

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	11/11/2021
Application Number	PL/2021/07309
Site Address	Land adjacent Holy Trinity Dean Road East Grimstead SP5 3SB
Proposal	Change of use from agriculture to dog exercise grounds
Applicant	Mr J. C Read
Town/Parish Council	Grimstead
Electoral Division	Alderbury & Whiteparish - Councillor Richard Britton
Grid Ref	422507 127130
Type of application	Full Planning
Case Officer	Christos Chrysanthou

Reason for the application being considered by Committee

The application has been called in by Councillor Britton citing concerns regarding the relationship to adjoining properties, environment highway impact, car parking, public car usage of restricted byway, local need, vehicular movements and access.

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. Site Description

The application site is a parcel of agricultural land located on the southern outskirts of East Grimstead which is listed in the Wiltshire Core Strategy as a small village that does not have boundary. In planning policy terms the site is located in the open countryside and within the special landscape area.

The site would be accessed off Dean Road via a short section of the restricted byway GRIM13 which is well surfaced. The area of the change of use is 3 acres.

3. Planning History

None

4. The Proposal

The application proposal description is : Change of use from agriculture to dog exercise grounds.

5. Planning Policy

National Planning Policy Framework

- 2. Achieving Sustainable Development
- 4. Decision-making
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

Wiltshire Core Strategy

- Core Policy 1 Settlement Strategy
- Core Policy 2 Delivery Strategy
- Core Policy 48 Supporting rural life
- Core Policy 49 Protection of rural services and community facilities
- Core Policy 50 Biodiversity
- Core Policy 57 Ensuring high quality design and place shaping
- Core Policy 58 Historic Environment
- Core Policies 60, 61, 64 Transport/ demand management
- Saved policy C6 Special landscape area

6. Summary of consultation responses

Grimstead Parish Council - Objection

The Parish Council unanimously opposes this application having assessed it against the three following development objectives (from National Planning Policy Framework, Achieving Sustainable Development, paragraphs 8-10):

1. Economic – although it understands there may be a need, per se, for a dog exercise ground, Councillors do not believe this to be a local need as there are many areas in and around the village (including nearby Bentley Wood) where residents exercise their dogs in relative isolation. The application proposes to change prime agricultural land from agricultural production to a dog exercise area. In our view this is not utilising the right type of land, in the right place and so believe the application fails to meet the economic objective.
2. Social – the objective is around fostering well-designed, beautiful, and safe places with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

The proposed exercise area is adjacent to the village church and also adjacent to two local rights of way (a footpath and a restricted byway), both heavily used by local dog walkers and horse riders. The exercise area will provide a strong distraction for local walkers/riders their dogs/horses and for people using the church – both of these activities are important to social and cultural well-being and so the Council believes the application fails to meet the social objective.

3. Environmental – as discussed earlier, the Council believes there is little local need for the exercise ground and so the main users are going to be travelling to the site, down narrow

country roads, from further afield, increasing pollution from more cars travelling to the site and adding to climate problems.

The proposed area is accessed from a national cycle route (#24), making that route more hazardous to cyclists. Gay's Drove, the restricted byway immediately used to access the exercise area, is a local hotspot for fly-tipping (a constant problem for the Council and cause of great distress to local residents) and is being made increasingly inaccessible to walkers and cyclists due to churn from vehicles illegally using the byway for tipping, off-roading and as a short cut. If this application was approved the Parish Council are concerned that car travelling to the site could come from either end of Gays Drove and it is already difficult to police. Also, there was worries raised that users of the field may park outside the gates and block or severely restrict Gays Drove access.

With increased numbers of dogs there also could potentially lead to an increase in livestock worrying incidents which are already a big problem in the countryside if there were escapees from the site, let along the increase in risk to trains running adjacent to the site

In addition, the operating hours appear excessive and there is real concern that in the winter months the owners will put up flood light which would certainly not be in keeping with the countryside

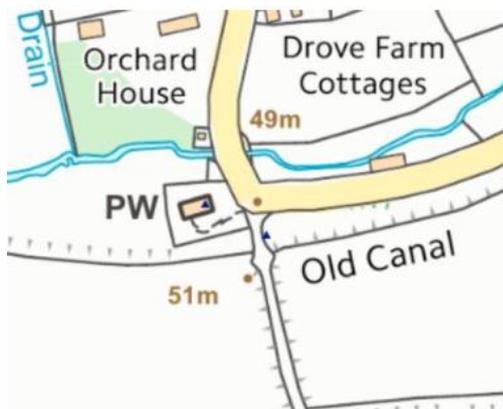
The Council believes that allowing the exercise area to be established in the proposed location will severely detract from use of Gay's Drove by the leisure community (a social issue) and will undoubtably lead to increased litter and dog poo bags in this pollution hotspot. As a result, the Council feels that the environmental objective is not met by the application.

In summary, the Parish Council believes that the location of the exercise area and lack of local need result in the application failing to meet all three sustainable development objectives and so should be refused.

WC Conservation – No objection

Initial comments:

I have been consulted because whilst the site is not in a conservation area, it is near to two listed structures: the bridge (listed grade II) and Holy Trinity Church (also listed grade II).



Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local planning authorities shall 'in considering whether to grant planning permission for development which affects a listed building or its setting' have 'special regard to the desirability of preserving the building or its setting....'.

Whilst the agent has identified that there are no listed buildings within the site boundary, no mention is made of either of these two structures which are very close to the site and arguably within their setting. As a consequence, it is reasonable to assume (since no mention is made) that there is no assessment of the impact of the proposals on their settings.

It is not clear from the application documentation what facilities or features are required to enable this change of use. I note the reference to a deer proof fence already having been erected. If such a fence required planning permission (in future when agricultural PD rights were removed), then we would be reasonably assessing whether the fencing impacted negatively on the setting of the church and bridge.

Similarly, I note the existing parking area. Was the formation of this PD or does it require consent? The question is important as a gravelled area with an open-sided shed, as shown in fig 3 of the D&A statement, may erode the rural character of this site and which may, in turn, have an adverse impact on the setting of the church or bridge.



As it stands, in the absence of the applicant's assessment of the impact on the setting of the listed structures, I cannot say with certainty that the works would not have a harmful impact on the setting of the listed structures.

As the proposals relate to setting issues, I would anticipate that any harm would be 'less than substantial' to use NPPF terms.

Further comments:

Irrespective of the nature of the application, it is for the applicant to consider how the proposals impact on the setting of any nearby designated heritage assets in accordance with the requirements of the NPPF.

Having visited the site this morning, I noted the fencing, gate and gravel surfacing that is currently present. I do not consider these elements harm the setting of the church or bridge.

Were the car parking area to be extended, or more structures to be erected such that the rural character of the site was eroded, then I would likely have reservations.

WC Highways – Support

Initial comments:

Dog exercise grounds are a relatively new concept which are becoming more popular. By their very nature they are likely to be located in rural or remote settings to allow the exercise space necessary and to prevent noise disturbance to the neighbours. This proposal is located on the edge of East Grimstead and is likely to attract visitors from further afield in the surrounding towns and villages who will arrive by car. There are no separate footways from East Grimstead to the site so even those who live locally are likely to consider driving. It is noted that there would be a maximum of 2 cars per session, over a 12 hour period. These would be new trips on the surrounding road network and, on that basis, it could be argued that the site is unsustainable in transport terms, contrary to CP60 & CP61. However, I will be guided by your view taking all aspects into consideration whether this is the type of use that one would expect to find in the countryside.

Notwithstanding the above, I note the comments from the ROW officer and that it is considered an acceptable use of the restricted byway. The 10-minute buffer period will help to prevent an overlap of vehicles entering and leaving the site and in theory the car park should be empty before the next session cars arrive. However, there will undoubtedly be occasions when the next session visitors arrive too early to enter the site and, in these situations, the public highway should not be used as a 'holding bay'. Should the proposal proceed then I am of the view that an additional parking space within the confines of the site would remove any need for vehicles to have to wait on the public highway or byway should there be an overlap, I therefore request that a minimum of 3 parking spaces are provided. I am aware that forward visibility for the right turn manoeuvre into the byway from Dean Road is slightly restricted, this is mainly due to overgrowing vegetation on the adjacent verge. When turning right it is possible to position your vehicle at a point where forward visibility is maximised. I also note the low traffic volume, 30mph limit and general lowering of speed of vehicles approaching the bend. I consider access to the site is acceptable for the use proposed.

Final comments following consideration of the site plan submitted:

Thank you for forwarding the revised plan showing an additional parking space. I note that the parking space is located between the main gate from the byway and the secure gate to the site, this is to enable the site to remain secure for each session. I am satisfied that this addresses my concern regarding the need for vehicles to wait on the byway.

Notwithstanding the sustainability comments raised, I am now in a position to support the proposal.

WC Public Protection – No objection subject to conditions

I think based on what the applicant has stated, we would be fine to recommend conditions restricting the hours of use and number of dogs on site at any one time if possible to ensure there will be no negative affect on amenity for those local residents.

WC Rights of Way – No objection

Initial comments:

The site is accessed by a very short section of restricted byway (GRIM13) which is well surfaced and is also subject to an application to record it as a byway open to all traffic. However, in order to drive a vehicle along here, the applicant would require a demonstrable private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant a vehicular right of access over the path. The applicant is advised to take private legal advice to ensure they have a right of access.

I understand that users of the site will have to pull up outside the gate before gaining access. If this was only one vehicle at a time I do not see it causing a problem as there appears to be adequate width available for vehicles to pull in closer to the gate. However, from the information in the application regarding the number of visits I do not feel that the current arrangements are adequate. I would request that the gate adjacent to the restricted byway be set further back into the site to prevent the need for vehicles to stop on GRIM13. I would also require the applicant to provide enough parking on the site to meet the maximum capacity to prevent the need for vehicles to park on the restricted byway.

Final comments following consideration of the site plan submitted:

From a rights of way perspective this addresses my concerns regarding the impact of the access on the restricted byway. I therefore have no objection to the proposal.

7. Publicity

Neighbour / Third party representations

The application was advertised by neighbour notification letters and the posting of a site notice outside the site.

The proposal has generated 31 letters of support which cite the following positive comments:

- Peace of mind and security provided by the secure paddock area which allows dogs to exercise off-lead;
- The convenient location of the facility which is the only one in the area and located closer than other facilities;
- That the facility is a valuable resource for dog owners as other public open spaces are not suitable for exercising dogs off-lead;
- The facility is much needed.

In addition 2 letters of objections from local residents have been received which cite the following concerns:

- Regards traffic generation/ vehicle movements, parking and highway safety;
- Fly-tipping and litter;
- External lighting;
- Illegal use of the restricted byway;
- Unsuitable rural location and lack of local need.

8. Planning Considerations

- Principle of development
- Impact on the character of the area and setting of nearby listed buildings
- Impact on amenity
- Highways/ Rights of Way

9. Assessment

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; protecting the natural, built and historic environment as well as protecting neighbouring amenity.

The proposed sui-generis use for dog exercise grounds is clearly a non-urban use, requiring an area of green space to enable its use. The aim of the proposed use is to allow safe exercise of dogs that would otherwise not be able to use public open spaces for reasons relating to behaviour particularly with competing users of those spaces.

The use does not lend itself to an urban or suburban site due to the need for a fairly large area of open space, and potential detrimental effects upon nearby residents due to noise and disturbance associated with exercising dogs. 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 development at the site is considered acceptable in principle, provided the development is appropriate in terms of the character of the area, and provided other interests including the impact on the character of the area and setting of nearby listed buildings, amenity and highways/rights of way are addressed.

Impact on the character of the area and setting of nearby listed buildings

Saved policy C6 Within the Special Landscape Area, proposals for development in the countryside will be considered having particular regard to the high quality of the landscape. Where proposals which would not have an adverse effect on the quality on the landscape are acceptable, they will be subject to the following criteria;

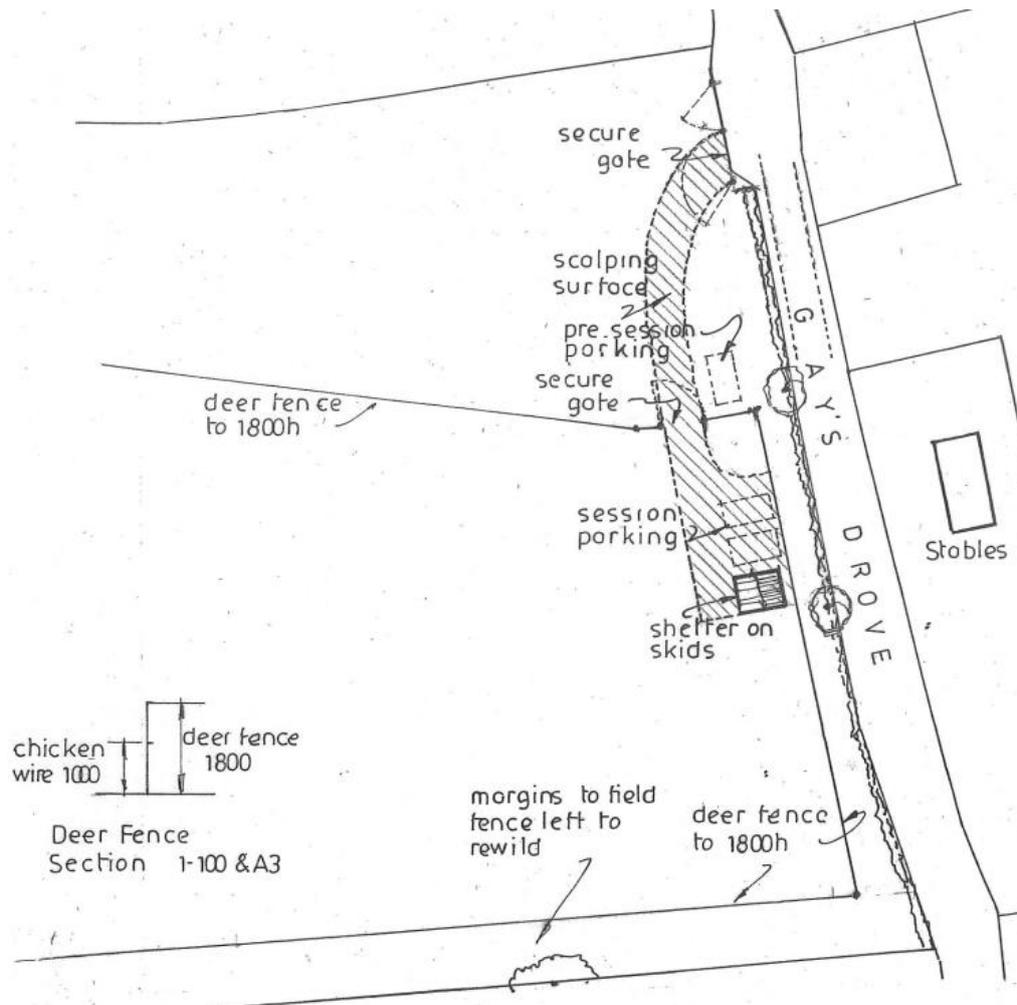
- (i) siting and scale of development to be sympathetic with the landscape; and
- (ii) high standards of landscaping and design, using materials which are appropriate to the locality and reflect the character of the area.

Core Policy CP57 states a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is

expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

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.

The dog exercise field has been designed to retain the green and open character of the area whilst providing a secure area for dogs to run off lead. The dog exercise field has been enclosed by 6' high deer fencing and metal mesh gates which are secured to posts and set back from the main access gates.



The style of fencing is typical 'deer style' fencing and does not require planning permission as it is boundary perimeter fencing below the height limits that would need permission and not adjacent to the highway.

The scheme incorporates a field shelter however the shelter is understood to be mobile therefore this element also does not require planning permission along with the fencing and driveway surfacing which are permitted development, These elements therefore do not form part of the application which relates to the change of use only.

The site is well screened with existing trees and the mobile shelter, deer fencing, gates and driveway and parking surfaces are fairly limited and are not considered to result in any

significant urbanisation of the site or have a significant and detrimental impact on the landscape character of the area.

As such, in this instance, it is considered that the use is compatible with the surrounding countryside and not in conflict with the requirements of Core Policy 51 and saved policy C6 which seek to protect, conserve and where possible enhance the landscape character.

There are listed buildings close to the site, namely the Grade II listed Church of Holy Trinity directly north of the site at a distance of approx. 50m and the Grade II listed Canal bridge directly north and adjacent to the access.



The Council's Conservation officer has been consulted and officers note they have requested a heritage assessment from the applicant which the applicant disputes is necessary as the existing works were undertaken under permitted development rights and the application relates to the change of use of the land only. Obviously even a change of use of land can have a significant effect on heritage assets including listed buildings by changing the nature and character of an area adjacent to those heritage assets and their setting through intensification of use. However following their initial comments the conservation officer has visited the site and does not consider the application to change the use of the site would significantly harm the adjacent heritage assets such that it would warrant refusal of a this planning application.

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 operation hours are proposed to be daily between the hours of 07:00am to 20:00pm (13 hour period) during summer months, and daily between the hours of 08:00am to 16:00pm during winter months (8 hour period).

The dog exercise field would be available for use during daylight hours only. As such no external lighting would be required and this could be restricted by condition to ensure the area retains a peaceful rural character and the proposal does not impact on amenity or biodiversity.

It is unclear to officers whether there is a pre-existing issue regards litter/fly-tipping however this matter would not be material to this application. Similarly livestock safety is not material to the application.

Due to the separation distances to residential dwellings in the village, the nearest dwelling being located 100m away to the north, it is considered the proposal would not unduly impact on neighbour amenity. That being said, officers would consider a condition requiring approval of a noise management plan would be reasonable in the interests of amenities of the area.

WC Public protection have been consulted and do not raise an objection subject to conditions defining the hours of operation along with a maximum number of dogs permitted to enter the site at any one time. In officers view a condition restricting the number of dogs permitted to enter the site would be difficult to enforce therefore would fail the relevant tests.

Highways/ Rights of Way

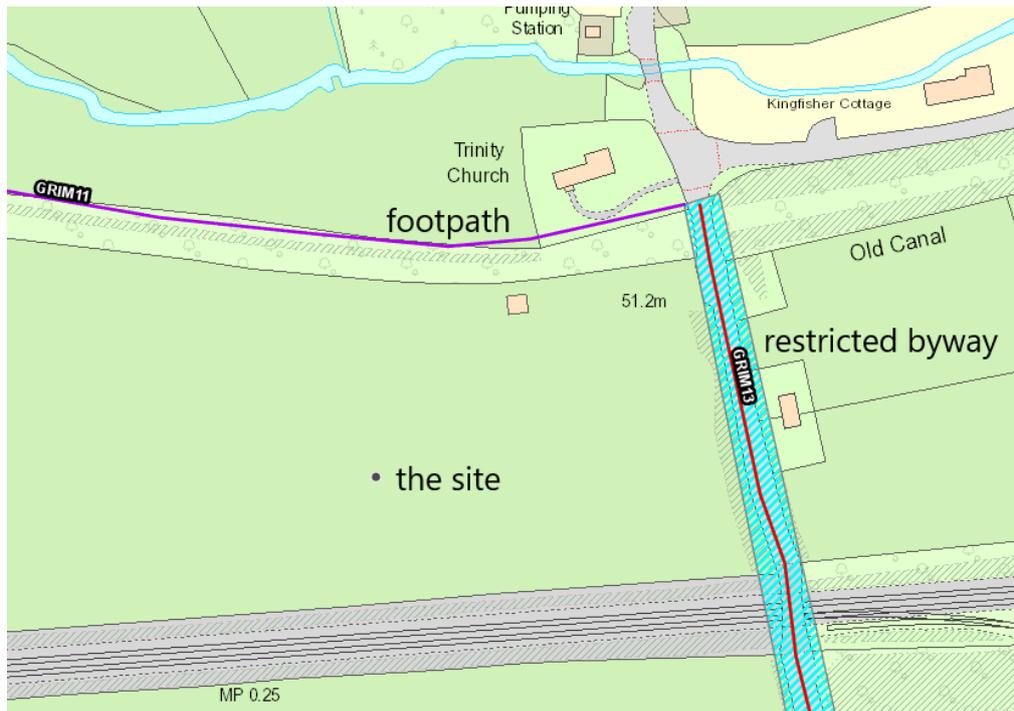
Core policy CP57 ix. states that proposals should ensure that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe and accessible.

The information submitted states that the users of the site make an appointment on an hourly basis and the number of dogs allowed entry into the field is restricted to six dogs per hour. One booking only is allowed per hour, and sessions are offered for 30 minute and 50 minute durations.

In both cases, there will only be one booking per hour. This allows a minimum of a 10 minute buffer to allow users of the dog exercise field time to exit the site before the next users arrive. This is to ensure the dog exercise field remains secure whilst in use and would also minimise traffic congestion in and out of the site.

Concerns were raised by WC Highways and WC Rights of Way regarding access and parking. At the request of WC Highways the applicant has submitted a site plan which demonstrates adequate access and the provision of 3no parking spaces within the site. Following consideration of the site plan, WC Highways do not raise an objection.

The concerns raised regards the illegal use of the restricted byway are noted. WC Rights of Way have advised that to drive along the restricted byway users would need to demonstrate private rights of access. It appears there may be an existing issue regards illegal use of the restricted byway however this would not be material to the application and any reports of illegal use would be a matter for the police.



Vehicles visiting the site will only have to drive over a short distance of the restricted byway (approx. 34metres). The current surfacing of this section of the restricted byway is in good repair.

There is good forward visibility and enough width available for vehicles and other users to pass each other by using the “pull in” in front of the existing gateway to the site. The additional parking space between the restricted byway and the main parking area should prevent the need for vehicles to wait on the restricted byway if arriving early or leaving late from their booked session.

Overall officers along with WC Rights of Way do not therefore consider that the proposal will have a detrimental effect on the users of the restricted byway or the adjacent footpath.

Officers note the letters of support have been submitted by residents of Alderbury/Whaddon, Amesbury, Farley, Fordingbridge, Grimstead, Lopcombe corner, Old Sarum, Salisbury, West Dean, West Tytherley, Whiteparish, Wilton, Winterslow.

Whilst the proposed use of the site would inevitably generate limited car traffic likely starting outside of East Grimstead, the majority of the users of the dog exercise field would be travelling from the surrounding areas and the level of vehicle movements associated with the proposed dog exercise use would be relatively low.

10. Conclusion (The Planning Balance)

The objections made by the parish council and local residents are noted and the matters raised have been taken into full consideration. Conversely, the proposal has also generated numerous letters of support from residents of the surrounding areas which suggests there is a need for this facility which would allow dogs to run safely off-lead.

The edge of village location would inevitably result in car travel to and from the site however traffic movements resulting from the proposal are likely to be quite low. In the absence of an objection from WC Highways or WC Rights of Way, the Local Planning Authority considers a refusal on highway/rights of way grounds would be difficult to justify.

The proposed dog exercise area would provide a safe/secure environment for dogs to exercise freely. The fencing, gate and gravel surfacing is not considered to impact on the setting of the nearby listed buildings or on 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 condition is suggested that when the field is no longer required for the dog exercise use, all structures and surfaces are to be removed and the land restored to its previous condition.

Officers have considered conditions to restrict dog numbers allowed within the site and to restrict number of cars, however in practice these conditions would be difficult to enforce and would therefore fail the relevant tests.

Conditions are suggested to restrict external lighting, and to specify the operational hours of the dog exercise field during daylight hours only. It is also considered reasonable in the interests of amenity to condition approval of a noise management plan.

Subject to the above conditions, the proposed development is considered to accord with the objectives of saved policy C6 and core policies 48, 49, 50, 57, 58, 60, 61 and 64 of the Wiltshire Core Strategy and the aims of the NPPF. Therefore, the Local Planning Authority considers that planning permission should be granted.

RECOMMENDATION:

Approve subject to the following conditions:

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

Site Plan and Block Plan (revised) Date rec. 11 October 2021

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

2 Within 3 calendar months of the date of this decision notice, a noise management plan shall be submitted for approval to the Local Planning Authority. The approved noise management plan shall be maintained in accordance with the approved details at all times thereafter.

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

3 There shall be no operational use of the dog exercise field outside the hours of 07:00am to 20:00pm between April and August, and outside the hours of 08:00am to 16:00pm between September and March.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

4 There shall be no external lighting installed on site.

REASON: In the interests of the amenities of the area and to avoid harm to biodiversity.

5 Upon cessation of the dog exercise use, all structures and surfaces shall be removed in their entirety and the field shall be returned to its previous condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

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

6 Within 3 calendar months of the date of this decision notice, the parking spaces shown on the approved plans shall be provided and remain available for this use at all times thereafter.

REASON: In the interests of highway safety.