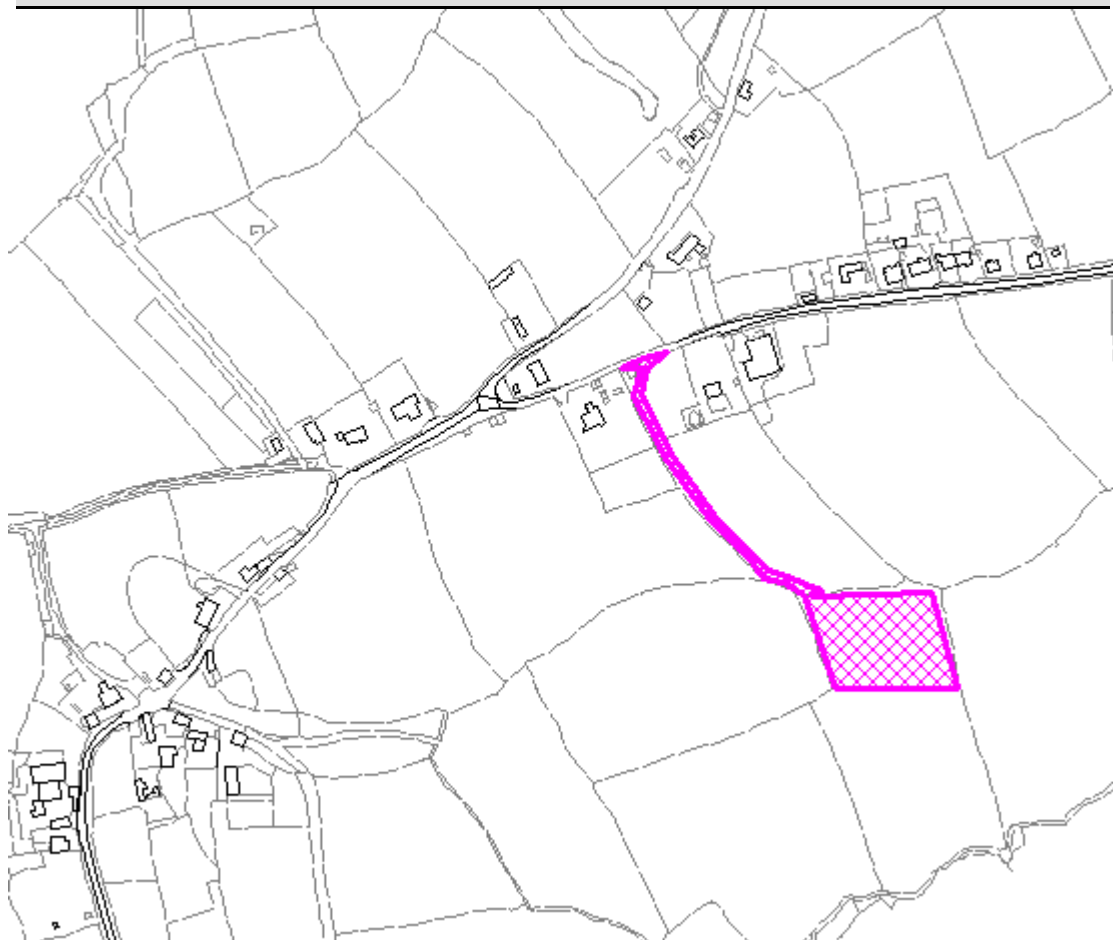


## Committee Report – 1st December 2022

|                            |   |
|----------------------------|---|
| <b>Application Number:</b> | 1/1095/2021/FUL   |
| <b>Registration date:</b>  | 20 September 2021   |
| <b>Expiry date:</b>        | 15 November 2021  |
| <b>Applicant:</b>          | Mr Joseph Porter  |
| <b>Agent:</b>              | Joanna Berlyn   |
| <b>Case Officer:</b>       | Laura Davies  |
| <b>Site Address:</b>       | Land At Holland Park Farm,<br>Winterland Lane,<br>Holsworthy,<br>Devon,<br>EX22 6NF,  |
| <b>Proposal:</b>           | Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access |
| <b>Recommendation:</b>     | Grant   |



## Reason for referral:

The application has been called in for consideration by the Plans Committee by Cllr Hepple if recommended for approval for the following reasons:

- Insufficient space for the parking and turning of visitors' vehicles;
- Increased traffic movement on the narrowest part of Winterland Lane & also onto the dangerous junction with Whimble Hill;
- Visibility splay not considered to meet minimum requirement;
- Lack of consideration to neighbours in terms of noise (dogs barking);
- No obvious way to police number of dogs/customers on site;
- Potential environmental hazard in the field caused by canine excrement & potential pollution to watercourse.

## Relevant History:

| Application No. | Description  | Status | Closed     |
|-----------------|--|--------|------------|
| 1/1099/2020/FUL | Change of use of land from agricultural to equestrian and creation of all weather equine exercise area for private use | PER    | 23.04.2021 |

## Site Description & Proposal

### Site Description

The application site is located to the southern side of Winterland Lane within an existing agricultural field. The existing site includes mature hedgebanks and trees to the northern, western and eastern boundaries with the southern boundary not physically demarcated on site. The application site is located to the south of Holsworthy within the open countryside. There is an existing field access to the public highway to the north of the application site.

### Proposed Development

This application seeks the change of use of the land to provide a secure dog exercise area, including the formation of a new stone access track and hardstanding area for parking along with alterations to the highway access to Winterland Lane to the north.

## Consultee representations:

### Holsworthy Hamlets Parish Council:

Initial comments dated 26<sup>th</sup> October 2021:

Thank you for the consultation request for planning application reference: 1/1095/2021/FUL for the Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access on Land at Holland Park Farm, Winterland Lane, Holsworthy, Devon EX22 6NF.

This application was discussed by the members of Holsworthy Hamlets Parish Council at their recent meeting. The discussion included analysis of the location plan, the site plan & the proposed elevations. Councillors also considered a letter submitted by the applicant in response to environmental concerns.

Following the discussion, it was agreed that the members of Holsworthy Hamlets Parish Council object to this application on the following grounds: insufficient provision of space for the parking & turning of visitors' vehicles, increased traffic movement on the narrowest part of Winterland Lane & also onto the dangerous junction with Whimble Hill, the visibility splay was not considered to meet the required minimum distance, lack of consideration to neighbours in terms of noise (dogs barking), no obvious way to police the number of dogs/customers on site at a given time & the potential environmental hazard in the field caused by canine excrement (& potentially even to the water course).

Further comments received 24<sup>th</sup> November 2021:

Thank you for the re-consultation request for planning application reference: 1/1095/2021/FUL for the Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access on Land at Holland Park Farm, Winterland Lane, Holsworthy, Devon EX22 6NF.

This application was discussed by the members of Holsworthy Hamlets Parish Council at their recent meeting & the discussion included analysis of the amendments made to the original application.

Whilst the Councillors acknowledge that the applicant has made modifications to the original proposal in a clear effort to address their concerns about the visibility splay & the vehicle turning area to be provided, following the discussion, it was agreed that the members of Holsworthy Hamlets Parish Council still object to this application since the majority of their original concerns still stand. Specifically they object to this application on the following grounds: insufficient provision of space for the parking, increased traffic movement on the narrowest part of Winterland Lane & also onto the dangerous junction with Whimble Hill, lack of consideration to neighbours in terms of noise (dogs barking), still no obvious way to police the number of dogs/customers on site at a given time & the potential environmental hazard in the field caused by canine excrement (& potentially even to the water course).

Councillors also noted that since their original response to this consultation, DCC Highways has assessed the proposal & is also objecting to this application on very similar grounds.

Further comments dated 31<sup>st</sup> January 2022:

Thank you for the re consultation request for the planning application reference: 1/1095/2021/FUL for the Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access (Additional Highways report) on Land at Holland Park Farm, Winterland Lane, Holsworthy, Devon EX22 6NF.

This application was discussed by the members of Holsworthy Hamlets Parish Council at their recent meeting. The discussion included analysis of the additional documentation which has been submitted since the last consultation.

It was noted that the applicant had commissioned an independent traffic report in response to the DCC Highways' objection to the application, however it was further noted that DCC Highways has not altered its view on the situation.

The applicant had made several comments in order to address the concerns that Holsworthy Hamlets Parish Council had presented in its response to the earlier consultation & these were discussed in detail, such as the point about restricting hours in winter, but then increasing them in summer (plus booking slots might change anyway).

Following the discussion it was agreed that Holsworthy Hamlets Parish Council has not changed its view & still objects to this application standing by its comments made previously.

Further comments dated 29<sup>th</sup> April 2022:

Thank you for the consultation request for the planning application reference: 1/1095/2021/FUL for a Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access (Additional Highways report) on land at Holland Park Farm, Winterland Lane, Holsworthy, Devon EX22 6NF.

This application was discussed by the members of Holsworthy Hamlets Parish Council at their recent meeting. The discussion included analysis of the location plan, the site plan & the proposed elevations.

This is the fourth iteration of this application which the parish council has been asked to consider, so Councillors considered the new documentation which has been submitted since the previous consultation, including particularly noting the Additional Highways report from DCC Highways & which stated that 'No new information has been supplied by the applicant's agent, they have simply asserted

their previous view on the matter. With no new information to consider, in particular regarding the speed of traffic, I maintain the reason for refusal previously given.'

Having considered the amended application, Councillors stand by their original view to object to this application, specifically they object to this application on the following grounds: insufficient provision of space for the parking, increased traffic movement on the narrowest part of Winterland Lane & also onto the dangerous junction with Whimble Hill, lack of consideration to neighbours in terms of noise (dogs barking), still no obvious way to police the number of dogs/customers on site at a given time & the potential environmental hazard in the field caused by canine excrement (& potentially even to the water course).

Following the discussion it was agreed that Holsworthy Hamlets Parish Council has not changed its view on the amended application & still objects to this application standing by its comments made previously.

Final comments dated 28<sup>th</sup> September 2022:

Thank you for the consultation request for the planning application reference: 1/1095/2021/FUL for the Change of use of land for secure dog exercise area, formation of stone access track and hard standing and alterations to existing roadside access (Additional Highways report) on Land at Holland Park Farm, Winterland Lane, Holsworthy, Devon EX22 6NF.

This application was discussed by the members of Holsworthy Hamlets Parish Council at their recent meeting. The discussion included analysis of the location plan, the site plan & the proposed elevations. Since this is a re-consultation request, Councillors considered the amendments to the original proposal.

Councillors were unable to see how the proposed one-way system of traffic flow to & from the site of the proposed dog exercise area could actually be enforced. They are of the opinion that drivers would choose their own routes. Even if the proposed one-way system could be enforced, this does not alter the fact that there would still be increased traffic movements on the narrowest part of Winterland Lane, which, given Councillors' extensive local knowledge of these particular roads, is undoubtedly a considerable cause for concern.

Following the consideration of the re-consultation request, it was agreed that the members of Holsworthy Hamlets Parish Council object to this application on the following grounds: no obvious way to enforce the proposed one-way system for visitors driving to & from the site, insufficient provision of space for the parking & turning of visitors' vehicles, increased traffic movement on the narrowest part of Winterland Lane & also onto the dangerous junction with Whimble Hill, lack of consideration to neighbours in terms of noise (dogs barking), no obvious way to police the number of dogs/customers on site at any given time & the potential environmental hazard in the field caused by canine excrement.

**Devon County Council (Highways):**

Initial Comments dated 26th October 2021:

Observations:

The proposal is likely to result in significant traffic movements as people arrive with their dogs in vehicles, however, the application is not supported by a transport statement or assessment contrary to NPPF paragraph 113.

The majority of trips to and from the site are likely to travel towards the A388 using the substandard junction accessing the A388.

An increase in traffic through this junction, which has limited visibility from and of emerging vehicles, is not considered acceptable. I therefore recommend refusal of this application as it will have an unacceptable impact on highway safety contrary to NPPF paragraphs 110 and 111.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposal would have an unacceptable impact on highway safety due to the increase in traffic using a severely substandard access onto the A388 contrary to NPP paragraphs 110 and 11 and Local Plan policy DM05.

Further comments dated 15th November 2021:

My objection still stands.

The applicant can not force anyone arriving and leaving the site to do so via any particular route as the road is public highway and people can drive which ever way they choose, which will most likely be via the A388.

Further comments dated 17th January 2022:

Observations:

A 'Highways Technical Note' has now been provided to attempt to show that the proposal is acceptable in highway terms. The Technical Note does not include committed development that would also be using Winterland Lane, in particular additional traffic from permissions approved on this site in the past. This application alone is suggested to add 48 additional movements through the substandard junction with the A388, which must be considered cumulatively with other development approved on this lane.

The junction is substandard in terms of visibility as evidenced by the use of STOP signs and marking at this junction instead of a 'give way' marking. The Technical Note provides a plan showing that there is a visibility splay of exactly 43m to the south, to oncoming traffic on the A388. This does not however take into account the vertical alignment of the road nor the street light column and signage in the verge which blocks visibility.

A 43m splay from 2.4m behind the junction is considered acceptable for a road with 85th percentile speed of traffic of 30mph. However, in this location I estimate speeds to be above this, as the change from national speed limit to 30mph limit is just before the crest of the hill approaching this junction from the south. Most vehicles observed do not slow down to 30mph before the posted limit and are travelling above 30mph when passing the junction with Winterland Lane.

The proposal is therefore adding additional vehicles through a junction with substandard visibility for the speed of travelling vehicles and the application should be refused as previously recommended.

Final comments dated 19<sup>th</sup> October 2022:

Observations:

Further to previous responses and discussions with the applicant amended plans for the site entrance have been provided. These plans show physical measures being put in place to try to get drivers leaving the site to turn left when exiting, so that they do not turn right and use the junction with the A388 which is considered to have a substandard visibility splay.

While some drivers may turn around and come back, these measures should help to reduce the number of vehicles accessing the A388, and therefore reduce the risk of collision at this junction which would otherwise occur as a result of this proposal.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Prior to the use hereby approved on the site starting the access shall be constructed and maintained in good working order in perpetuity as shown on plan BTP-2138-01 including but not limited to traffic flow plates, left turn only signage, and barriers directing traffic to the left on exiting the site.

REASON: To mitigate unacceptable impacts on highway safety at the junction with the A388.

2. There shall be no vehicle access to the dog exercise area or associated parking spaces other than that shown on plan BTP-2138-01.

REASON: To ensure that access is managed in the way intended.

## **Environmental Protection Officer:**

### Initial comments dated 15th October 2021:

In relation to the above application, the Environmental Protection Team has no objections in principle.

Although there is reasonable separation distance between the proposed dog exercise area and neighbouring third party dwellings, there is the potential for disturbance to residential amenity from dog barking which can be audible over considerable distance, especially in areas of low background noise such as the locality of the proposed development. Furthermore, in the outdoor dog exercise environment proposed, it is envisaged that there is less control of dogs and any interaction between dogs may result in barking. The greater the number of dogs, the greater the likelihood of barking at levels that could cause disturbance or annoyance to neighbouring residential amenity. In order to prevent or minimise disturbance to neighbouring dwellings and protect residential amenity from dog barking, control measures are applicable.

Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition to restrict the opening times to 0900 to 1900 hours only as well as a condition restricting the dog exercise area to no more than 4 dogs at any time. These conditions are considered appropriate for ensuring disturbance from dog barking noise is minimised.

### Further comments dated 3rd November 2021:

Further to the applicant's letter dated 1 November, the Environmental Protection Team does not consider an increase in the permitted number of dogs from 4 as recommended in the initial consultation response to up to 10 as requested by the applicant to be appropriate for reasons of amenity impact previously stated. Furthermore, the Environmental Protection Team does not consider the proposed monthly operating times to be appropriate, again on amenity grounds.

However, the Environmental Protection Team does consider that a change to the operating times to 0800 to 1900 hours can be imposed without any significant disturbance to amenity.

### Final Comments dated 8th September 2022:

The Environmental Protection Team refers to its previous comments in the consultation responses dated 15 October 2021 and 3 November 2021 and reiterates the recommendations to restrict the number of dogs and operating times in order to protect residential amenity.

## **Representations:**

|                                     |    |                                    |   |
|-------------------------------------|----|------------------------------------|---|
| Number of neighbours consulted:     | 14 | Number of letters of support:      | 2 |
| Number of representations received: | 4  | Number of neutral representations: | 0 |
| Number of objection letters:        | 2  |                                    |   |

Objections received can be summarised as follows:

- Increased number of vehicle movements with adverse impact on neighbouring occupiers;
- Noise and light impacts from vehicle movements;
- Existing highway network constraints resulting in highway safety concerns;
- Adverse impact on wildlife;
- Noise disturbance from dogs barking;
- Changes to vehicle direction when exiting site results in use of narrow lane;
- Commercial appearance to access.

Comments made in support of the application can be summarised as follows:

- Need for secure area for dog walking in the Holsworthy area.

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity);

### Government Guidance:

NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); NERC (Natural Environment & Rural Communities); WACA (Wildlife & Countryside Act 1981);

## Planning Considerations

### Material Planning Considerations:

1. Principle of Development
2. Impact on Character and Appearance
3. Impact on Residential Amenities
4. Access and Parking
5. Ecology.

#### 1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

The application site is located within the open countryside to the south of Holsworthy as identified on the Proposals Maps to the North Devon and Torridge Local Plan (NDTLP). On this basis, the provisions of Section (4) of Policy ST07 are relevant in the consideration of the application which states in the countryside, beyond Local Centres, Villages and Rural Settlement, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.

The proposed development seeks the provision of a secure dog walking facility which is sought to meet a social need in the local area and would therefore meet the requirements of Policy ST07.

#### 2. Impact on Character and Appearance

Policy DM04 of the NDTLP notes that good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new development. Policy DM04 sets out a number of key design principles for consideration in relation to new development.

DM08A of the NDTLP confirms that great weight will be given to conserving the landscape and scenic beauty of designated and undesignated landscapes and their settings. The visual impact of the proposal on the wider landscape is a consideration.

The proposed use of the site for dog-walking is considered to have a limited visual impact. The proposed development would involve the addition of new stock fencing (to a height of 1.8 metres) within the existing field to create a dog paddock. The existing hedgebanks would be retained and space provided between the existing hedgebank and proposed fencing to allow maintenance of the hedgebank. The proposed access track would be formed of stone chippings and located adjacent to the existing hedgebank extending south from the public highway.

The proposed development is considered to have a limited visual impact on the surrounding landscape character and appearance. The proposed development is therefore considered to be in keeping with the provisions of Policies DM04 and DM08A of the NDTLP.

### **3. Impact on Residential Amenities**

Policy DM01 of the NDTLP relates to amenity and states that development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses and would ensure future occupants of the proposed development would not be harmed.

Policy DM02 relates to environmental protection and notes that development proposals will be supported where they do not result in unacceptable impacts to atmospheric pollution, pollution of surface or ground water, noise or vibration and light pollution.

The proposed dog walking area would be located at a distance to neighbouring residential properties to the north.

The Council's Environmental Protection Officer has been consulted on the submitted plans and raises no objections to the proposals subject to the inclusion of a condition restricting the hours of operation of the business and a further condition to limit the number of dogs to four using the exercise area at any one time.

Concerns have been raised within representations in relation to noise and disturbance from dogs barking on site and the number of vehicles using the site as well as the potential issues of dog excrement within the exercise area. The conditions requested by the Council's Environmental Protection Officer would largely address these concerns.

The proposed development is considered to be in keeping with the provisions of Policies DM01 and DM02 and would not result in a harmful impact on residential amenity.

### **4. Access and Parking**

Policy DM05 of the NDTLP states that all development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users. Policy DM06 relates more specifically to parking provision noting that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

As noted above, the proposed development would include a new access track extending south to the application site from the public highway and the provision of a parking and turning space on site sufficient for two vehicles.

Comments have been received from the County Council's Highways Officer in relation to the development which have included extensive discussions and amendments to the proposed access arrangements onto Winterland Lane. The final comments received from the Highways Officer confirms that they have no objections subject to the inclusion of conditions to ensure that vehicles exiting the site turn left only and to limit access to the site to only those using the proposed secure dog exercise area. On this basis, the previous concerns raised in relation to the potential for an adverse impact on highway safety from a large number of additional cars using the junction from Winterland Lane to Whimble Hill would be overcome and the proposed development is considered to be in keeping with the provisions of Policy DM05 of the Local Plan. In terms of Policy DM06, it is considered reasonable to include a condition as part of any planning permission granted to ensure that the parking provision is available on site in advance of the use commencing.

### **5. Ecology**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced within



the NDTLP through Policy DM08 which requires new development to 'avoid adverse impacts on existing ecology features as a first principle and enable net gains by designing in biodiversity features'.

A Hedgerow Assessment report has been submitted in support of the application which considers the potential impact of the works on bats, dormice, badgers and reptiles. This concludes that the proposed translocation of a 15-metre section of hedgerow to provide the increased visibility splay would require mitigation to ensure that a harmful impact on protected species would not result. This includes management of the existing hedgebank including in advance of the works being carried out, a method statement for the translocation of the hedgebank and careful timing of the proposed works.

On this basis, the proposed development is not considered to result in a harmful impact on protected species or their habitats, subject to the inclusion of a condition to ensure that works are carried out in accordance with the mitigation strategy set out in the Hedgerow Assessment.

### **Conclusion**

The proposed change of use and associated works are not considered to result in a harmful impact on the character and appearance of the surrounding area or the amenities of neighbouring occupiers. Subject to conditions, suitable access arrangements can be provided and a harmful impact on protected species would not result.

### **Human rights**

Consideration has been given to the Human Rights Act 1998.

### **Recommendation**

GRANT subject to the following conditions:

1. The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

3. No more than 4 dogs shall be present on the site at any given time slot.

Reason: In the interests of residential amenity.

4. Prior to the use hereby approved on the site starting, the access shall be constructed and maintained in good working order in perpetuity as shown on plan BTP-2138-01 including but not limited to traffic flow plates, left turn only signage, and barriers directing traffic to the left on exiting the site.

Reason: To mitigate unacceptable impacts on highway safety at the junction with the A388.

5. Before the development hereby permitted is brought into use, the vehicular access, parking and manoeuvring facilities indicated on the approved plans shall be provided surfaced and drained and shall, thereafter, be permanently set aside and reserved for such purposes.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

6. The development hereby permitted shall be undertaken in accordance with the Mitigation Strategy as set out in the Hedgerow Assessment prepared by Penpont Ecology Services Ltd dated October 2022.

Reason: To ensure that the proposed development does not result in a harmful impact on protected species or biodiversity.

7. There shall be no vehicle access to the dog exercise area or associated parking spaces other than that shown on plan BTP-2138-01.

Reason: To ensure that access is managed in the way intended.

8. The operating hours of the dog walking facility shall not take place other than between 0800hrs and 1900hrs.

Reason: To protect the amenities of neighbouring properties.

### Plans Schedule

| Reference          | Received   |
|--------------------|------------|
| Location Plan      | 20.09.2021 |
| Block Plan         | 20.09.2021 |
| Proposed Site Plan | 20.09.2021 |
| BTP-2138 A         | 08.09.2022 |

### Statement of Engagement

The National Planning Policy Framework (paragraphs 38) requires local planning authorities to work positively and proactively with applicants to achieve sustainable development. Throughout the application process guidance has been given to the applicants and all outstanding issues have been identified.

In this instance the Council required additional information following the consultation process. The need for additional information was addressed with the applicant and submitted for further consideration.

The Council has therefore demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.