

## Report for the Western Area Planning Committee

|                            |  |
|----------------------------|--|
| <b>Date of Meeting</b>     | 22 <sup>nd</sup> November 2023                       |
| <b>Application Number</b>  | PL/2023/05787  |
| <b>Type of application</b> | Full planning permission                             |
| <b>Site Address</b>        | Field off Whaddon Lane, Whaddon, Hilperton, BA14 7RN |
| <b>Proposal</b>            | Change of use of land to a dog exercise field        |
| <b>Recommendation</b>      | Approve with Conditions                              |
| <b>Applicant</b>           | Mr Eric Horgan                                       |
| <b>Town/Parish Council</b> | Hilperton CP   |
| <b>Electoral Division</b>  | Hilperton ED   |
| <b>Case Officer</b>        | Jemma Foster   |

### Reason for the application being considered by Committee

The application has been called to the Western Area Planning Committee by Councillor Ernie Clark citing the following concern:

- Intensification of Whaddon Lane by vehicular traffic

#### 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

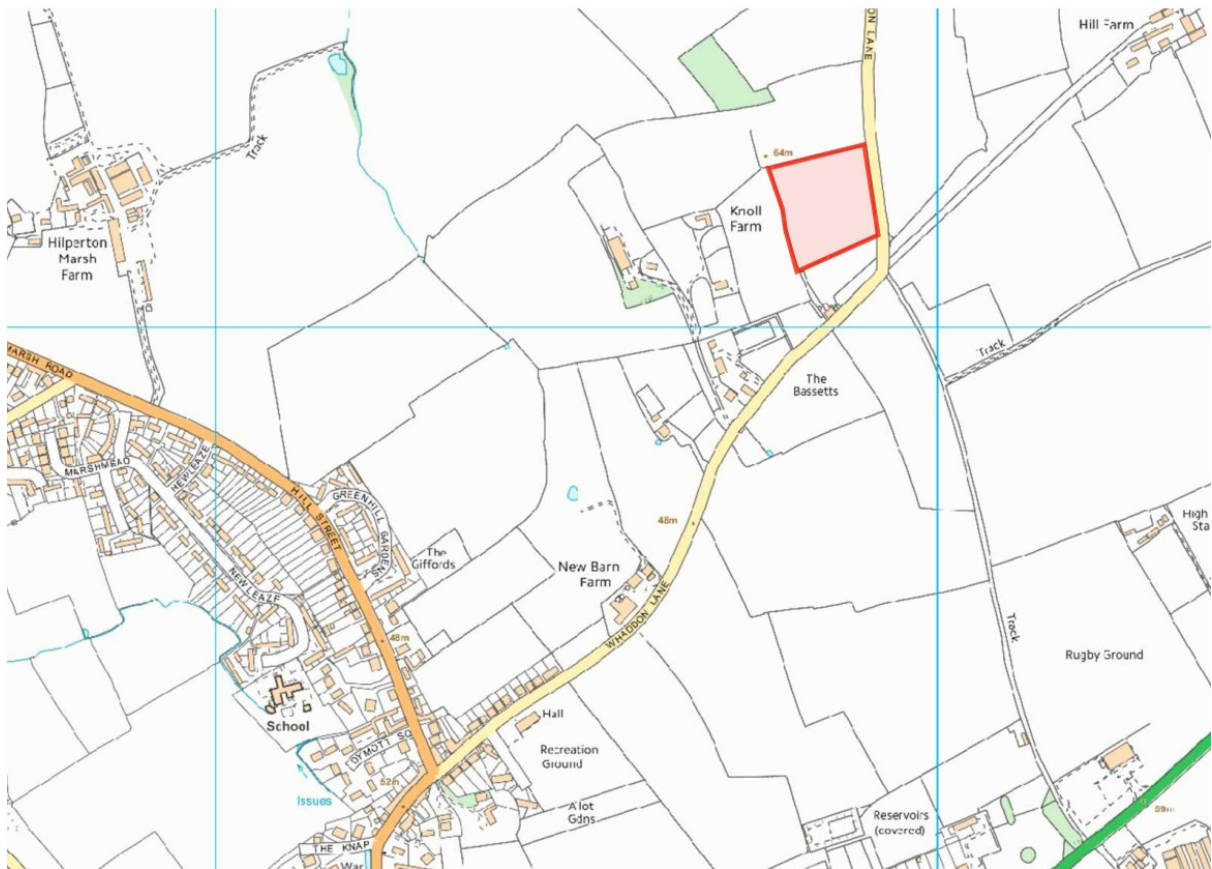
The key determining planning issue are considered to be:

- Principle of Development
- Impact upon the character and appearance of the area
- Impact upon neighbouring amenity
- Highways

#### 3. Site Description

The application site is located 0.6km to the northeast of Hilperton village and measures 1.78 hectares and is located between Maylands Farm (42m from the eastern site boundary and beyond Whaddon Lane) to the east and Knoll Farm, which includes a dwelling (around 100m

distant) to the west and has an existing gated vehicular access off Whaddon Lane where there is a passing space.



The existing / proposed access is shown below



The site has previously been used for livestock grazing and for the keeping of horses and an open view across the site is shown below. There are mature hedges on the East, North and West boundaries with a post and rail fence separating the site from a paddock to the south which is used for horses.



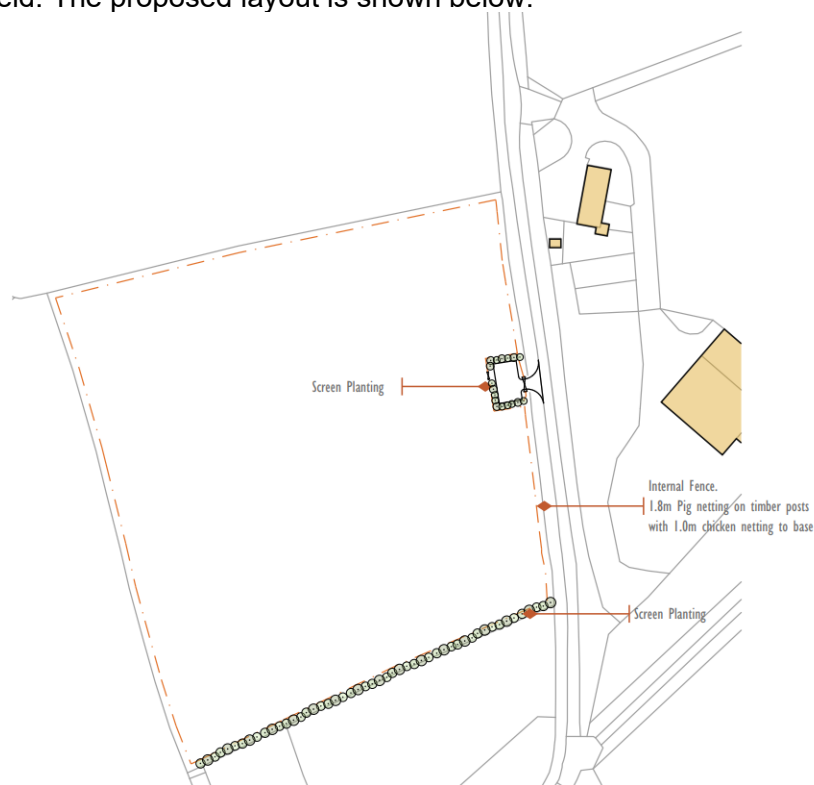


#### 4. Planning History

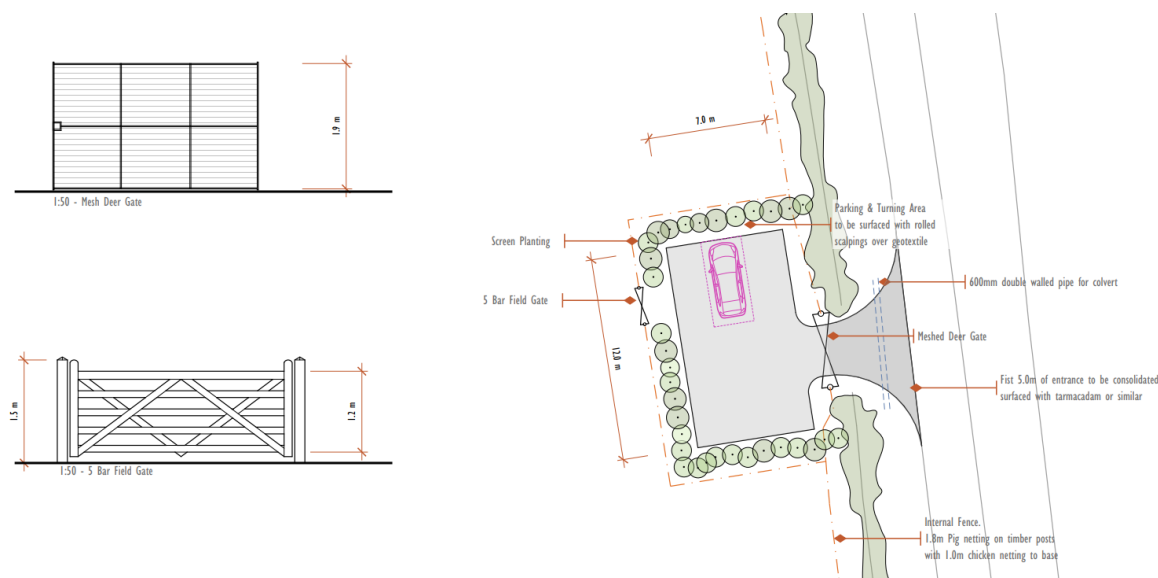
There is no relevant planning history for this application site.

#### 5. Planning Proposal

The proposal seeks full planning permission is to use the land for dog exercising with an improved vehicular access and a small area of hardstanding to park up to two vehicles. A meshed deer gate secured using a coded entry system would be erected at the access with a five-bar gate leading from the parking area into the field providing pedestrian access for clients and their dogs. The existing boundaries would be bolstered with 1.8-metre-high post and rail fencing to create a secure area. The southern boundary would be temporarily screened with artificial hedging whilst a new proposed hedge establishes to limit visibility between the horse and the dog field. The proposed layout is shown below.



The following plan is a more detailed layout of the proposed access and parking area:



Clients would book one-hour sessions through an online portal separated by a 15-minute cross over period to ensure that the parking is clear for the next client. The hire of the field would be limited to private individuals (not commercial dog minders) with no more than 3 persons/1 car per booking. Hours of operation are proposed to be 7am to 7pm.

## 6. Planning Policy

### Wiltshire Core Strategy 2015 (WCS)

CP29 – Spatial Strategy for the Trowbridge Community Area, CP48 – Supporting Rural Life  
 CP49 – Protection of rural services and community facilities, CP50 – Biodiversity and Geodiversity, CP51 – Landscape, CP57 – Ensuring High Quality Design and Place Shaping  
 CP60 – Sustainable Transport, CP61 – Transport and New Development, CP64 – Demand Management

Hilperton Neighbourhood Plan - The Hilperton Neighbourhood Development Plan was made on 5<sup>th</sup> November 2018 and covers the period 2017-2026

### Other Material Considerations

- Wiltshire Local Transport Plan 2011 – 2026: Car Parking Strategy (March 2015)
- Trowbridge Bat Mitigation Strategy
- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

## 7. Consultation responses

Hilperton Parish Council: Objects on the grounds that:

1. Change of use will mean a loss of agricultural land.
2. There will be an increase in the amount of traffic using Whaddon Lane, already causing problems for cyclists and walkers.
3. Motorists will be encouraged to use the surfaced Trowbridge to Melksham cycle track.

Wiltshire Council Public Protection Officer: No objections subject to conditions

Wiltshire Council Highways: No objection to the amended plans subject to conditions

## **8. Publicity**

No third-party letters of support or objection have been received by the Local Planning Authority.

## **9. Planning Proposal**

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 Principle of Development**

The Core Strategy does not have a policy that directly relates to this proposal. However, the adopted Core Strategy at its very heart seeks to promote and deliver sustainable forms of development that extends to supporting existing businesses and rural businesses; protecting the natural, built and historic environment as well as protecting neighbouring amenity. These principles are also enshrined within the NPPF.

The aim of the proposed use is to allow safe exercise of dogs that may otherwise not be able to use public open spaces for reasons relating to behaviour particularly with competing users of those spaces. The exercising of dogs is akin to a recreational use which is an acceptable use in the open countryside with minimal impacts upon the character and appearance of the countryside.

The proposed site is located approximately 770 meters to the East of the limits of development of Hilperton and adjacent to Maylands Farm so is near existing built-up development albeit it is located in the open countryside.

The Agricultural Land Classification for the site is Grade 3 which is rated as good to moderate quality agricultural land and has historically been used for livestock grazing and the keeping of horses. The proposal would result in the loss of agricultural land but due to the proposed use, with no operational form of development other than the improved vehicular access and area of hardstanding, the use could easily be reversed back to agriculture without significant change, and, at under 2 hectares, the land would remain as a small land parcel set within the wider farmed landscape.

This dedicated parcel of land that would be suitably enclosed and secure to allow dogs to be exercised safely is considered appropriate in principle. Officers also consider that appropriate planning conditions can secure the necessary safeguards to define the terms of a permission.

### **9.2 Visual and Environmental Impacts**

Core Policy 57 'Ensuring High Quality Design and Place Shaping' of the WCS lays down the requirement for good design.

Core Policy 51 ('Landscape') of the Wiltshire Core Strategy states that new development should protect, conserve and where possible enhance landscape character, and should not have a harmful impact on landscape character.

Whilst there are no landscape or statutory nature conservation designations affecting this site, it does sit within the Avon Open Clay Vale Landscape Character Area and is predominantly intensively farmed pasture and arable land that follows the course of the River Avon and the Kennet and Avon Canal. The condition of this landscape area as set out within the Character Assessment is judged to be 'moderate'.

The dog exercise proposal would retain the green and open character of the area whilst providing a secure area for dogs to run off lead. The dog exercise field is proposed to be

enclosed by 1.8-metre-high deer fencing and metal mesh gates secured to posts and set back from the main access. The style of fencing is typical 'deer style' fencing and does not require planning permission as it would be below the 2m in height limit and would not be adjacent to the highway.

No structures are proposed as part of this application, but a small (12m x 7m) area of hardstanding is proposed to accommodate vehicle parking and turning with additional screen planting being proposed to bolster the site boundaries.

Officers are satisfied that the proposal would not negatively impact the landscape character, and recognise that the proposed new hedge planting would result in a biodiversity net gain and comply with Core Policy 51.

The site is located within the yellow zone of the Trowbridge Bat Mitigation Strategy, however by reason of the proposal not providing any structures or lighting and the proposed new hedge planting, the proposal would not have an adverse impact on bats.

### **9.3 Impact on Amenity**

Core Policy CP57 requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF (paragraph 130f) states that planning decisions should *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.'*

The dog exercise field would be available for use for fixed time booking slots. No external lighting is proposed or identified as being required and suitable planning conditions can enshrine these aspects within a conditional approval.

There are some residential properties near the site with the closest being Maylands Farm at just over 40m to the east of the site and accessed to the east of Whaddon Lane which has a fence and vegetation demarking its boundary.

It is considered that by reason of the proposed opening hours, the fixed site management and booking arrangements, the existing boundary treatment and there being no proposed additional lighting and no proposed structures, this application is acceptable and would have no significant impact upon neighbouring amenity.

It is accepted that there may be some increase in the level of noise associated with the vehicular movements and dogs barking, but given the site's proximity to dwellings, no objections are raised.

Wiltshire Council's Public Protection team were consulted on this application, and they raised no objection subject to a planning condition restricting the hours of operation as 07:00 – 19:00 Monday to Sunday.

### **9.4 Highway Impacts**

Core policy CP57 ix. states that proposals should ensure that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe and accessible.

The objectives of Core Strategy policies 60 and 61 are to reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire and identify that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives

The NPPF at paragraph 111 states that “*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”

It is accepted that the proposal would result in an increase in traffic as the site and proposed land use would not in most cases be accessed via public transport and therefore it is very likely that the majority if not all visitors to the site would travel by private motor vehicles. Whaddon Lane as it leaves Hilperton becomes single lane with several passing places and is subject to a speed limit of 60mph.

From experience, this lane is known to be used by pedestrians, cyclists and horse riders as part of their route to access the local bridleway, footpath network and canal towpath. The increase in vehicles accessing the site would equate to approximately 11 cars per day (22 trips) if/when the field is completely booked which has been considered by the Council's Highway Officer as not constituting a significant increase or one that would lead to severe impacts, and no highway objection is raised, subject to planning conditions.

The existing access is located on a relatively straight section of the lane and the proposed improvements to the access by consolidating the first 5 metres and improving drainage by installing a pipe and small ditch, would deliver some betterment.

The hedge either side of the access is within the applicant's control and therefore suitable visibility can be achieved. The 15-minute cross over window as proposed by the applicant's being a planned site management arrangement would help prevent cars having to wait outside the site.

As part of officer negotiations with the applicant, an amended plan was requested and submitted to provide a larger turning area to ensure that vehicles can enter and leave the site in a forward gear and to require that the ditch pipe to have a diameter of 600mm. These revisions are considered acceptable.

There are no public rights of way that cross the site, or would be directly affected by the proposed use of the land.

It is fully acknowledged that the Parish Council are concerned about an increase in traffic and using a recently updated surfaced byway which leads from Whaddon Lane down to the Rugby Club (HILP21). It is understood that since this byway has been recently resurfaced and is used by additional vehicular traffic which has caused problems with other road users. However, the byway is open to all traffic and for the purposes of assessing this application, the projected level of additional traffic movements to the site would not be significant and as confirmed by the highway officer, there would be no severe impact to the local highway network and there would be no policy conflict with the Core Strategy or the NPPF.

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

The proposal is for the change of use of an agricultural field into a dog exercise and training area. 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.

The proposal would result in an increase level of traffic movements to and from the site however, at most 11 cars visiting the site would not lead to severe or unacceptable impacts on the highway network and the proposal does not conflict with paragraph 111 of the NPPF.



In the absence of an objection from WC Highways, planning officers do not consider a refusal on highway grounds would be defensible on appeal, and a refusal on such a basis may expose the Council to a costs award for unreasonable behaviour.

The proposed dog exercise area would provide a safe/secure environment for dogs to exercise freely. The proposed fencing, gate and hardstanding surfacing not detrimentally affect the rural character of the area. The proposal would appear to be a viable use for the site however in the interests of preserving the landscape character of the site, a planning condition is recommended to ensure that when the use is no longer required for dog exercise purposes, the land would revert back to agricultural use.

Other planning conditions are recommended to restrict external lighting, and to specify the site management/operational hours.

Subject to the above conditions, the proposed development is considered to accord with the objectives of core policies 1, 2, 3, 29, 48, 49, 50, 51, 57, 58, 60, 61 and 64 of the Wiltshire Core Strategy and the aims of the NPPF. Therefore, members are encouraged to endorse the recommendation and approve the application subject to the following conditions.

**11. Recommendation: To grant planning permission 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 and documents:

Context location plan - LDC2448\_01, location plan - LDC2448\_02a received on 13<sup>th</sup> July 2023. Proposed layout - LDC2448\_03D, proposed site access gate and fence details - LDC2448\_04C Received on 28<sup>th</sup> September 2023.

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

3. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first use of the site hereby approved. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

4. The use hereby permitted shall be restricted to dog exercise and training purposes only taking place 07:00 and 19:00 on Monday to Sunday including Public Holidays.

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.

5. No lighting shall be installed on the site hereby approved.

REASON: To ensure that character and appearance of the Avon Vale Open Clay Vale Landscape Character Area and the open countryside is retained and to avoid harm to biodiversity.

6. The development hereby permitted shall not be first brought into use until the first five metres of the access as measured from the edge of the carriageway and/or the whole of the parking area allocated on the approved plans has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

7. Any gates shall be set back 4.5 metres from the edge of the carriageway, and shall open inwards only.

REASON: In the interests of highway safety.

8. No part of the development hereby permitted shall be first brought into use until the access, turning area & parking space have been completed in accordance with the details shown on the approved plans, and shall be maintained for the lifetime of this use and permission.

REASON: In the interests of highway safety.

9. Should the dog exercise land use become obsolete, the area of hardstanding shall be removed from the site and the land shall be restored to its previous agricultural use/condition within 3 months of any such cessation.

REASON: In the interests of the character and appearance of the area.

10. Prior to the first use of the dog exercise/training area a dog waste bin container to dispose of dog waste shall be installed on site and remain in perpetuity for as long as the dog exercising/training land use operates.

REASON: In the interests of good site management and public amenity.