residents indicate that the barking is infrequent. As the dogs are brought to the site in a business capacity, the dogs are trained and are also used to each other as



they see each other on a regular basis - which helps with their training and their overall control and contentment.

9.2.6 The Parish Council and third-party objections explain that there haven't been any Environmental Health noise complaints because the field has been used so infrequently and the noise levels cannot be tested. However, within two objection letters (received from the occupiers of Vazon House and No 49 Up Street) it is stated that:

*"the use was regular in the three months after the permission (\*May-August 2018\*)" and that "In the first year, the applicant would bring the dogs, maybe ten to twelve times a month."*

There would therefore be over 20 days available and if the site was used for 12 days a month during the first year of the temporary permission, that would represent a use rate of approximately 55%, which officers submit constitutes a frequent use to which a substantive appreciation of the use and the effects and impacts could be reasonably quantified and evidenced. The fact is that no complaints have been raised, and in the planning balance, officers consider this to be a significant material consideration, and it supports the recommendation that permission should be reasonably granted for a permanent use.

9.2.7 The third-party objections from the occupiers of No 52 Up Street and Vazon House also clearly state that when the dogs were on site there was a '*noticeable*' and '*substantial*' level of dog barking. Officers submit that if there was '*noticeable*' or '*substantial*' barking levels during the first three months of the temporary permission period, or over at least 55% of the available days over the first year of use, officers are unsure why this did not generate a noise complaint to the Council's public protection team. The committee's decision to grant a two-year temporary permission was understood to test whether the noise impacts would be harmful. There has been no empirical evidence submitted that would justify a refusal of permanent planning permission and the lack of any noise related complaint since the temporary permission was granted is of significant material consideration.

9.2.8 The case officer recalls the verbal contribution made by one of the objectors who attended the committee meeting back in May 2018 when it was argued that if permission was granted, the objector "*would be on to Environmental Health every day to complain*". Whilst Officers accept that for various reasons, the applicant has not used the site as much as she could have done, the supporting third party letters appear to officers, to signify that whilst there may be the '*odd bark*' from the site, the impacts are not harmful.

9.2.9 The submitted diary which sets out when the site was used by the applicant is a useful document as it demonstrates that during the two year temporary permission, although a 9am-5pm operational time was permitted, the length of time the applicant spent at the site exercising dogs averaged out at approximately 2-2.5 hours a day, with a maximum time of 5 hours without any evidenced harm.

9.2.10 Officers remain supportive of this application and recommend that permanent permission should be conditionally granted for dog exercising/training purposes.

9.2.11 Through liaising with the Council's public protection team, no noise complaints have been received relative to the use of the Upton Lovell site or indeed for the applicant's home address. As previously reported, the Council's Environmental Health Officer has raised no objection to the proposed development. For the 18/01841/FUL application, the Council's public protection team confirmed that a background noise survey was not reasonable or necessary. It is however worthwhile to note that a background noise survey would have picked up all audible noises within any given set parameters including;

- Vehicular traffic noise using local roads or from the A36

- The noise from the weir in the river adjacent to Hatch House
- Train noise on the nearby train line
- Associated noise from the public house, the beer garden and the large car park; and,
- Any barking dogs or from children

9.2.12 From the officer's site observations and liaison with the Council's public protection team, this part of Upton Lovell is generally quiet with the occasional road traffic noise and from irregular passing trains. The use of the site since October 2016 has not resulted in any reported complaint or documented evidence of harm, and officers are supportive of the application to make the proposed change of use of the land permanent for dog exercise purposes.

9.2.13 There is no evidence that the dog exercise use would not be contrary to WCS CP57 criterion vii or conflict with the Noise Policy Statement for England which aims to avoid "significant" adverse impacts on health and quality of life. Officers acknowledge that dog barking can create a nuisance but the evidence for this site and land use indicates that has been of limited duration. Through planning conditions, the use of the land can be suitably controlled which can include limiting the number of dogs the applicant can bring to and train on the site at any one time to 9 dogs.

9.2.14 The Parish Council have requested that the Council grants another temporary permission so that more time can be given to collate a "*meaningful assessment of the impact of the site...when daily use recommences.*" For the reasons explained above, officers consider there has been sufficient use of the land over the last two years and not a single noise related complaint has been lodged, and officers would question the reasonableness of imposing yet another temporary permission.

9.2.15 The Government issued planning practice guidance (PPG) supports, where appropriate, the imposition of a temporary permission for certain forms of development, but the guidance sets out a presumption against multiple temporary approvals unless there is a substantive reason for doing so as PPG paragraph: 014 Reference ID: 21a-014-20140306 explains:

*"Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.*

*It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.*" (note: emphasis added)

9.2.16 Officers submit that the use of the land for dog exercise purposes has had a satisfactory trial period which has resulted in no noise related complaints, and through the use of planning conditions, officers are of the view that a permanent permission can be issued with adequate protection to neighbouring amenity.

### **9.3 Impact on visual amenity and the Area of Outstanding Natural Beauty**

9.3.1. The proposal solely involves the change of use of the land from agriculture to a sui-generis dog exercise and training area. It does not involve any kennel structures or other permanent or fixed buildings or operational development. Officers therefore raise no concern about the visual amenity impacts.

9.3.2 The protections afforded to the AONB seek to safeguard its scenic beauty as well as its tranquillity; although it is appreciated that excessive noise could lead to the tranquillity of the AONB being harmed. The AONB officer continues to raise no objection and concurs with the case officer

and public protection officer in arguing that imposing a Monday to Friday restriction would “*help avoid any potential clashes with exercising periods and the major, evening use of the public house next door.*”

9.3.3 The Shepherd's hut is on wheels and can be easily moved from the site. It is classed as a 'Chattel' under planning law and does not require planning permission, providing it is used in association with the approved use of the land.

#### **9.4 Drainage and Flood Risk**

9.4.1 The application site is located within flood zone 1. The application site parameters are set about 5-6 metres away from the river to help create a buffer zone between the proposed dog exercising area and the river. The dogs are prevented from entering the river by a post and wire fence, and the proposed development would have no impact on the site's porosity and drainage capabilities.

#### **9.5 Highway Safety and Parking**

9.5.1. The Council's highways officer continues to have no objection as the level of traffic generation would not be significant (mainly a single vehicle) and there is no evidence that it does or would adversely impact on highway safety interests. During the daytime when the site was visited and when it would be in use, the public house car park and Up Street were more or less free from any traffic. The applicant would park within the field itself and not on the road or public house car park. There is no evidence of local roads being virtually impassable, and even during any occasion when local roads are congested, the addition of one extra vehicle being driven by the applicant to access or leave the site would not warrant a refusal of planning permission.

#### **9.6 Impact on Ecology**

9.6.1 The Council's ecologist has raised no objection. The dogs are fenced off from the river and would not interfere with the SSSI environs. Dog faeces are regularly collected and disposed of in an appropriate manner in a composting bin. Members of the committee may recall that when the previous application was reported, a condition was imposed requiring additional details from the applicant to confirm the dog waste bin container and composting provision. This condition was discharged on 11 January 2019. The bin container is located close to the hedge alongside Up Street which would not harm the riparian zone of the river or the SSSI.

#### **9.7 Impact on designated Heritage Assets**

9.7.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting. There are two grade II listed buildings along Up Street within 100m of the site, but neither are immediately opposite the site and their respective settings do not extend to the application site. In the absence of any operational development, officers are satisfied that the proposal would cause no harm to the setting or the historic significance of either listed building.

#### **10. S106 / Developer Contributions**

No S106 financial contributions are sought for this site, and CIL would not apply.

#### **11. Conclusion (The Planning Balance)**

The proposal is for the change of use of an agricultural field into a dog exercise and training area. It is submitted that the applicant has justified the need to use the site for this purpose and that it is a site the small local business maximises through offering different environments for dogs under the control and training of the applicant. Whilst dogs shall bark from time to time, the incidents as observed by the case officer were not extensive or considered harmful enough to warrant a refusal of planning permission. No complaint has been lodged with the Council's public protection team despite the site being used since 2016 for exercising and training dogs. With the proposed restrictions highlighted above to be imposed by planning conditions, the use of the site should be

able to continue in harmony with neighbouring amenities without causing significant levels of nuisance.

**RECOMMENDATION: - Approve subject to the following conditions**

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

Design and Access Statement; Ecological Statement; Location Plan and Site Plan – all received 5 March 2018; and Planning Statement received 1 April 2020 and further supporting statement (use dairy) received 28 April 2020.

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

2. The use hereby permitted shall be restricted to dog exercise and training purposes only taking 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.

3. No more than 9 dogs shall be brought onto or be exercised at the site at any one time.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area

4. The dog waste associated to the use shall continue to be collected, binned and composted on the site in full accordance with the approved details discharged on 11 January 2019, and in perpetuity for as long as the dog exercise/training land use operates.

REASON: In the interests of protecting the nearby SSSI from contaminated waste.

5. No external lighting shall be installed anywhere on site.

REASON: In the interests of preserving the scenic beauty of the Area of Outstanding Natural Beauty and to protect neighbouring amenity.