DELEGATED FILE NOTE

CASE OFFICER: ...Sam Dicocco.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
18/01211/S73	Section 73 Application : Variation to condition 12 (opening hours) of Planning permission ref. 15/02119/1 for the continued use of land as dog park with associated landscaping features and access road. Retention of former reception Portacabin and pole shelter. Erection of single storey detached building for training and day-care of dogs, erection of reception building, siting of temporary portable building to provide reception facilities. Formation of kennel runs attached to existing kennel block. Detached single storey store building and detached shelter. Enlargement of existing car park to provide 16 spaces and ancillary works (as amended by plan CSa/2650/100D received 6.11.15) granted 17/11/2015	Country Boarding Kennels Slip End Baldock SG7 6SF

Submitted Plan Nos

1:1250 Site Location Plan Training Hall South East and North East Elevations Training Hall Floor Plan Training Hall North West and South West Elevations Ground Maintenance and Equipment Store Floor Plan and Elevations Free Standing Shelter Floor Plan and Elevations Portacabin Elevations 1505.01

Rev E 1505.02 Rev A 1505.04 Proposed Site Plan CSa/2650/100 Rev D Kennel Runs Proposed Elevations 1505.03 Rev A

1.0 Policies

LP6	Rural Areas Beyond the Green Belt
LP16	Areas of Archaeological Significance
LP14	Nature Conservation
SECN6	Building strong, competitive economy
SECN16	Conserve + enhance historic environment
SECN15	Conserve + enhance natural environment

2.0 Site History

2.1 89/00609/1 - Detached double garage/workshop – Conditional Permission 29/06/1989

2.2 97/01281/1 - Single storey side extension – Conditional Permission 17/12/1997

2.3 99/01444/1 - Change of use of part of kennel building to hydrotherapy pool for dogs – Conditional Permission 16/12/1999

2.4 00/00563/1 - Retention of one storage container and office building – Conditional Permission 19/07/2000

2.5 14/00117/1 - Change of Use of agricultural land for the purposes of dog walking in association with Country Boarding Kennels and Cattery – Conditional Permission 24/03/2014

"The use hereby permitted shall be cease on the site and the land restored to its former condition on or before 1st October 2015"

"The use hereby approved shall only operate between the hours of 8am and 6pm (1800hrs) Monday to Saturday and 9am to 6pm (1800hrs) on a Sunday or Bank Holiday"

2.6 15/02119/1 - Continued use of land as dog park with associated landscaping features and access road. Retention of former reception Portacabin and pole shelter. Erection of single storey detached building for training and day-care of dogs, erection of reception building, siting of temporary portable building to provide reception facilities. Formation of kennel runs attached to existing kennel block. Detached single storey store building and detached shelter. Enlargement of existing car park to provide 16 spaces and ancillary works (as amended by plan CSa/2650/100D received 6.11.15) – Conditional Permission 17/11/2015

"The use of the dog park shall be restricted to between the hours of 8am - 6pm Monday to Saturday and 8am - 2pm Sunday. There shall be no opening on Bank Holidays.

The new reception and training building shall not operate outside of the hours of 8am - 7pm Monday to Saturday and 8am to 2pm Sundays. There shall be no opening on Bank Holidays."

2.7 17/02056/1 - To erect 2m and 3.5m high acoustic fencing (as amplified by drawing and details received 17 October 2017) – Conditional Permission 19/10/2017

3.0 **Representations**

3.1 Two members of the public have submitted objections to the proposal, and two members of the public have submitted support.

3.2 Objections –

- The car park location abuts the back of the kennels and cars accessing the dog park make the dogs in the kennels bark, as such, the opening hours correlate with increased noise - **Officer Comment** – **Covered in below recommendation.**
- Noise occurs when dogs go out to the field in large groups – **Officer Comment** – **Covered in below recommendation.**
- We requested other areas (not defined) be recorded, which has not yet occurred – **Officer Comment** – **The planning department do not control Environmental Health teams methods of investigating noise complaints.**
- The condition alteration will affect the hours of the whole business, not just the hours for the dog park **Officer Comment** – **Covered in below recommendation.**
- The dog park is currently being used outside of the operating hours for exercising kennelling dogs - **Officer Comment** – **Noted, any complaint in regards to breach of an existing condition should be directed to the planning enforcement team for investigation.**
- Who is going to monitor if the extended hours are justified? **Officer Comment** – **Covered in below recommendation.**
- Query definition of reasonable living conditions and whether there have been noise complaints over the past 5 years – **Officer Comment** – **The number of noise**

complaints has not been used in the following recommendation to justify the operational hours requested or the response from the Environmental Health officer.

- A gate on the west corner of the site is used for kennelled dogs to access the dog park – **Officer Comment** – **The application is not for the use of new or existing gate for access to the dog park, any complaint in this regard should be sent to the planning enforcement team for investigation.**
- The training hall is being used to kennel dogs
- Mr and Mrs Burrowes do not live here – **Officer Comment** - **Not a material planning consideration**
- The original application (15/02119/1) was granted due to a reduction in the opening hours and no bank holiday opening – **Officer Comment** - **There is no indication in the delegated report that this was the case, the permission was granted as it complied with applicable planning policies**.
- No risk assessment was made regarding the erection of the supposedly sound proof fence – **Officer Comment** - **Not a material planning consideration impacting this proposal.**
- Sound recording equipment should be used by Mr Cosgroves (Environmental Health Officer) – **Officer Comment – This has now occurred**
- Comments raise din regards to a separate noise nuisance complaint and processes undertaken by the Environmental Health team in this regard – **Officer Comment** – **Not a material planning consideration**
- European Working Time Directive and questions as to first aid training – **Officer Comment** – **Not a material planning consideration.**
- Dog faeces and urine contaminating the water aquifer and potentially contaminating bore hole for drinking water – **Officer Comment** – **Not evidenced further than a statement.**
- Ownership of hedgerows – **Officer Comment** – **Not relevant to this application.**
- Right of access, damage and contributions to refurbishment of accessway – **Office Comment** – **Not a material planning consideration**
- Something about video camera recording, possibly the objector expected the case officer to have some prior knowledge of this – **Officer Comment** – **Not relevant to this application**

3.3 Supports –

- No objections as a user of the premises for over 20 years, the owners have done and excellent job improving their care of the dogs entrusted to them
- Country Boarding Kennels is a great business and they have done a lot of work to improve their grounds to suit the needs of the business.

4.0 Planning Considerations

4.1 Site and Surroundings

4.1.1 The site lies within a countryside area and a rural area beyond the green belt. The application site comprises a dog park, kennels, reception area, kennel runs, training building and associated car parking. The application relates to the reception area, training building and dog park only.

4.2 Proposal

4.2.1 The application seeks permission to vary condition 12 of planning permission referenced 15/02119/1 which restricted the operating hours of the dog park, reception building and training building. The condition is worded as below –

"The use of the dog park shall be restricted to between the hours of 8am - 6pm Monday to Saturday and 8am - 2pm Sunday. There shall be no opening on Bank Holidays.

The new reception and training building shall not operate outside of the hours of 8am - 7pm Monday to Saturday and 8am to 2pm Sundays. There shall be no opening on Bank Holidays.

Reason: To safeguard the reasonable living conditions of adjacent residential properties."

4.2.2 The application seeks variation of the wording of the above condition as follows –

"The use of the dog park shall be restricted to between the hours of 8am - ~~6pm~~ ***8pm*** *Monday to Saturday and 8am - ~~2pm~~* ***6pm*** *Sunday* ***and Bank Holidays (excluding Christmas Day)****. ~~There shall be no opening on Bank Holidays.~~*

The new reception ~~and training~~ building shall not operate outside of the hours of 8am - ~~7pm~~ ***8pm*** *Monday to Saturday and 8am to ~~2pm~~* ***6pm*** *Sundays* ***and Bank Holidays (excluding Christmas Day)****. ~~There shall be no opening on Bank Holidays.~~*

The new training building shall not operate outside of the hours of 8am - 8pm Monday to Saturday and 8am to 2pm Sundays and Bank Holidays (excluding Christmas Day).

Reason: To safeguard the reasonable living conditions of adjacent residential properties.

4.2.3 On application for the variation of a condition, *"the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and -.*

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

4.3 **Key Issues**

4.3.1 The key consideration in the determination of this application is the living conditions of the occupiers of adjoining premises, as per the reason for the condition sought to be varied. The potential impact on the occupiers of adjoining premises is clearly likely to be noise. If it is found that there may be an impact as a result of the proposed amended condition, would the benefits of the proposed increase in operating hours, in regards promoting a strong, competitive economy outweigh the harm.

4.3.2 It is therefore important to note that the condition only limits the operational hours of the dog park, the reception building and the training building approved by way of application referenced 15/02119/1. It is important to note that the existing business creates a certain amount of noise by reason of dog barking from the kennel blocks (and associated runs) and the grassed areas around these. The use of the kennels,

kennel runs, and any other part of the wider site is not restricted by way of condition, and are occupied/run without limitation in regards to planning restrictions.

Dog Park

4.3.3 The dog park is some way from sensitive aural receptors (residential premises) and is a large open space. The reception building is used for that function, and as such, is not considered an intensely noise generating use. The training building is also used to accommodate dogs during the day as a day-care facility. The training centre is located closest to sensitive receptors, in this case, The Bungalow.

4.3.4 A representative of the Environmental Health team, specialising in noise nuisance, has responded to consultation request on this application. The Environmental Health officer commented that *"the dog park given that it is a vast area and the dogs will not necessarily be close to the kennel blocks and therefore to the nearby residents as well"*. This contradicts a neighbour representation which implies that the car park location abuts the back of the kennels and cars accessing the dog park make the dogs in the kennels bark, as such, the opening hours correlate with increased noise.

4.3.5 During the site visit, I spent a significant amount of time in close proximity to the car park. I found there to be no direct correlation with the use of the car park and the dogs within the kennels making noise. This is not to say that it is definitively not the case that use of the car park correlates with noise from the kennels. The proposed increase in hours of the use of the dog park, and thereby, parking area, would be for 2 hours in the evenings (between 6pm and 8pm) as well as for four hours on Sundays (between 2pm and 6pm) as well as for 10 hours on Bank Holidays (8am to 6pm).

4.3.6 It is my consideration that, based on my experiences during the site visit, as well as the level of background noise from the nearby A505, the use of the car park would not exacerbate noise from the existing kennels, which are occupied without restriction of hours of use. Furthermore, the extended opening hours of the dog park would be seasonal. The use of the dog park would be naturally limited to hours of daylight, and as such, the extended hours applied for will only be fully utilised in seasons whereby daylight is available within those hours.

4.3.7 Taking into account all the above considerations, it is not considered that the increase in operation hours for the dog park, by reason of the large expanse of the park, distance from receptors and the noise created from the existing kennel blocks, runs and grassed areas around the kennels, would materially impinge upon the reasonable living conditions of the occupiers of adjoining premises.

Reception Building

4.3.8 The reception building will not house dogs, and as such, is not considered to result in noise which would be materially greater than noise resultant from the nearby kennel blocks and associated runs. The proposed increase in hours of the use of the dog park, and thereby, parking area, would be for 1 hour in the evenings (between 7pm and 8pm) as well as for four hours on Sundays (between 2pm and 6pm) as well as for 10 hours on Bank Holidays (8am to 6pm). It is understood that the increase in operating hours of the reception may increase visits and use of the car park, but as above, I give little weight to correlation between use of the car park and noise from the kennel blocks.

4.3.9 Further to the above, the existing drop off and pick up times for the kennels is 9am to 12midday for drop off, and 1pm and 4pm for collection. These are within the reception

opening hours on the existing condition on weekdays and Saturday, so there is no indication that the drop-off and pick-up times will vary with the increase in reception opening hours. Furthermore, the website for Country Boarding Kennels suggests drop-off and pick-up is open 7 days (a week). Again, the use of the kennels is outside of the remit of the condition applied to be varied.

4.3.10 As a result of the above discussion, it is considered that the increased opening hours of the reception is to correlate with the increased opening hours of the dog park. The increase in hours and use of the car park will not, as with paragraph 4.3.6, materially increase noise from the kennels, and there is no indication or correlation between opening hours and collection/drop-off times for the kennels. As a result, no material increase in noise is expected for the proposed operation hours of the reception building.

Training Building

4.3.11 The training building is a solid structure with good sound insulation and glazing. Although the training building is in closer proximity to sensitive receptors, it would be reasonable to conclude that the operation of a well insulated building would not materially harm the living conditions of nearby occupiers over the existing use of the nearby kennel blocks. The increased operational hours of the training building could improve noise as it will contain dogs within a well insulated building of solid construction as opposed to the unrestricted fenced off open areas in the site.

4.3.12 The proposed increase in hours of the use of the training building would be for 1 hour in the evenings (between 7pm and 8pm) as well as for 6 hours on Bank Holidays (8am to 2pm). There is no requested change in operational hours on Sundays. My considerations in regards to Bank Holidays impact is below, and in line with that, it is considered reasonable to have the same restrictions on both a Sunday and a Bank Holiday. The additional hour of operational activity between 7pm and 8pm is not considered inappropriate in terms of representing discordant hours conflicting with the surrounding residential uses. It is noted that the request for additional operating hours is more restricted (finishing 2pm Sundays and Bank Holidays) in this location, being closest to sensitive receptors.

Bank Holidays

4.3.13 The dog parks temporary permission, granted under application referenced 14/00117/1 allowed the following operational hours –

"The use hereby approved shall only operate between the hours of 8am and 6pm (1800hrs) Monday to Saturday and 9am to 6pm (1800hrs) on a Sunday or Bank Holiday"

4.3.14 The operational hours of the dog park were restricted further in application referenced 15/02119/1, restricting use on a Sunday to 8am to 2pm and restricting any use on Bank Holidays. The Environmental health officer offered no objection to application referenced 15/02119/1 (in light of no justified noise complaints being received), and there is no reference in the delegated officer report as to why the operation should be restricted further than the temporary permission, other than in the interest of the living conditions of adjoining occupiers within the condition itself.

4.3.15 Given the response from the Environmental Health officer in application referenced 15/02119/1, I can see no reason as to why the approved operation hours in 14/00117/1 was altered in regards to Sundays and Bank Holidays. I can also see no reason why

Bank Holidays would be afforded further protection against the proposed uses than Sundays. There are 8 bank holidays in England through the calendar year, of which 7 are applied for in this application for operational activity in the dog park, reception area and training building.

4.3.16 I can see no reason why the operational activities requested would need to be ceased on those 7 Bank Holiday days. It is generally considered that Sundays and Bank Holidays require equal level of protection, not more.

Temporary or Permanent Permission

4.3.17 In accordance with the Environmental Health officers response, *"noise monitoring of the kennels was undertaken in July 2018 for other purposes and it was intended to be able to use the recordings to assist with deciding on this application. Unfortunately, the recordings fall within the times that current operations are allowed so it is not possible to draw on the existing situation at the kennel blocks and surrounding areas during the times applied for in this application".*

4.3.18 The Environmental Health officer concludes that *"the full implications of the extended use is somewhat unknown and is largely unpredictable at this time I would recommended that consideration be given to a temporary use of between 12-24 months to trial the extension of hours. If there are particular noise issues as a result of the extended hours for the areas in question and these are substantiated, this can be used when determining if a permanent permission can be granted further down the line if this is applied for".*

4.3.19 I can see the Environmental health officers point, in that evidential recordings both inside and outside of the existing use times could be compared and contrasted, giving more evidential strength to the above considered information. The conclusion of the Environmental Health officer has been put forth to the applicant. The applicant is unwilling to accept a temporary permission, so the application must be determined as to whether the permission should be granted subject "*to conditions differing from those subject to which the previous permission was granted"* as set out in the application form.

4.3.20 The above information and considerations strongly indicate that the use of the dog park, reception building and training building will not increase existing noise resultant from the unrestricted use of the kennel blocks and surrounding grassed and fenced off play areas. The kennel blocks, runs, and grassed play areas which are not restricted in operational hours (in planning terms) are closer to sensitive receptor sites, could accommodate the uses applied for in the extension of time (such as play/exercise area for kennelled dogs), and are less well insulated in terms of sound transmission.

4.3.21 Some counter-information has been provided by neighbouring premises, suggesting the use of the dog park, reception building and training building would aggravate noise from kennelled dogs. Considering the continuous background noise from the A505, it would seem unlikely that the use of the car park adjacent to the kennels would have a direct correlation with noise from the kennelled dogs. This was certainly my experience during the extended site visit.

4.3.22 It is considered that there is sufficient evidence that the use of the dog park, reception building and training building does not correlate with noise nuisance over and above the kennels. As a result, it is considered that increasing the opening hours of these facilities would not materially impact the living conditions of the occupiers of adjoining premises. Furthermore, even if there were to have been found some limited additional

harm to the living conditions of the occupiers of adjoining premises, the economic benefits of promoting an existing, employment generating business would outweigh the additional harm in the planning balance.

Conditions

4.3.23 The issuing of this permission constitutes the issuing of a new planning permission. The conditions, other than the condition subject to this application for variation, applied on the previous planning permission referenced 15/02119/1 will be reviewed to be implemented as appropriate on the planning permission hereby recommended. Two conditions are no longer required. Condition 18 of permission referenced 15/02119/1 has been fully satisfied under application referenced 16/00529/1DOC. Condition 1 of permission referenced 15/02119/1 is also no longer required as the development has commenced. Some conditions have been applied for to be discharged, however, are still pending decisions. Where this is the case, the conditions have remained verbatim from the previous decision.

4.4 **Conclusion**

4.4.1 The above analysis indicates that the uses proposed to be increased in operation hours do not materially increase harm to the occupiers of adjoining premises in terms of noise. As a result, it is considered that the benefits of promoting a strong, prosperous and competitive rural economy would outweigh any harm to the occupiers of adjoining premises within the hours of operation applied for. Accordingly, the planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted. It is not considered necessary to impose a temporal limitation on the condition for review in light of the above conclusion applying the planning balance between economic benefits and potential environmental harm.

5.0 **Recommendation**

5.1 That planning permission be **GRANTED** subject to the following conditions differing from those subject to which the previous planning permission was granted:

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

   Reason:To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

2. Vehicle to vehicle inter visibility splays of 2.4 metres by 120 metres in both directions, as approved in details supplied under application referenced 16/00496/1DOC, shall be provided and permanently maintained. Within which there shall be no obstruction to visibility between 600 mm and 2.4 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

   Reason: To provide adequate visibility for drivers entering and leaving the site.

3. The development hereby permitted shall not commence until the proposed access

has been re-constructed to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

Reason: In the interests of highway safety and amenity.

4. The access shall be a maximum of 5.0 metres wide.

Reason: In the interests of highway safety and amenity.

5. Prior to the first use of the proposal a properly consolidated and surfaced turning area shall be provided in order that vehicles can turn around and egress the site in forward gear. The turning area shall therefore be permanently retained as provided thereafter.

Reason: To allow vehicles to enter and leave the site in forward gear in the interests of highway safety.

6. The gradient of the access shall not be steeper than 1 in 20 for at least the first 10 metres from the edge of the carriageway.

Reason: To ensure a vehicle is approximately level before being driven of and on to the highway.

7. The access shall be constructed in a hard surfacing material for the first 10 metres from the edge of the carriageway.

Reason: To prevent loose material from passing onto the adjacent highway which may be detrimental to highway safety.

8. Prior to use the access shall include a surface water cut off drain at the back edge of the highway boundary.

Reason: To prevent excess water run off entering the highway system

9. Any gates provided shall be set back a minimum of 10 metres from the edge of the carriageway and shall open inwards to the site.

Reason: To allow a vehicle to wait clear of the carriageway or footway while the gates are being opened and closed.

10. The area adjacent to the property Chesara must not be used for any operational purposes (dog walking / exercising / training etc). This area is defined on the approved plan as anywhere north of the new roadway.

Reason: To safeguard the reasonable living conditions of the adjacent residential property.

11. The use of the dog park shall be restricted to between the hours of 8am - 8pm Monday to Saturday and 8am - 6pm Sunday and Bank Holidays (excluding Christmas Day).

The new reception building shall not operate outside of the hours of 8am - 8pm Monday to Saturday and 8am to 6pm Sundays and Bank Holidays (excluding Christmas Day).

The new training building shall not operate outside of the hours of 8am - 8pm Monday

to Saturday and 8am to 2pm Sundays and Bank Holidays (excluding Christmas Day).

Reason: To safeguard the reasonable living conditions of adjacent residential properties.

12. Full details of all fencing, lighting and landscape management regimes as approved by the Authority under application referenced 16/00528/1DOC must not be operated outside of the times specified by condition 11 of this decision notice.

Reason: To ensure that the completed development has an acceptable appearance in the rural area, enhances biodiversity and does not impact adversely on the reasonable living conditions of adjacent residential properties.

13. All customers to the kennels /cattery and dog park shall use the Sandon Road access only.

Reason: In the interests of highway safety and the residential living conditions of adjacent properties.

14. There shall be no animal training furniture (jumps / obstacles etc) placed in the park without the prior written approval of the Authority.

Reason: To safeguard the appearance of the rural area.

15. There shall be no uses or events carried out on the land other than those approved by this permission and accommodated by the 16 car parking spaces provided.

Reason: In the interests of highway safety, the appearance of the rural area and the reasonable living conditions of adjacent residential properties

16. All dog waste shall be removed from the site on a daily basis and disposed of responsibly.

Reason: To safeguard human health and prevent contamination of the aquifer.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed 	Development Management North Hertfordshire District Council Council Offices Gernon Road

Simon Ellis Determining Officer	Letchworth Herts SG6 3JF
Date: 10 September 2018	