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<b>APPLICATION NO.</b>	21/01200/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	22.04.2021
<b>APPLICANT</b>	R Rymer, Rymer Commercials Ltd
<b>SITE</b>	Shootash Garage, Salisbury Road, Shootash, SO51 6GA, <b>WELLOW / AWBRIDGE</b>
<b>PROPOSAL</b>	Erection of building for use as dog kennels. (Part retrospective)
<b>AMENDMENTS</b>	Received on 25.05.2022: <ul style="list-style-type: none"><li>• Additional noise management plan</li></ul>
<b>CASE OFFICER</b>	Graham Melton

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

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## 1.0 INTRODUCTION

1.1 The application is presented to Southern Area Planning Committee because it is contrary to the provisions of an approved Development Plan, adverse third party representations have been received and the recommendation is for permission.

## 2.0 SITE LOCATION AND DESCRIPTION

2.1 The application site is a commercial vehicle garage located on the north side of the A27 in close proximity to the junction with Danes Road.

## 3.0 PROPOSAL

3.1 The proposal is a retrospective application for the erection of a single storey building measuring approximately 9m by 4.75m by 3.5m serving as a dog kennel. The building comprises a wire mesh pen area at the front (south) and enclosed kennel to the rear (north), with a combination of red brickwork and horizontal timber cladding for the external materials.

3.2 From previous site visits undertaken by the case officer, it is noted that the kennel building is now complete and in use.

## 4.0 RECENT HISTORY

4.1 **14/01765/FULLS** - Erection of ancillary storage building. *Permission subject to conditions and notes, decision issued on 22.09.2014.*

## 5.0 CONSULTATIONS

5.1 **Environmental Protection** – No objection, subject to conditions (summarised).

- Confirm that following further discussion and site visit, previous objection has been addressed by the submission of the noise management plan and that:
- Permission is dependent on the noise management plan.

- Permission is personal to the applicant.
- Kennelling is not to be used for commercial purposes but for the kennelling of their own dogs.

6.0 **REPRESENTATIONS** Expired 01.07.2021

6.1 **Wellow Parish Council** – No objection.

6.2 **1 letter from Oakfield** – Objection (summarised).

Impact on the character and appearance of the area

- Character of the area.
- Overdevelopment.
- The site of the dog kennels has been significantly developed over the past 10 years, a large barn structure has previously been erected on this site in addition to the kennel.
- The semi-rural nature has been diminished due to the development, the kennel is a very large structure just for the purpose of housing dogs.

Impact on the amenity of residential property

- Noise.
- Over the last 6 months, the applicant has at times kept up to 6 dogs and a minimum of 4 dogs.
- This is contrary to the covering letter and previous advice within the initial response from the Environmental Protection officer.
- Deliberate attempt to construct a large structure without planning permission and go against the advice of the Environmental Protection officer.
- Despite the dogs are considered as pets, they are being kept on commercial property, supposedly for the purposes of security.
- This means the applicant expects the dogs to make noise throughout the night to alert the owner to disturbances, which be as simple as a cat, pigeon or security light turning on.
- These disturbances occur throughout the day and night on both the owner's property as well as at Oakfield.
- Witnessed the dogs roaming freely between the enclosed kennel and wire mesh pen 24 hours a day and therefore, there is no consistent sound barrier between the dogs and neighbouring properties at any time of day or night.
- Dogs bark regularly and this particularly distressing between 11pm and 7am, they are also prone to sustained whining.
- This sound is clearly heard from the bedroom of Oakfield, particularly during the summer months when the window is open – the dogs make noise at sunrise and during summer this can be as early as 4am.
- Kennels also have a large security light which causes light pollution and additional distress.
- Confident that will consider the valid and constructive objections raised and take action to ensure that the dog kennels are removed and the land returned to its original state.

6.3 **1 representation from Glenwood Grange** – No objection (summarised).

- No objection to the application.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016) (TVBRLP)

Policy SD1: Presumption in Favour of Sustainable Development

Policy COM2: Settlement Hierarchy

Policy E1: High Quality Development in the Borough

Policy E2: Protect, Conserve and Enhance the Landscape Character of the Borough

Policy E5: Biodiversity

Policy E8: Pollution

Policy LHW4: Amenity

Policy T1: Managing Movement

Policy T2: Parking Standards

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Impact on the general amenity of the area and residential property
- Impact on the character and appearance of the area
- Ecology
- Highways

8.2 **Principle of development**

Policy COM2 of the TVBRLP states that development outside the boundaries of settlements will only be permitted if:

- a) It is appropriate in the countryside as set out in the RLP Policy COM8 – COM14, LE10, LE16 – LE18; or*
- b) It is essential for the proposal to be located in the countryside*

8.3 Policy COM11 relates to development supporting the residential occupation of existing dwellings in the countryside and is one of the policy exceptions listed under criterion (a) of Policy COM2. However, this policy only relates to development located within the residential unit and in this instance, the kennel building is located on land associated with the adjacent commercial garage. Consequently, Policy COM11 is not applicable to the development undertaken.

- 8.4 Policy LE17 relates to development within existing employment sites on countryside land and is another policy exception listed under criterion (a) of Policy COM2. However, although the kennel building is located adjacent to the commercial garage buildings, it is in use for the kennelling of dogs associated with the occupation of adjoining residential dwelling known as Woodlands. It therefore does not qualify as type of development falling under the scope of Policy LE17.
- 8.5 None of the other policy exceptions listed under criterion (a) of Policy COM2 are applicable in this instance and therefore, the proposal falls to be considered against criterion (b). As the development serves as new kennel building, it is not considered that a countryside location is essential and therefore, does not comply with criterion (b). Consequently, the application is contrary to Policy COM2 and the development framework of the TVBRLP.
- 8.6 Other Material considerations  
In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an assessment is required as to whether there are other material considerations that would outweigh the development plan conflict identified above.
- 8.7 *Permitted Development*  
In support of the application the planning agent has identified the scope for a similar type of kennel building to be constructed within the residential garden area, serving the host property known as Woodlands, under Permitted Development legislation. To qualify as Permitted Development, the total height of the outbuilding must be a maximum of 4m when located further than 2m away from any boundary of the residential garden area, or 3m in height when located within 2m of a boundary. As a result, it is open to the applicant to erect a kennel building of similar dimensions (it is acknowledged that the eaves height would need to be 0.2m lower) than the development undertaken, regardless of the outcome of the current planning application.
- 8.8 In the absence of any existing rear (north) boundary treatment enclosing the residential garden of Woodlands, there is no clear demarcation between the residential garden and the adjoining commercial land. However, it is apparent that the kennel building is located only approximately 6m away from the land currently landscaped as a lawn and patio area. Consequently, it would be possible for the applicant to erect a kennel building of similar dimensions in close proximity to the location of the current kennel building without the requirement of obtaining planning permission beforehand. As such, it is considered that the presence of Permitted Development rights is a material consideration of significant weight.
- 8.9 *Sustainable Development*  
The National Planning Policy Framework (NPPF) is a material consideration in the assessment of planning applications. The NPPF identifies the three dimensions of sustainable development which should be taken into account; social, economic and environmental roles (paragraph 8). Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development.

8.10 *Environmental, Economic and Social Benefits*

Although it is acknowledged that any benefits arising from the development will be proportionate to its modest scale, the erection of the kennel building will serve to support the applicant's keeping of dogs and the associated social benefit of living with pets. In addition, the construction of the kennel building will have resulted in modest economic benefits with the demand for materials and/or labour. With regard to environmental benefits, as discussed further in the ecology section below, a condition has been imposed securing the implementation of additional onsite biodiversity enhancement measures. As a result, it is considered that the development undertaken can deliver or has already delivered environmental, economic and social benefits of modest proportions.

8.11 In relation to the location of the kennel building, although it is outside of the residential garden area serving Woodlands, its use can be directly tied to the occupation of Woodlands by the imposition of a condition as discussed further in the section on noise impact set out below. Therefore, the location of the development does not trigger a requirement for significant additional trips by private car beyond that already arising from the occupation of Woodlands as an existing dwelling within the countryside.

8.12 *Conflict with Policy COM2*

As identified above the application conflicts with Policy COM2, which sets out the strategic objective of protecting countryside land from development with limited exceptions. However, in this instance, the location of the kennel building is on land that forms part of the adjacent commercial garage unit and as identified in the section below on the character and appearance of the area, is not visible from the public realm. Consequently, the presence of the kennel building does not visually undermine the countryside setting of the area or significantly alter its character as land associated with the commercial garage. As a result, although the breach with Policy COM2 is recognised, it is not considered that this breach results in any significant harm to the strategic objective of protecting countryside land.

8.13 Conclusion on the principle of development

The application site is located on land designated as countryside and the development does not comply with any of the policy exceptions listed under criterion (a) of Policy COM2, nor is it a type of development that is essential to be located on countryside land as required by criterion (b) of the same policy. As a result, the development is contrary to the framework of the Local Plan. However, following the assessment undertaken above, it is considered that there are other material considerations that outweigh this conflict with the development plan and in particular, the scope for a similar development to be undertaken under Permitted Development legislation. As such, it is considered that the principle of development is acceptable subject to the absence of any planning harm in relation to the other relevant material considerations.

- 8.14 **Impact on the general amenity of the area and residential property**  
The kennel building is located approximately 11m away from the boundary with the adjoining residential property known as Oakfield, with an intervening distance of approximately 30m to the main dwellinghouse. It is noted that the occupant of this neighbouring property has objected to the development undertaken, with particular reference to the noise and light disturbance following the construction and use of the kennel building. An assessment against these matters is undertaken below.
- 8.15 Noise  
In response to initial concerns raised by the Environmental Protection officer, the applicant has confirmed that the keeping of dogs is connected to the occupation of Woodlands. The location of the kennel building adjacent to the commercial garage does enable the dogs being kept onsite to react to any disturbance on the adjoining garage land, but the use of the kennels is dependent on the residential occupation of Woodlands not the commercial operation of Shootash Garage.
- 8.16 The applicant has also provided a noise management plan in response to the initial comments by the Environmental Protection officer and a follow up site meeting. The submitted noise management plan sets out the requirement for the applicant to ensure that there is a nominated person onsite with available telephone contact details. This will ensure that should a noise disturbance occur then residents within the locality will have a direct contact with a person onsite to immediately respond to any issues.
- 8.17 In addition, the noise management plan also commits to the installation of communication devices within the kennels to monitor noise levels in the event that noise complaints are lodged with the Local Authority. This will enable the monitoring of noise levels as part of controls within other legislation that are open to the Local Authority should a noise disturbance issue arise.
- 8.18 Consequently, with these measures in place, it is considered that the development undertaken will avoid any significant noise disturbance to the residential amenity of neighbouring property and the amenity of the general area. This assessment is informed in part by the acknowledgement that the keeping of dogs as pets at residential properties itself does not fall under planning control. In addition, it is also recognised that it is open to the applicant to erect a kennel building within the residential garden area of Woodlands without the requirement of obtaining formal planning permission beforehand, and therefore, a kennel could be positioned in closer proximity to the neighbouring property.
- 8.19 It is noted that the Environmental Protection officer has removed their previous objection on the basis any planning permission is dependent on the implementation the noise management plan, that the kennels are not used for any commercial purpose and that the permission is personal to the applicant themselves.

- 8.20 With regard to the issuing of personal planning permissions, paragraph 15 of the NPPG section 'Use of Planning Conditions' sets out:

*Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.*

In this instance, it is considered that the acceptability of the kennels building is dependent on the nature of its use in association with the adjoining residential property known as Woodlands and the applicant's specific commitments in the submitted noise management plan. Consequently, it is considered that the application represents an exceptional occasion whereby the issuing of planning permission is linked to the applicant's occupation of Woodlands.

- 8.21 As such, condition no. 2 has been imposed to ensure that the use of the kennels is personal to the applicant only. Condition no. 3 limits the use of the kennel building for the private keeping of dogs and condition no. 4 ensures the use of the kennel building is in accordance with the submitted noise management plan. As a result, the requirements of the Environmental Protection officer have been met.

8.22 Light

An objection has been received from the resident of the neighbouring property Oakfield in relation to a security light affixed to the kennel building. From the site visit undertaken it was observed that there is a light currently positioned at the western end of the front (south) elevation of the kennel building, but that this was of modest dimensions. Given the intervening distance between the light and the main dwellinghouse of Oakfield, in conjunction with the partial screening provided by the existing boundary fence, it is not considered that its operation results in any materially significant loss of residential amenity.

8.23 Privacy, Daylight and Sunlight provision

The existing boundary fence enclosing the residential garden area serving the property known as Oakfield prevents any overlooking of this neighbouring dwelling from the kennel building. As a result, and in the absence of any other residential property in close proximity to the development undertaken, it is not considered that there is any material harm to the privacy of neighbouring dwellings.

- 8.24 Furthermore, due to the single storey scale of the kennel building and the intervening distance with any neighbouring property, it is not considered that the development undertaken has triggered a materially significant loss of daylight or sunlight provision.

8.25 Conclusion

Following the assessment undertaken above, it is considered that the development avoids any materially significant harm to the general amenity of the area and sufficiently provides for the residential amenity of neighbouring property. Consequently, the application is in accordance with Policies E8 and LHW4 of the TVBRLP.

8.26 **Impact on the character and appearance of the area**

The kennel building is positioned to the rear (north) of the residential property known as Woodlands and is single storey in scale. Consequently, it is not possible to obtain any clear views of the kennel building from the A27 to the south.

8.27 In the event that any glimpse views of the kennel building are available from the public realm, the development will be seen in the context of the adjacent, larger commercial buildings in addition to the two storey dwellinghouse and annexe that comprises the host property. With the use of a pitched roof form and the combination of red brickwork and timber cladding for the external materials, it is considered that the appearance of the kennel building is characteristic of outbuildings within a rural location.

8.28 As a result, it is not considered that the development undertaken has resulted in any visual to detriment the character of the area or existing street scene. Therefore, the design is considered to be acceptable and the application is in accordance with Policy E1 of the TVBRLP.

8.29 **Ecology**

The area subject to the development undertaken was previously an area of low quality grassland and therefore, it is not considered that there has been any adverse impact on protected species or habitats from the development undertaken. To ensure that there is no harm to bats from the installation of external lighting on the kennel building, a condition has been imposed securing the submission of specification details for any external lighting beyond that already present on the building prior to installation. In addition, a condition has been imposed securing the submission of biodiversity enhancement features to be installed onsite.

8.30 With these details secured, it is considered that the development will avoid any harm to protected species and habitats as well as ensuring the enhancement of onsite biodiversity. Consequently, the application is in accordance with Policy E5 of the TVBRLP.

8.31 **Highways**

The development undertaken does not serve to materially alter the existing vehicular access or give rise to a materially significant increase in vehicle movements. In addition, the development does not trigger the loss of any existing car parking spaces or the requirement to increase existing parking provision onsite.

8.32 Consequently, it is considered that is no material harm with respect to the highway safety of the local road network. As a result, the application is in accordance with Policies T1 and T2 of the TVBRLP.

9.0 **CONCLUSION**

9.1 The proposal conflicts with Policy COM2 of the TVBRLP. Therefore, the application represents a departure from the adopted Local Plan.

- 9.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an assessment of the other material considerations has been undertaken. In this instance, it is considered that Permitted Development rights enable the construction a building of similar dimensions in a similar location for the private keeping of dogs and therefore, the existing kennel building could be replicated without the requirement of obtaining planning permission beforehand. In addition, it has been identified that there are social, economic and environmental benefits arising from the development undertaken and that it does not serve to undermine the strategic objective of protecting countryside land from unjustified development.
- 9.3 As a result, it is considered that in this instance, there are other material considerations that outweigh the technical breach of Policy COM2 of the TVBRLP. In addition, the proposal complies with all of the other relevant policies of the Local Plan.
- 9.4 Therefore, the officer recommendation is for permission subject to the conditions listed below.

#### 10.0 **RECOMMENDATION**

##### **PERMISSION subject to:**

1. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans: Composite Plan (10/524/12B)**  
**Reason: For the avoidance of doubt and in the interests of proper planning.**
2. **When the occupation of the dwelling house known as Woodlands is no longer occupied by the applicant or any direct relatives, the use of the development hereby permitted shall cease.**  
**Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities in accordance with Policies E8 and LHW4 of the Test Valley Borough Revised Local Plan (2016).**
3. **The building the subject of this permission shall be used only for purposes incidental to the enjoyment of the dwelling house known as Woodlands and shall not be used for any business, commercial or industrial purposes whatsoever.**  
**Reason: In the interests of the amenity of the area in accordance with Policies E8 and LHW4 of the Test Valley Borough Revised Local Plan (2016).**
4. **The development hereby permitted shall only be used in accordance with the measures set out in the Noise management plan, unless otherwise agreed in writing by the Local Planning Authority.**  
**Reason: In the interests of the amenity of the area in accordance with Policies E8 and LHW4 of the Test Valley Borough Revised Local Plan (2016).**

5. **Within 3 months of the date of this decision, a scheme of onsite biodiversity enhancement features shall be submitted in writing to the Local Planning Authority. Within 3 months of the Local Planning Authority issuing approval, the enhancement features shall be installed onsite in accordance with the approved details and retained thereafter.**

**Reason: To enhance the biodiversity of the site in accordance with requirements under the National Planning Policy Framework and Policy E5 the Test Valley Borough Revised Local Plan (2016).**

6. **No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority. The details shall include plans and details sufficient to show the location, type, specification, luminance and angle of illumination of all lights/luminaires. The external lighting shall be installed in accordance with the approved details and thereafter retained in accordance with the approved details.**

**Reason: To ensure the favourable conservation status of bats in accordance with Policy E5 of the Test Valley Borough Revised Local Plan (2016).**

**Note to applicant:**

1. **In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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